FEDERAL REGISTER

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934 LITTERA SCRIPTA MANET

VOLUME 16 NUMBER 140

Washington, Friday, July 20, 1951

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10274

FURTHER AMENDMENT OF EXECUTIVE ORDER NO. 9805,[1] PRESCRIBING REGULATIONS GOVERNING PAYMENT OF CERTAIN TRAVEL AND TRANSPORTATION EXPENSES

By virtue of the authority vested in me by the act of August 2, 1946, 60 Stat. 806, it is ordered that Schedule A attached to and made a part of Executive Order No. 9805 of November 25, 1946, entitled "Regulations Governing Payment of Travel and Transportation Expenses of Civilian Officers and Employees of the United States when Transferred from One Official Station to Another for Permanent Duty", as amended by Executive Orders No. 9997 of September 8, 1948, and No. 10196 of December 20, 1950, be, and it is hereby, further amended to read as follows:

SCHEDULE A—RATE PER 100 POUNDS

Miles	1,999 pounds or less	2,000 pounds to 3,999 pounds	4,000 pounds to 7,000 pounds
15	$3.77	$3.51	$3.25
20	3.85	3.56	3.28
30	3.97	3.66	3.35
40	4.13	3.77	3.44
50	4.26	3.87	3.54
60	4.40	3.97	3.60
70	4.57	4.08	3.67
80	4.69	4.18	3.76
90	4.84	4.28	3.85
100	4.96	4.38	3.92
110	5.11	4.48	3.99
120	5.23	4.57	4.08
130	5.37	4.66	4.16
140	5.51	4.75	4.25
150	5.63	4.85	4.30
160	5.75	4.94	4.38
170	5.89	5.02	4.48
180	6.01	5.13	4.57
190	6.12	5.22	4.63
200	6.24	5.31	4.69
210	6.34	5.41	4.78
220	6.43	5.52	4.84
230	6.54	5.61	4.91
240	6.63	5.71	4.99
250	6.73	5.81	5.07
260	6.83	5.90	5.13
270	6.91	5.98	5.21
280	7.00	6.07	5.29
290	7.08	6.12	5.35
300	7.19	6.19	5.41
310	7.29	6.27	5.50
320	7.39	6.34	5.58
330	7.49	6.42	5.64
340	7.60	6.50	5.71
350	7.70	6.57	5.78

[1] 11 F. R. 13823.

SCHEDULE A—RATE PER 100 POUNDS—Con.

Miles	1,999 pounds or less	2,000 pounds to 3,999 pounds	4,000 pounds to 7,000 pounds
360	$7.80	$6.64	$5.85
370	7.91	6.72	5.92
380	8.01	6.79	6.00
390	8.10	6.88	6.06
400	8.20	6.96	6.14
410	8.29	7.03	6.20
420	8.38	7.09	6.28
430	8.46	7.17	6.34
440	8.53	7.25	6.41
450	8.61	7.32	6.47
460	8.70	7.39	6.55
470	8.78	7.46	6.62
480	8.84	7.55	6.69
490	8.92	7.62	6.75
500	9.02	7.68	6.80
510	9.10	7.76	6.88
520	9.17	7.86	6.95
530	9.25	7.92	7.02
540	9.32	7.99	7.09
550	9.40	8.07	7.17
560	9.46	8.15	7.23
570	9.53	8.22	7.29
580	9.62	8.30	7.35
590	9.69	8.38	7.41
600	9.74	8.45	7.47
610	9.82	8.52	7.54
620	9.89	8.60	7.60
630	9.97	8.67	7.66
640	10.05	8.73	7.72
650	10.13	8.79	7.78
660	10.21	8.85	7.84
670	10.28	8.92	7.91
680	10.36	8.99	7.97
690	10.44	9.06	8.03
700	10.51	9.12	8.09
710	10.58	9.19	8.15
720	10.66	9.25	8.22
730	10.74	9.32	8.28
740	10.80	9.38	8.34
750	10.87	9.44	8.40
760	10.95	9.50	8.45
770	11.01	9.56	8.50
780	11.07	9.63	8.56
790	11.15	9.69	8.61
800	11.22	9.74	8.66
810	11.27	9.80	8.71
820	11.34	9.85	8.76
830	11.39	9.92	8.81
840	11.47	9.97	8.86
850	11.53	10.04	8.92
860	11.59	10.09	8.97
870	11.67	10.15	9.02
880	11.73	10.20	9.07
890	11.79	10.26	9.12
900	11.85	10.31	9.17
910	11.91	10.37	9.23
920	11.99	10.44	9.28
930	12.05	10.49	9.33
940	12.11	10.55	9.38
950	12.18	10.61	9.43
960	12.24	10.66	9.48
970	12.32	10.71	9.53
980	12.39	10.76	9.59
990	12.45	10.81	9.64
1,000	12.52	10.87	9.69
1,020	12.63	10.98	9.79
1,040	12.76	11.08	9.92
1,060	12.88	11.18	10.03
1,080	13.02	11.29	10.14

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

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

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SCHEDULE A—RATE PER 100 POUNDS—Con.

Miles	1,999 pounds or less	2,000 pounds to 3,999 pounds	4,000 pounds to 7,000 pounds
1,100	$13.14	$11.39	$10.26
1,120	13.26	11.49	10.36
1,140	13.40	11.59	10.46
1,160	13.53	11.70	10.56
1,180	13.66	11.80	10.67
1,200	13.81	11.90	10.77
1,220	13.93	12.00	10.86
1,240	14.05	12.09	10.96
1,260	14.15	12.18	11.05
1,280	14.27	12.28	11.14
1,300	14.38	12.37	11.23
1,320	14.47	12.47	11.34
1,340	14.57	12.57	11.44
1,360	14.68	12.68	11.54
1,380	14.79	12.78	11.65
1,400	14.89	12.88	11.75
1,420	14.99	12.98	11.85
1,440	15.10	13.09	11.95
1,460	15.20	13.19	12.06
1,480	15.30	13.29	12.16
1,500	15.41	13.40	12.26
1,520	15.51	13.49	12.37
1,540	15.61	13.58	12.47
1,560	15.71	13.67	12.57
1,580	15.82	13.77	12.68
1,600	15.92	13.86	12.78
1,620	16.02	13.96	12.87
1,640	16.13	14.07	12.96
1,660	16.24	14.17	13.06
1,680	16.36	14.27	13.15
1,700	16.49	14.38	13.24

SCHEDULE A—RATE PER 100 POUNDS—Con.

Miles	1,999 pounds or less	2,000 pounds to 3,999 pounds	4,000 pounds to 7,000 pounds
1,720	$16.59	$14.48	$13.33
1,740	16.69	14.58	13.42
1,760	16.80	14.68	13.52
1,780	16.90	14.79	13.61
1,800	17.00	14.89	13.71
1,820	17.11	14.98	13.82
1,840	17.23	15.08	13.93
1,860	17.34	15.17	14.05
1,880	17.45	15.26	14.16
1,900	17.57	15.35	14.27
1,920	17.68	15.46	14.38
1,940	17.79	15.56	14.48
1,960	17.91	15.66	14.58
1,980	18.02	15.77	14.68
2,000	18.13	15.87	14.79
2,025	18.26	16.00	14.90
2,050	18.39	16.13	15.01
2,075	18.52	16.26	15.13
2,100	18.65	16.38	15.25
2,125	18.78	16.52	15.39
2,150	18.93	16.64	15.54
2,175	19.07	16.77	15.68
2,200	19.22	16.90	15.82
2,225	19.35	17.03	15.94
2,250	19.48	17.16	16.05
2,275	19.61	17.29	16.17
2,300	19.73	17.41	16.28
2,325	19.86	17.54	16.40
2,350	20.01	17.65	16.54
2,375	20.15	17.76	16.66
2,400	20.30	17.88	16.80
2,425	20.43	17.99	16.92
2,450	20.57	18.10	17.05
2,475	20.69	18.22	17.18
2,500	20.81	18.34	17.31
2,525	20.95	18.45	17.43
2,550	21.09	18.57	17.57
2,575	21.23	18.68	17.69
2,600	21.38	18.80	17.83
2,625	21.51	18.93	17.95
2,650	21.65	19.06	18.06
2,675	21.77	19.19	18.18
2,700	21.89	19.32	18.29
2,725	22.03	19.44	18.42
2,750	22.17	19.58	18.57
2,775	22.32	19.70	18.71
2,800	22.46	19.83	18.86
2,825	22.60	19.97	18.96
2,850	22.75	20.09	19.06
2,875	22.89	20.23	19.16
2,900	23.03	20.35	19.27
2,925	23.16	20.48	19.39
2,950	23.31	20.61	19.53
2,975	23.45	20.74	19.65
3,000	23.59	20.86	19.78
3,050	23.85	21.09	20.04
3,100	24.11	21.33	20.30
3,150	24.39	21.55	20.56
3,200	24.68	21.79	20.81
3,250	24.95	22.05	21.05
3,300	25.24	22.31	21.28
3,350	25.50	22.54	21.53
3,400	25.76	22.77	21.79
3,450	26.04	23.00	22.05
3,500	26.32	23.23	22.31

This order shall be effective in any case in which the shipment of household goods and personal effects commences on or after March 5, 1951.

HARRY S. TRUMAN

THE WHITE HOUSE,
July 18, 1951.

[F. R. Doc. 51-8448; Filed, July 18, 1951; 4:25 p. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE AIR FORCE

The positions excepted from the competitive service under § 6.107 (g) (1) have been transferred from the Air Matériel Command to the Air Research and Development Command. Effective upon publication in the FEDERAL REGISTER, § 6.107 is, therefore, amended as follows:

1. Section 6.107 (g) (1) is revoked.

2. A new subparagraph (2) is added to § 6.107 (h) as follows:

§ 6.107 *Department of the Air Force.* * * *

* * *

(h) *Air Research and Development Command.* * * *

(2) Until June 30, 1952, the positions of Civilian Chief, Engineering Operations; Technical Director, Electronics; Director of Geophysical Research; and Director of Physics, Research Group.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR, 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] ROBERT RAMSPECK,
Chairman.

[F. R. Doc. 51-8342; Filed, July 19, 1951; 8:55 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; MICHIGAN

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and investment limits for the counties identified below are determined to be as herein set forth. The average values and investment limits heretofore established for said counties, which appear in the tabulations of average values and investment limits under § 311.30, Chapter III, Title 6 of the Code of Federal Regulations, are hereby superseded by the average values and investment limits set forth below for said counties.

MICHIGAN

County	Average value	Investment limit
Arenac	$12,000	$12,000
Bay	17,000	12,000
Berrien	16,000	12,000
Chippewa	10,000	10,000
Clare	12,000	12,000
Delta	10,000	10,000
Gladwin	12,000	12,000
Luce	10,000	10,000
Mackinac	10,000	10,000
Montmorency	10,000	10,000
Newaygo	15,000	12,000
Presque Isle	12,000	12,000
Roscommon	11,000	11,000
Schoolcraft	10,000	10,000
Van Buren	16,000	12,000

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i). Applies secs. 3 (a), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1003 (a), 1018 (b))

Issued this 16th day of July 1951.

[SEAL] C. J. MCCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-8319; Filed, July 19, 1951; 8:48 a. m.]

Subchapter E—Account Servicing

PART 361—ROUTINE

SUBPART B—SERVICING FARM OWNERSHIP LOANS

SERVICING INSURED FARM OWNERSHIP LOANS

Subpart B of Part 361, Title 6, Code of Federal Regulations (13 F. R. 9437, 15 F. R. 1969), is supplemented by adding the following new sections:

Sec.
361.26 General.
361.27 Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm except when holder of insured mortgage finances purchaser.
361.28 Payment in full by refinancing with holder of insured mortgage on a noninsured basis, or by sale of farm outside the program to a person obtaining a noninsured loan from holder of insured mortgage.
361.29 Payment in full by sale (transfer) of farm within the program to new applicant obtaining an insured loan from holder of insured mortgage.
361.30 Subsequent insured farm ownership loans.

AUTHORITY: §§361. 26 to 361.30 issued under sec. 41, 60 Stat. 1066; 7 U. S. C. 1015. Statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 361.26 to 361.30 contained in FHA Instruction 451.6.

§ 361.26 *General.* Sections 361.26 to 361.30 prescribe the authorities, policies, and procedures for processing payment in full and refinancing of insured Farm Ownership loans not assigned to the Government, including the authorities, policies, and procedures for processing the sale (transfer) of farms within the program to other insured loan applicants, for processing the sale of farms outside the program, and for processing subsequent insured Farm Ownership loans. The authorities, policies, and procedures set forth in this section are applicable to all types of transactions covered by §§ 361.26 to 361.30, while specific procedures applicable to particular types of transactions are set forth in §§ 361.27 to 361.30.

(a) *Authority.* The Bankhead-Jones Farm Tenant Act, as amended, and the security instrument taken in connection with each insured loan provide that, without the consent of the Government, no final payment of an insured loan will be accepted, nor release of the mortgagee's interest made, in less than five years from the date of the execution of the insured mortgage. It is further provided that the farm or any interest therein may not be sold without the consent of the Government and the holder of the insured mortgage. Subject to the policies and procedures prescribed in §§ 361.26 to 361.30, the State Director is authorized:

(1) To consent on behalf of the Government to payment in full of an insured loan.

(2) To approve the refinancing of an insured loan.

(3) To approve the sale (transfer) of a farm by an insured loan borrower to another insured loan applicant.

(4) To approve the sale of a farm outside the program.

(5) To approve a subsequent insured loan.

(6) To consent on behalf of the Government to the release or satisfaction of the holder's interest in the insured mortgage and the property covered thereby.

(7) To release and satisfy the interest of the United States in the insured mortgage and the property covered thereby.

(b) *Mortgage insurance charges when loan is repaid.* (1) In all cases of final payment or refinancing of the insured loan indebtedness, the borrower will be required to pay the entire annual mortgage insurance charge computed for the year then current, if not already paid. This charge will be one percent of the unpaid principal amount due on the promissory note as of the March 31 preceding the date final payment is made on the note account. For the purpose of computing this charge, the date final payment is made on the note account will be the date the funds for final payment or refinancing of the note account are received by the County Supervisor. In transactions where final payment or refinancing of the note account is accomplished by exchange of promissory notes without funds being paid to the Farmers Home Administration, the date final payment is made on the note account will be considered to be the date the holder of the insured mortgage executes Form FHA-993, "Notice of Receipt of Final Payment on Insured Mortgage Loan."

(2) In addition, when final payment or refinancing is made within five years from the date of the initial insured mortgage, the State Director is authorized to require the borrower to pay an additional charge equal to the mortgage insurance charge for the year in which the loan is paid in full. As a matter of general policy, a borrower who has acted in good faith in carrying out the terms of the mortgage will not be required to pay the additional charge. If the State Director finds that the borrower has complied with the terms of the mortgage and his agreements with the Farmers Home Administration, the borrower will not be required to pay the additional charge. On the other hand, if the State Director finds that he has not been cooperative and has not complied with his agreements, the borrower will be required to pay the additional charge. In all cases of sale of a farm outside the program, when the State Director finds that profit-making is a significant motive, the borrower will be required to pay the additional charge.

(c) *Actions prior to final payment*—(1) *Notice to State Office.* When an insured loan borrower requests permission to pay his insured loan indebtedness in full, or if the proposed transaction involves refinancing, sale (transfer) of the farm to another insured loan applicant, sale of the farm outside the program, or a subsequent insured loan, the County Supervisor will submit to the State Director a full report of the circumstances.

(2) *Consent to final payment.* If the State Director approves the proposed transaction, he will advise the County Supervisor by letter and will send a copy of the letter to the holder of the insured mortgage.

(i) If less than five years have elapsed since the date of the execution of the borrower's insured mortgage and if the State Director determines that the borrower should be required to pay the additional charge as provided in paragraph (b) (2) of this section, the additional charge will be added to any other mortgage insurance charges that the borrower may owe and all such charges will be collected from the borrower on or before the date final payment is made on the note account.

(3) *Consent and release of interest of United States.* When the State Director consents to final payment he will execute Form FHA-366, "Consent and Release of Interest of United States," and will

send the Form to the County Supervisor for delivery only after the note account and all mortgage insurance charges have been paid and a satisfaction of the real estate mortgage is received from the holder of the insured mortgage.

(4) *Return of funds in supervised bank account.* Upon approval of the transaction by the State Director, in all cases, except those involving a subsequent insured loan, any Farm Ownership funds remaining in the borrower's supervised bank account will be withdrawn and applied on the borrower's note account as a refund.

(d) *Form of satisfaction from holder of mortgage.* The holder of the insured mortgage, upon receiving full payment of the note account, will execute the customary form of satisfaction or release of the real estate mortgage. Upon request of any holder, the County Supervisor will furnish an appropriate form of satisfaction.

(e) *Recordation of satisfaction and Form FHA-366.* Form FHA-366 will normally be recorded along with the satisfaction executed by the holder. The cost of recording Form FHA-366 will not be borne by the Government, except when State law requires a mortgagee to pay such cost. The cost of recording the satisfaction executed by the holder will be borne by the borrower, except when State law requires the mortgagee to record or file satisfactions and to pay the cost of recording.

(f) *Redemption date.* In all cases where a new mortgage is insured, the one year option period for redemption will begin seven years from the date of the new insured mortgage.

(Secs. 3, 12, 60 Stat. 1074, 1076 as amended, sec. 5, 62 Stat. 535; 7 U. S. C. 1003, 1005b)

§ 361.27 *Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm except when holder of insured mortgage fianances purchaser.* This section applies to all cases where final payment of the insured loan indebtedness is to be derived from (1) the borrower's funds, (2) the proceeds from refinancing with a new lender on a noninsured basis, (3) the proceeds from the sale (transfer) of a farm within the program when a new lender furnishes the funds, and (4) the proceeds from the sale of a farm outside the program when a new lender furnishes the funds. The funds for final payment in such cases will be processed through the Area Finance Office.

(a) *Determining balance of indebtedness and collection.* The County Supervisor will compute the amount necessary to pay the insured loan indebtedness.

(1) Interest on the note account will be calculated to a date 10 days beyond the date on which the collection is received by the County Supervisor. This becomes necessary in order for the holder of the insured mortgage to receive interest to the date of the U. S. Treasury check. Any overpayment will be refunded to the borrower by the Area Finance Office. On any advances made for the account of the borrower from the mortgage insurance fund, interest will be calculated to the date payment of the mortgage insurance account is received by the County Supervisor.

(2) The County Supervisor will collect from the borrower the full amount owed the mortgage insurance account and the balance of principal and interest due on the note account. He will remit the collection to the Area Finance Office.

(3) Since the Government is the collection agent for the mortgagee, the County Supervisor will advise the borrower, purchaser, or new lender, as the case may be, that the remittance for final payment should be made payable to, or endorsed to, the order of the Farmers Home Administration.

(b) *Processing of final payment and Form FHA-993, "Notice of Receipt of Final Payment on Insured Mortgage Loan."* The County Supervisor will send Form FHA-993 to the Area Finance Office together with the final payment. If the collection pays in full (1) the outstanding balance of the mortgage insurance account to the date of the receipt issued to the borrower, and (2) the outstanding balance of the note account to the date of the U. S. Treasury check to be issued to the holder of the insured mortgage, the Area Finance Manager will sign Form FHA-993. The Area Finance Manager will furnish Form FHA-993 to the holder of the insured mortgage and will advise the holder that the borrower has made final payment of the note account. The Area Finance Office will also inform the holder of the unpaid balance of principal and interest on the note account to the date of the U. S. Treasury check and that, upon receipt of the U. S. Treasury check and if the amount is in agreement with the holder's records, the holder should execute the original and one copy of Form FHA-993 and send them to the County Supervisor, together with the canceled promissory note, the original real estate mortgage, and an instrument of satisfaction of the real estate mortgage. Upon receipt of the canceled promissory note, the real estate mortgage, the instrument of satisfaction, and Form FHA-993 from the holder of the insured mortgage, the County Supervisor will deliver the instrument of satisfaction and Form FHA-366 to the borrower, new mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied real estate mortgage will be delivered to the borower. Except in the case of sale (transfer) of a farm within the program, any abstracts of title which are the property of the borrower will also be delivered to the borrower.

(c) *Escrow arrangements.* In any case in which the new lender or purchaser insists upon a satisfaction of the mortgage before delivering the funds, he will be advised that he may make his own escrow arrangement provided all amounts owed by the borrower on the note account and on the mortgage insurance account are paid to the County Supervisor, as collection agent for the mortgagee, before or at the time the satisfaction of the insured mortgage and Form FHA-366 are delivered over by the escrow agent. No part of the expense for an escrow arrangement will be paid by the Government.

(Sec. 12, 60 Stat. 1076, 1077 as amended; 7 U. S. C. 1005b)

§ 361.28 *Payment in full by refinancing with holder of insured mortgage on a noninsured basis, or by sale of farm outside the program to person obtaining a noninsured loan from holder of insured mortgage.* This section applies when final payment is to be made (1) by refinancing by the holder of the insured mortgage on a noninsured basis, or (2) by sale of the farm outside the program to a person obtaining a noninsured loan from the holder of the insured mortgage in an amount not less than the outstanding balance due on the insured note account. Final payment of the note account may be accomplished under the provisions of this section by exchanging a noninsured note and mortgage for the insured promissory note and mortgage. Since no funds are involved in final payment of the old note account, only the collection of the mortgage insurance account will be transmitted to the Area Finance Office.

(a) *Collection of mortgage insurance account.* When final payment of the note account of an insured loan borrower is to be accomplished by either of the above methods, the County Supervisor will collect from the borrower the full amount, if any, owed the mortgage insurance account. If there is an unpaid balance of any amount advanced from the mortgage insurance fund, the County Supervisor will compute the interest on such amount to the date payment is received by the County Supervisor.

(b) *Closing actions.* The County Supervisor will furnish Form FHA-993, "Notice of Receipt of Final Payment on Insured Mortgage Loan," to the holder of the insured mortgage and will inform the holder of the outstanding balance of principal and interest on the insured note account and the daily rate of accrual of interest. The County Supervisor will request that, if such amount is in agreement with the holder's records, the holder should insert the date final payment is received (date insured loan refinanced), execute the original and one copy of Form FHA-993 and return them to the County Supervisor, together with the canceled promissory note and the satisfied real estate mortgage. If requested by the holder of the insured mortgage, the County Supervisor will file the instrument of satisfaction of the mortgage for recordation. Form FHA-366 will be delivered to the lender or to the recorder of deeds and mortgages, as the case may require. The canceled promissory note, after cancellation by the State Director of the insurance endorsement thereon, the satisfied real estate mortgage, and any abstracts of title which are the property of the borrower, will be delivered to the borrower.

(Sec. 12, 60 Stat. 1077 as amended; 7 U. S. C. 1005b)

§ 361.29 *Payment in full by sale (transfer) of farm within the program to new applicant obtaining an insured loan from holder of insured mortgage.*

This section applies when an insured Farm Ownership borrower sells his farm to another eligible applicant who obtains an insured loan from the holder of the insured mortgage in an amount not less than the outstanding balance due on the insured note account.

(a) *General.* (1) The transfer of ownership of an insured loan borrower's farm to another eligible applicant will not be made by means of an assumption agreement. Such transaction will be accomplished by refinancing the initial insured loan.

(2) Final payment of the old borrower's note account will be accomplished by exchanging the new borrower's promissory note and mortgage for the promissory note and mortgage of the old borrower and additional funds, if any. Since no funds are involved in the final payment of the old note account, only the collection of the mortgage insurance account will be transmitted to the Area Finance Office.

(3) The insured loan to the new borrower may include funds for any purpose authorized in connection with an initial insured loan.

(b) *Determining balance of indebtedness and collection of mortgage insurance account.* After approval of the proposed transaction by the State Director, the County Supervisor will compute the amount necessary to pay the old borrower's insured loan indebtedness in full. On or before closing the new insured loan, the County Supervisor will collect from the old borrower any amounts owed the mortgage insurance account.

(c) *Loan docket for new applicant.* A loan docket, including an option from the old borrower, will be prepared for the new borrower as in case of an initial insured loan. The new borrower will pay the usual appraisal fee. The loan limitations will apply as in the case of an initial insured loan. Title clearance will be required as for an initial insured loan.

(d) *Mortgage insurance charge and down payment.* The new borrower will be required to pay the initial mortgage insurance charge from the date the insured loan is closed to the next March 31. This charge must be paid by the new borrower even though the old borrower has paid the mortgage insurance charge covering the same period. On or before the date of loan closing, the new borrower will be required to deposit in a supervised bank account a down payment of not less than ten percent of the total investment in the farm.

(e) *Actions prior to closing.* (1) The State Director, rather than the State Field Representative, will execute Forms FHA-358, "Agreement by Applicant for Insured Loan," FHA-359, "Borrower-Insurer-Lender Triple Agreement," and FHA-643, "Farm Development Plan."

(2) When submitting the new Form FHA-359 to the holder of the insured mortgage, the holder will be informed that, upon closing of the insured loan, the new borrower's promissory note will be sent to him to be substituted for the old borrower's promissory note and that a check for the additional advance, if any, will be requested from him at that time.

(f) *Loan closing actions.* The loan will be closed in accordance with instructions received from the representative of the Office of the Solicitor. When additional funds are to be advanced to the new borrower, the loan will be closed before the County Supervisor requests the loan check.

(1) The County Supervisor will calculate the unpaid balance of principal and interest on the old borrower's promissory note as of the date the insured loan to the new borrower is closed. The difference, if any, between such unpaid balance on the old borrower's promissory note and the amount of the new borrower's promissory note will be the amount of funds to be requested from the holder of the insured mortgage.

(2) The County Supervisor will insert the date of loan closing (date final payment received) on Form FHA-993 and will deliver Form FHA-993 and the original of the new borrower's promissory note to the holder of the insured mortgage. The County Supervisor will inform the holder as to the amount of the unpaid balance of principal and interest on the old borrower's promissory note as of the date of loan closing, and will request that, if such amount is in agreement with the holder's records, the holder should execute the original and one copy of Form FHA-993 and return the forms to him, together with the canceled promissory note and mortgage of the old borrower, and an instrument of satisfaction of the mortgage. He will also request the holder to send him a check to the order of the new borrower in the amount of the difference, if any, between the unpaid balance on the old borrower's promissory note and the amount of the new borrower's promissory note.

(3) On the date of loan closing, the County Supervisor will collect from the new borrower the appraisal fee and the initial mortgage insurance charge. Form FHA-366 will be recorded along with the satisfaction of the old borrower's insured mortgage. After cancellation by the State Director of the insurance indorsement on the canceled promissory note, the County Supervisor will deliver to the old borrower the canceled promissory note and the satisfied real estate mortgage. He will also deliver to the old borrower the instrument of satisfaction of the mortgage and Form FHA-366 after they have been recorded.

(Secs. 1, 12, 44, 60 Stat. 1072, 1076 as amended, 1069; 7 U. S. C. 1001, 1005b, 1018)

§ 361.30 *Subsequent insured Farm Ownership loans*—(a) *General.* (1) A subsequent insured Farm Ownership loan may be approved only for the purpose of refinancing an existing insured loan and furnishing additional funds for the borrower provided:

(i) Such additional funds are used to accomplish any one or any combination of the purposes for which direct subsequent Farm Ownership loans may be made in accordance with § 333.2 (a), (b), and (e) of this chapter.

NOTE: Section 333.2 (c) of this chapter is not applicable here; however, an advance of funds for the payment of equity to a transferor may be made in connection with the sale (transfer) of a farm within the program under § 361.27 or § 361.29 of this chapter.

(ii) Loan limitations are complied with as in the case of an initial insured loan.

(2) The subsequent insured Farm Ownership loan may be made by the holder of the initial insured mortgage or by a new mortgagee.

(3) Generally, when a subsequent insured loan is made, the existing insured mortgage will be refinanced, the initial promissory note canceled, and the initial insured mortgage satisfied. This method is necessary, in lieu of taking a supplemental mortgage, in order to avoid the possibility of one of the mortgages being assigned to another lender without the other. Second mortgages cannot be insured.

(i) In any State where local law requires that the initial promissory note and real estate mortgage shall be kept alive in order to protect the lien of the mortgage securing the subsequent loan, the State Director may approve the taking of a supplemental promissory note and mortgage which will consolidate the unpaid balance of principal and interest on the initial insured loan with the additional advance. The initial promissory note and mortgage will not be canceled and satisfied; *Provided, however,* That the supplemental mortgage shall contain a stipulation prohibiting the assignment of the initial promissory note and mortgage without the simultaneous assignment of the supplemental note and mortgage to the same lender. In any State where this method is to be followed, the procedure and forms to be used will supersede the procedure and forms prescribed in this section but will be consistent insofar as possible with this section and still protect the interests of the holder of the insured mortgage and the Government.

(b) *Arrangement with respect to funds for refinancing initial insured loan and providing additional advance.*—(1) *Holder of initial mortgage providing the funds.* In cases where the holder of the initial insured mortgage refinances the existing insured loan and provides the additional loan funds, the transaction will be accomplished without the exchange of funds for payment of the old promissory note. Since no funds are involved in final payment of the old note account, only the collection of the mortgage insurance account will be transmitted to the Area Finance Office. The new promissory note and real estate mortgage will be exchanged for the old promissory note and mortgage and a check for the additional funds.

(2) *New mortgagee providing the funds.* When a mortagee other than the holder of the initial insured mortgage refinances the existing insured loan and provides the additional loan funds, the funds used for refinancing the existing insured loan will be processed through the Area Finance Office.

(c) *Actions prior to loan closing.* (1) Upon approval of the proposed transaction by the State Director, the County Supervisor will prepare the subsequent insured loan docket. In general, the procedure for making initial insured Farm Development and Farm Enlargement loans will be followed. However, the State Director, rather than the State Field Representative, will execute Forms FHA-358, FHA-359, and FHA-643.

(2) Reappraisals will be required on the same basis as provided for subsequent direct loans. If a reappraisal is required, an additional fee of $20 will be charged.

(3) New forms for the proposed subsequent insured loan will be prepared as in the case of an initial insured loan, except existing Forms FHA-308, "Initial Family Status Report," FHA-317, "Agreement," and, when reappraisals are not required, FHA-596, "Earning Capacity Report," may be used in connection with the subsequent insured loan.

(4) The amount of the initial insured loan to be refinanced will be the unpaid principal balance of the promissory note plus the amount of the unpaid interest accrued to a date estimated for closing the subsequent insured loan. In case a new mortgagee provides the funds, interest will be calculated for an additional 10 days.

(5) When submitting the new Form FHA-359 to the lender, the County Supervisor will inform the lender as follows, as the case may be:

(i) If the subsequent insured loan is to be made by the holder of the insured mortgage, the holder will be informed that, upon closing of the subsequent insured loan, the borrower's new promissory note for the total amount of the unpaid balance of principal and interest on the existing loan, plus the additional advance to be made, will be furnished the holder to be substituted for the borrower's old promissory note and that a check for the additional advance will be requested from the holder at that time; or

(ii) If the subsequent insured loan is to be made by a new mortgagee, the new mortgagee will be informed that the funds for the subsequent insured loan will be requested when the loan is ready for closing.

(6) The entire amount of the new promissory note will bear 3 percent interest regardless of when the initial insured loan was made. The one year option period for redemption of the new real estate mortgage will begin seven years from the date the subsequent insured loan is closed.

(7) If title insurance is available, a new mortgagee's title policy for the full amount of the new promissory note generally will be required since the initial insured mortgage will be satisfied. If the purchase of additional land is involved, a new owner's policy will be required.

(8) The subsequent insured loan will be amortized over the remaining period of the initial insured loan. The number of years over which the subsequent insured loan is amortized will be the greatest number of whole years between the estimated date of closing the subsequent insured loan and the maturity date of the initial insured loan.

(9) If the subsequent insured loan is to be made by a new mortgagee, the County Supervisor, after receipt of closing instructions from the representative of the Office of the Solicitor, will request from the new mortgagee a check payable to the order of the borrower in the total amount of the subsequent insured loan.

(d) *Loan closing actions.* The subsequent insured loan will be closed in accordance with instructions received from the representative of the Office of the Solicitor. When the subsequent insured loan is to be made by the holder of the initial insured mortgage, the loan will be closed before the County Supervisor requests the loan check for the additional advance. When the subsequent insured loan is to be made by a new mortgagee, the loan check will be available in the County Office on the date of loan closing as in the case of an initial insured loan.

(1) *Determining amount of first installment.* The amount of the first installment on the new promissory note will be, as in case of an initial insured loan, an amount agreed upon mutually by the County Supervisor and the borrower. However, in no case will the amount of the first installment to be entered on the new promissory note exceed the amount of the regular annual installment shown on the promissory note.

(2) *Collecting the mortgage insurance charges and reappraisal fee.* On the date the subsequent insured loan is closed, the County Supervisor will collect from the borrower all mortgage insurance charges and the reappraisal fee, if any, as follows:

(i) Any amount owed the mortgage insurance account on the initial insured loan as of the date the subsequent insured loan is closed.

(ii) The initial mortgage insurance charge on the amount of the additional advance for the fraction of the year from the date of closing the subsequent insured loan to the next March 31. The amount of the additional advance will be the difference between the amount of the new promissory note and the unpaid balance of principal and interest on the old promissory note as of the date of closing the subsequent insured loan.

(iii) If a reappraisal was made, an appraisal fee of $20 as in case of an initial insured loan.

(3) *When subsequent insured loan is made by holder of insured mortgage*—(i) *County office actions.* When the subsequent insured loan is to be made by the holder of the initial insured mortgage, the amount of funds to be requested will be the difference between the unpaid balance of principal and interest on the borrower's old promissory note as of the date of closing the subsequent insured loan and the amount of the borrower's new promissory note.

(*a*) On the date of loan closing, the County Supervisor will insert the date of closing as the date of "final payment received" on Form FHA-993 and will deliver Form FHA-993 and the original of the borrower's new promissory note to the holder.

(*b*) The County Supervisor will inform the holder as to the amount of the unpaid balance of principal and interest on the borrower's old promissory note as of the date of closing the subsequent insured loan. The County Supervisor will request that if such amount is in agreement with the holder's records, the holder should execute the original and one copy of Form FHA-993 and return the forms to him, together with the canceled promissory note and mortgage for the initial insured loan and an instrument of satisfaction of the initial insured mortgage. He will also request the holder to send him a check payable to the order of the borrower in the amount of the difference between the unpaid balance of principal and interest on the borrower's old promissory note and the amount of the borrower's new promissory note.

(*c*) The loan check will be deposited in the borrower's supervised bank account.

(*d*) Upon receipt of the instrument of satisfaction of the initial insured mortgage from the holder, the County Supervisor will record the satisfaction, together with Form FHA-366.

(*e*) After cancellation by the State Director of the insurance endorsement on the canceled promissory note, the canceled promissory note and the satisfied real estate mortgage will be delivered to the borrower. The instrument of satisfaction and Form FHA-366 will also be delivered to the borrower after they have been recorded.

(4) *When subsequent insured loan is made by a new mortgage*—(i) *County Office actions.* When a subsequent insured loan to be made by a new mortgagee is ready for closing, the County Supervisor will request the new mortgagee to furnish him a check payable to the order of the borrower in the total amount to the subsequent insured loan.

(*a*) The subsequent insured loan will be closed as in the case of an initial insured loan and the loan check will be deposited in the borrower's supervised bank account.

(*b*) The borrower will be requested to draw a check to the order of the Farmers Home Administration in the amount of the unpaid balance of principal and interest on the initial promissory note as of the date of loan closing, plus 10 days' additional interest.

(*c*) The borrower's check will be remitted to the Area Finance Office as final payment of the borrower's initial note account and a receipt will be issued in the usual manner.

(*d*) Any overpayment of interest will be refunded by the Area Finance Office to the borrower for redeposit in the supervised bank account.

(*e*) Upon receipt in the County Office of the original and executed copy of Form FHA-993, the canceled promissory note, the real estate mortgage, and the instrument of satisfaction from the holder of the initial insured mortgage, the County Supervisor will record the instrument of satisfaction, together with Form FHA-366.

(*f*) The County Supervisor will deliver the canceled promissory note and the satisfied real estate mortgage to the borrower. The instrument of satisfaction and Form FHA-366 will also be delivered to the borrower after they have been recorded.

(ii) *Area Finance Office actions.* When the subsequent loan is made by a new mortgagee, if the collection pays in full the outstanding balance of the mortgage insurance account on the initial insured loan to the date of the receipt issued to the borrower and the outstanding balance of the initial note account to the date of the U. S. Treasury check to be issued to the holder of the initial insured mortgage, the Area Finance Manager will sign Form FHA-993 and will send this form to the holder. The Area Finance Manager will advise the holder that the borrower has made final payment of the note account; and that, upon receipt of the U. S. Treasury check, if the amount is in agreement with the holder's records, the holder should execute the original and one copy of Form FHA-993 and send them to the County Supervisor, together with the canceled promissory note, the original real estate mortgage, and an instrument of satisfaction of the real estate mortgage.

(Secs. 1, 12, 44, 48, 60 Stat. 1072, 1076 as amended, 1069, 1070, sec. 5, 62 Stat. 535; 7 U. S. C. 1001, 1005b, 1018, 1022)

Dated: June 28, 1951.

[SEAL] DILLARD B. LASSETER, *Administrator, Farmers Home Administration.*

Approved: July 16, 1951.

C. J. MCCORMICK, *Acting Secretary of Agriculture.*

[F. R. Doc. 51-8318; Filed, July 19, 1951; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[1061 (P. R. 51)-1, Supp. 3]

PART 702—SPECIAL AGRICULTURAL CONSERVATION PROGRAM; PUERTO RICO

SUBPART—1951

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1951 Special Agricultural Conservation Program; Puerto Rico, issued November 1, 1950 (15 F. R. 7420) as amended December 19, 1950 (15 F. R. 9180) and June 15, 1951 (16 F. R. 5864), is further amended as follows:

The following sections are added under the heading "Conservation Practices and Rates of Assistance":

§ 702.132 *Practice 22; constructing and maintaining throughout 1951 individual terraces around coffee trees.* Individual terraces around coffee trees should be constructed as nearly level as possible. Using the tree as an axis, the excavated area should have a radius of at least 3 feet on land having a slope of not more than 45 percent and of at least 2 feet on steeper slopes. The excavated soil should be used to fill in the slope below the trees. No payment will be made for constructing terraces on land having a slope of 2 percent or less. Payment will not be made for more than 450 terraces per acre, nor will payment be made if less than 300 terraces have been constructed per acre. Payment will not be made for this practice if payment has been made by the Insular Government or under any other program.

Maximum assistance. $2 per 100 terraces.

§ 702.133 *Practice 23; constructing and maintaining throughout 1951 individual catch pits on the upper side of coffee trees.* Catch pits must be from 30 to 42 inches long, 12 to 15 inches wide, and not less than 8 inches deep. No payment will be made for the construction of catch pits on land having a slope of 2 percent or less. Catch pits must be constructed outside the maximum limit of the area covered by the branches of the coffee trees, but always at the upper side of the coffee tree. Where the nature of the soil and other local conditions make adherence to the forgoing specifications neither practicable nor desirable, such changes may be made as are approved by the State office. In such case, the applicable payment per 100 catch pits shall be that approved by the State office, but in no event more than $1.75 per 100 catch pits. No payment will be made for more than 450 catch pits per acre, nor will payment be made if less than 300 catch pits have been constructed per acre. No payment will be made for this practice if payment has been made by the Insular Government or under any other program.

Maximum assistance. $1.75 per 100 catch pits.

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interpret or apply secs. 7-17, 49 Stat. 1148, as amended; 16 U. S. C. 590g-590q)

Done at Washington, D. C., this 17th day of July 1951.

[SEAL] C. J. MCCORMICK, *Acting Secretary of Agriculture.*

[F. R. Doc. 51-8412; Filed, July 19, 1951; 9:03 a. m.]

[Amdt. 2]

PART 713—COUNTY AND COMMUNITY COMMITTEES

SUBPART—REGULATIONS PERTAINING TO SELECTION AND FUNCTIONS OF PRODUCTION AND MARKETING ADMINISTRATION COUNTY AND COMMUNITY COMMITTEES

By virtue of the authority vested in the Secretary of Agriculture by the Soil Conservation and Domestic Allotment Act, as amended, the Regulations Pertaining to the Selection and Functions of Production and Marketing Administration County and Community Committees (14 F. R. 5916) are hereby amended by deleting paragraph (c) of § 713.14.

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interprets or applies 49 Stat. 1149, as amended; 16 U. S. C. 590h)

Done at Washington, D. C., this 17th day of July 1951. Witness my hand and the seal of the Department of Agriculture.

[SEAL] C. J. MCCORMICK, *Acting Secretary of Agriculture.*

[F. R. Doc. 51-8413; Filed, July 19, 1951; 9:03 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 52]

PART 600—DESIGNATION OF CIVIL AIRWAYS

CIVIL AIRWAY ALTERATIONS

The civil airway alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and is adopted when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest, and therefore is not required.

Part 600 is amended as follows:

1. Section 600.639 *Blue civil airway No. 39 (Knoxville, Tenn., to U. S.-Canadian Border)* is amended by deleting the last portion which reads: "From the Syracuse, N. Y., radio range station via the intersection of the northwest course of the Syracuse, N. Y., radio range and the southwest course of the Watertown, N. Y., VHF radio range; Watertown, N. Y., VHF radio range station; the intersection of the northeast course of the Watertown, N. Y., VHF radio range and the southwest course of Massena, N. Y., VHF radio range station to the intersection of the northeast course of the Massena, N. Y., VHF radio range and the U. S.-Canadian Border" and by adding in lieu thereof: "From the Syracuse, N. Y., radio range station via the Watertown, N. Y., non-directional radio beacon; the intersection of a line bearing 33° True from the Watertown, N. Y., non-directional radio beacon and a line bearing 234° True from the Massena, N. Y., non-directional radio beacon; Massena, N. Y., non-directional radio beacon; Massena, N. Y., non-directional radio beacon via a direct line between the Massena, N. Y., non-directional radio beacon and the Montreal, Quebec, Canada, radio range station to the U. S.-Canadian Border."

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 302, 52 Stat. 985, as amended; 49 U. S. C. 452)

This amendment shall become effective 0001 e. s. t. July 18, 1951.

[SEAL] F. B. LEE, *Acting Administrator of Civil Aeronautics.*

[F. R. Doc. 51-8311; Filed, July 19, 1951; 8:45 a. m.]

[Amdt. 56]

PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

REPORTING POINT ALTERATION

The reporting point alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee Airspace Subcommittee, and is adopted when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest, and therefore is not required.

Part 601 is amended as follows:

1. Section 601.4639 is amended to read:

§ 601.4639 *Blue civil airway No. 39 (Knoxville, Tenn., to U. S.-Canadian Border).* No reporting points designated.

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

This amendment shall become effective 0001 e. s. t. July 18, 1951.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 51-8310; Filed, July 19, 1951; 8:45 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

COMMINUTED TOMATO PRODUCTS CONTAINING ROTTEN TOMATO MATERIAL

Pursuant to section 3 of the Administrative Procedure Act (60 Stat. 237, 238; 5 U. S. C. 1002), the following statement of policy is issued:

§ 3.24 *Notice to packers of comminuted tomato products.* It has long been known that tomato rot may be caused by one or more of the following: Fungus diseases, bacterial diseases, virus diseases, and certain nonparasitic diseases. Only the fungus rots are characterized by the presence of mold filaments. Mold counts on comminuted tomato products are not increased by incorporating within the product tomato rot caused by bacteria, virus, or nonparasitic factors. Although high mold counts on these products reveal that large amounts of rotten material are present, low mold counts do not necessarily demonstrate absence of the type of rot caused by the tomato diseases that are not characterized by mold filaments.

Inspections of canneries engaged in the packing of comminuted tomato products show that most packers effectively trim, sort out, and discard rotten tomatoes from the raw stock. Some packers,

however, do not properly eliminate rotten tomato material, and a few packers deliberately use rotten tomatoes in these foods, provided the mold count remains low. Some packers, on occasion, have mixed tomato products having a high mold count with tomato products containing little or no mold, so as to produce a blend with a low mold count.

Packers of comminuted tomato products who rely upon the mold count as the sole or primary control procedure, to the neglect of adequate sorting and trimming, may produce products with low mold counts which contain substantial amounts of rot.

It is the purpose of this announcement to advise all canners of tomato products that:

(a) Although high mold count is conclusive evidence of inclusion of substantial amounts of rot, mold count is not the only way of establishing that comminuted tomato products contain decomposed tomato material.

(b) Where factory observations or other evidence reveals that comminuted tomato products contain rot not caused by mold, such rot, as well as that caused by mold, will be taken into account in applying the provisions of the Federal Food, Drug, and Cosmetic Act against adulteration.

(c) The blending of tomato products adulterated with tomato rot, of whatever kind, with tomato products made from sound tomatoes, or with other sound food, renders the blend adulterated.

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

Dated: July 16, 1951.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 51-8343; Filed, July 19, 1951; 8:55 a. m.]

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

CORRECTIONS

1. In § 141.5 (d), the sentence reading "After 15 minutes titrate the excess iodine using 0.1N $Na_2S_2O_3$ * * *" is corrected to read: "After 15 minutes titrate the excess iodine using 0.01N $Na_2S_2O_3$ * * *."

2. In § 141.26 (h), the references to § 141.5 (c) is corrected to read "§ 141.5 (e)."

3. In § 141.32, the headnote of paragraph (c) is corrected to read: "(c) *N-(1-naphthyl)-ethylenediamine solution.*"

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: JULY 13, 1951.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 51-8341; Filed, July 19, 1951; 8:54 a. m.]

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

REVISED STERILITY TESTS AND SAMPLE REQUIREMENTS

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR 141.1 et seq., and 1950 Supp.; 16 F. R. 4963, 5395) and certification of batches of antibiotic and antibiotic - containing drugs (21 CFR 146.1 et seq., and 1950 Supp.; 16 F. R. 4963, 5395, 5471, 5699) are amended as indicated below:

1. Section 141.2 is amended to read as follows:

§ 141.2 *Sodium penicillin, calcium penicillin, potassium penicillin; sterility*—(a) *Culture medium.* In the test for bacteria, use U. S. P. fluid thioglycolate medium I or a dehydrated mixture which, when reconstituted with distilled water, has the same composition as such medium and has growth-promoting, buffering, and oxygen-tension-controlling properties equal to or better than those of such medium. In the preparation of the medium from either the individual ingredients or any dehydrated mixture avoid contamination with calcium. In the test for molds and yeasts use U. S. P. Sabouraud Liquid Medium (Modified).

(b) *Conduct of test for bacteria.* Add not more than 10 milliliters of sterile distilled water, or sterile physiological salt solution, to each immediate container in the sample to be tested. From each of not less than seven immediate containers transfer aseptically the equivalent of approximately 300 milligrams, or the entire contents if the container is packaged to contain less than 300 milligrams, to individual tubes (38 x 200 millimeter size) each containing 75–100 milliliters of thioglycolate medium and sufficient penicillinase to completely inactivate the penicillin used in the test. (Prior to use, the tubes containing the medium with added penicillinase are incubated at 32° C.—35° C. for not less than 24 hours and examined for sterility.) After adding the penicillin to the tubes let them stand at room temperature for 2 hours, with frequent shaking. To one of such tubes add 1.0 milliliter of a 1:1,000 dilution of an 18–24 hour broth culture of M. pyogenes var. aureus (P. C. I.-209P and American Type Culture Collection 6538P). Incubate all tubes at 32° C.—35° C. for 5 days. The batch meets the requirements of the test for bacteria if on the first or second test the control tube and no other tube shows growth, or if the number of tubes (excluding the control tubes) that show growth in three or more consecutive tests is not more than 10 percent (to compen-

sate for contamination that may have been induced during the test) of the total number of samples tested.

(c) *Conduct of test for molds and yeasts.* Add not more than 10 milliliters of sterile distilled water or sterile physiological salt solution to each immediate container in the sample to be tested. From each of not less than four immediate containers transfer aseptically the equivalent of approximately 300 milligrams, or the entire contents if the container is packaged to contain less than 300 milligrams, to individual tubes each containing 75–100 milliliters of U. S. P. Sabouraud Liquid Medium. Incubate all tubes at approximately 25° C. for 5 days. The batch meets the requirements of the test for molds and yeasts if on the first or second test no tube shows growth, or if the number of tubes that show growth in three or more consecutive tests is not more than 10 percent (to compensate for contamination that may have been induced during the test) of the total number of samples tested.

2. Section 141.7 (b) is amended to read as follows:

§ 141.7 *Penicillin in oil and wax.* * * *

(b) *Sterility.* Transfer aseptically directly to the tubes of the medium the entire contents of single-dose containers or the equivalent of approximately 300 milligrams (activity) from each multiple-dose container, and proceed as directed in § 141.2.

3. Section 141.17 (c) is amended to read:

§ 141.17 *Penicillin sufonamide powder.* * * *

(c) *Sterility.* Transfer aseptically directly to the tubes of the medium approximately 0.5 gram from each container tested, and proceed as directed in § 141.2.

4. Section 141.23 (b) is amended to read as follows:

§ 141.23 *Crystalline penicillin and epinephrine in oil.* * * *

(b) *Sterility.* Proceed as directed in § 141.7 (b).

5. Section 141.29 (b) is amended to read as follows:

§ 141.29 *Procaine penicillin for aqueous injection.* * * *

(b) *Sterility.* Use the entire contents of single-dose containers or the equivalent of approximately 300 milligrams (activity) from each multiple-dose container, and proceed as directed in § 141.2, except if it is the aqueous suspension of the drug and does not contain a preservative, incubate all tubes for 14 days.

6. Section 141.32 (a) is amended to read as follows:

§ 141.32 *Procaine penicillin and buffered crystalline penicillin etc.* * * *

(a) *Potency, sterility, moisture, pyrogens, toxicity, pH.* Proceed as directed in § 141.29, except in the sterility test of multiple-dose containers use approximately 400 milligrams (activity) from each container, in lieu of 300 milligrams.

7. Section 141.34 (e) is amended to read as follows:

§ 141.34 *Procaine penicillin and crystalline penicillin in oil.* * * *

(e) *Sterility.* Proceed as directed in § 141.7 (b), except in the case of multiple-dose containers use approximately 400 milligrams (activity) from each container, in lieu of 300 milligrams.

8. Section 141.39 (b) is amended to read as follows:

§ 141.39 *Penicillin and streptomycin etc.* * * *

(b) *Sterility.* Use the entire contents of single-dose containers or the equivalent of approximately 0.5 gram (combined activity) for each multiple-dose container, and proceed as directed in § 141.2, except that no control tube is used in the test for bacteria.

9. Section 141.42 (b) is amended to read as follows:

§ 141.42 *Crystalline penicillin and bacitracin.* * * *

(b) *Sterility.* Proceed as directed in § 141.39 (b).

10. Section 141.45 (b) is amended to read as follows:

§ 141.45 *l-Ephenamine penicillin G etc.* * * *

(b) *Sterility.* Proceed as directed in § 141.29 (b).

11. Section 141.102 is amended to read as follows:

§ 141.102 *Streptomycin sulfate, streptomycin hydrochloride, streptomycin phosphate, streptomycin trihydrochloride calcium chloride; sterility.* Use the entire contents of single-dose containers or the equivalent of approximately 0.5 gram (activity) from each multiple-dose container, and proceed as directed in § 141.2, except that neither penicillinase nor the control tube is used in the test for bacteria.

12. Section 141.108 (c) is amended to read as follows:

§ 141.108 *Dihydrostreptomycin sulfate etc.* * * *

(c) *Sterility.* Proceed as directed in § 141.102.

13. Section 141.201 (b) is amended to read as follows:

§ 141.201 *Aureomycin hydrochloride.* * * *

(b) *Sterility*—(1) *Culture medium.* Prepare fluid thioglycolate medium as described in § 141.2 (a).

(2) *Conduct of test.* Add aseptically to each of two tubes containing approximately 15 milliliters of fluid thioglycolate medium, 1.0 milliliter of a 5,000 micrograms per milliliter dilution in sterile distilled water of the aureomycin. Add 0.1 milliliter of the 5,000 micrograms per milliliter dilution to two additional tubes of thioglycolate medium. Incubate at 32° C.–35° C. for 4 days. If no tube shows growth, the sample is satisfactory.

14. Section 141.301 (b) is amended to read as follows:

§ 141.301 *Chloramphenicol.* * * *

(b) *Sterility.* Proceed as directed in § 141.201 (b).

15. Section 141.401 (b) is amended to read as follows:

§ 141.401 *Bacitracin.* * * *

(b) *Sterility.* Proceed as directed in § 141.102.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

16a. Section 146.24 (d) (2) and (3) are amended to read as follows:

§ 146.24 *Sodium penicillin etc.* * * *

(d) *Request for certification, check tests and assays; samples.* * * *

(2) If such batch is packaged for dispensing, such person shall submit with his request a sample consisting of 10 immediate containers for sterility testing and, for all tests except sterility; one immediate container for each 5,000 immediate containers in the batch but in no case less than or more than the following quantities (excluding the 10 containers submitted for sterlity):

(i) If it is not crystalline penicillin, not less than 6 or more than 13 immediate containers;

(ii) If it is crystalline penicillin, other than crystalline penicillin G or crystalline penicillin O, not less than 8 or more than 15 immediate containers;

(iii) If it is crystalline penicillin G or crystalline penicillin O, not less than 10 or more than 17 immediate containers; or

(iv) If it is packaged in containers of less than 100,000 units each for dental use, not less than 20 or more than 100 immediate containers if it is not crystalline penicillin, and not less than 40 or more than 100 immediate containers if it is crystalline penicillin.

Such sample shall be collected by taking single immediate containers before or after labeling, at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(3) If such batch is packaged for repacking or for use in the manufacture of another drug, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; 6 packages, or in the case of crystalline penicillin 10 packages, containing approximately equal portions of not less than 60 milligrams each.

(ii) For sterility testing; 10 packages, each containing approximately 300 milligrams.

Each such portion shall be taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.24 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i), (ii), and (iii), (3) (i), and (4) of this section; $1.00 for each immediate container in the sample submitted in ac-

cordance with paragraph (d) (2) (iv) of this section; and

17a. Section 146.25 (d) (3) (i) and (ii) are amended to read as follows:

§ 146.25 *Penicillin in oil and wax etc.* * * *

(d) *Request for certification; samples.* * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility; one package for each 500 packages in the batch, but in no case less than 3 packages, except if it is represented to be free flowing, in which case not less than 4 packages or more than 12 packages.

(*b*) For sterility testing; 10 packages.

Such samples shall be collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The penicillin used in making the batch:

(*a*) For all tests except sterility; 6 packages if it is calcium penicillin or 10 packages if it is crystalline penicillin, each containing approximately equal portions of not less than 60 milligrams.

(*b*) For sterility testing; 10 packages, each containing approximately equal portions of not less than 300 milligrams.

Such samples shall be packaged in accordance with the requirements of § 146.24 (b).

b. Section 146.25 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (i) (*a*), and (ii) (*a*), and (iii) of this section; and

18a. Section 146.35 (d) (3) (i) and (ii) are amended to read as follows:

§ 146.35 *Penicillin sulfonamide powder etc.* * * *

(d) *Requests for certification.* * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility; one immediate container for each 5,000 immediate containers in the batch, but in no case less than 20 or more than 100 immediate containers, unless each such container is packaged to contain more than 1 gram, in which case the sample shall consist of 1 gram for each 5,000 immediate containers in the batch, but in no case less than 20 grams or more than 100 grams.

(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers or 1-gram portions at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The penicillin used in making the batch:

(*a*) For all tests except sterility; 5 packages, or in the case of crystalline penicillin 10 packages, each containing approximately equal portions of not less than 60 milligrams.

(*b*) For sterility testing; 10 packages, each containing approximately equal portions of not less than 300 milligrams.

Such samples shall be packaged in accordance with the requirements of § 146.24 (b).

b. Section 146.35 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $1.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (*a*) of this section; $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) (*a*) and (iii) of this section; and

19a. Section 146.41 (d) (3) (i) and (ii) are amended to read as follows:

§ 146.41 *Crystalline penicillin and epinephrine in oil.* * * *

(d) *Request for certification; samples.* * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility; one package for each 500 packages in the batch, but in no case less than 5 packages or more than 15 packages.

(*b*) For sterility testing; 10 packages. Such samples shall be collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The penicillin used in making the batch:

(*a*) For all tests except sterility; 10 packages, each containing approximately equal portions of not less than 60 milligrams.

(*b*) For sterility testing; 10 packages, each containing approximately equal portions of not less than 300 milligrams.

Such samples shall be packaged in accordance with the requirements of § 146.24 (b).

b. Section 146.41 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (*a*), (ii) (*a*), and (iii) of this section; and

20a. Section 146.42 (d) (2) is amended to read as follows:

§ 146.42 *Aluminum penicillin etc.* * * *

(d) * * *

(2) Such person shall submit in connection with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; 6 packages.

(ii) For sterility testing: 10 packages.

Each such package shall contain approximately 300 milligrams taken from different parts of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.42 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i) and (3) of this section; and

21a. Section 146.43 (d) (3) (i) and (ii) are amended to read as follows:

§ 146 43 *Aluminum penicillin in oil* * * *

(d) * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility; one package for each 500 packages in the batch, but in no case less than 3 packages or more than 12 packages.

(*b*) For sterility testing; 10 packages.

Such samples shall be collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The aluminum penicillin used in making the batch:

(*a*) For all tests except sterility; 6 packages, each containing approximately equal portions of not less than 300 milligrams.

(*b*) For sterility testing: 10 packages, each containing approximately equal portions of not less than 300 milligrams.

Such samples shall be packaged in accordance with the requirements of § 146.42 (b).

b. Section 146.43 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $8.00 for each package in the sample submitted in accordance with paragraph (d) (3) (i) (*a*) of this section; $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) (*a*) and (iii) of this section; and

22a. Section 146.44 (d) (2) is amended to read as follows:

§ 146.44 *Procaine penicillin etc.* * * *

(d) * * *

(2) Such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility: 10 packages.

(ii) For sterility testing: 10 packages.

Each such package shall contain approximately 300 milligrams taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.44 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i) and (3) of this section; and

23a. Section 146.45 (d) (3) (i) and (ii) are amended to read as follows:

§ 146.45 *Procaine penicillin in oil.* * * *

(d) * * *

(3) * * *
(i) The batch:
(*a*) For all tests except sterility: one package for each 500 packages in the batch, but in no case less than 3 packages or more than 12 packages,
(*b*) For sterility testing; 10 packages.

Such samples shall be collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.
(ii) The procaine penicillin used in making the batch:
(*a*) For all tests except sterility; 10 packages, each containing approximately equal portions of 300 milligrams.
(*b*) For sterility testing; 10 packages, each containing approximately equal portions of 300 milligrams.

Such samples shall be packaged in accordance with the requirements of § 146.44 (b).

b. Section 146.45 (e) (1) is amended to read as follows:

(e) * * *
(1) $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (i) (*a*), (ii) (*a*), and (iii) of this section; and

24a. Section 146.47 (d) (3) (i) is amended to read as follows:

§ 146.47 *Procaine penicillin for aqueous injections*. * * *
(d) * * *
(3) * * *
(i) The batch:
(*a*) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 10 or more than 17 immediate containers.
(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

b. Section 146.47 (d) (4) is amended to read as follows:

(4) If such batch is packaged for repacking, such person shall submit with his request a sample consisting of the following:
(i) For all tests except sterility; 10 packages.
(ii) For sterility testing; 10 packages.

Each such package shall contain not less than approximately 300 milligrams taken from different parts of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

c. Section 146.47 (e) (1) is amended to read as follows:

(e) *Fees*. * * *
(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (*a*), (ii), (iii), (iv), and (4) (i) of this section; and

25a. Section 146.48 (d) (2) is amended to read as follows:

§ 146.48 *Ephedrine penicillin etc.* * * *
(d) * * *
(2) Such person shall submit with his request an accurately representative sample of the batch, consisting of the following:
(i) For all tests except sterility; 10 packages.
(ii) For sterility testing; 10 packages.

Each such package shall contain approximately 300 milligrams taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.48 (e) (1) is amended to read as follows:

(e) *Fees*. * * *
(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i) and (3) of this section; and

26. In § 146.50 (d) the last sentence is amended to read as follows:

§ 146.50 *Procaine penicillin and buffered crystalline penicillin etc.* * * *
(d) * * * If such batch is packaged for repacking, each portion in the sample required by § 146.47 (d) (4) shall consist of approximately 400 milligrams in lieu of 300 milligrams.

27a. In § 146.52 (a) (3) the last sentence is amended to read as follows:

§ 146.52 *Procaine penicillin and crystalline penicillin in oil*. (a) * * *
(3) * * * In addition to the 10 immediate containers required by § 146.45 (d) (3) (i) (b), he shall also submit in connection with his request a sample consisting of not less than 4 packages of the batch of procaine penicillin and crystalline penicillin in oil and a sample of the crystalline penicillin used in making the batch, consisting of 10 packages, each containing approximately equal portions of not less than 60 milligrams, and 10 packages, each containing approximately equal portions of not less than 300 milligrams.

b. Section 146.52 (b) is amended to read as follows:

(b) The fee for the services rendered with respect to each 60-milligram package of crystalline penicillin submitted in accordance with the requirements prescribed therefor by this section shall be $4.00.

28a. Section 146.58 (d) (3) (i) is amended to read as follows:

§ 146.58 *Penicillin and streptomycin etc.* * * *
(d) * * *
(3) * * *
(i) The batch:
(*a*) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 12 or more than 19 immediate containers.
(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

b. Section 146.58 (d) (4) is amended to read as follows:

(4) If such batch is packaged for repacking, such person shall submit with his request a sample consisting of the following:
(i) For all tests except sterility; 12 approximately equal portions of at least 2 grams.
(ii) For sterility testing; 10 approximately equal portions of at least 0.5 gram.

Each such portion shall be taken from a different part of such batch, and each shall be packaged in a separate container and in accordance with the requirements of paragraph (b) of this section.

c. Section 146.58 (e) (1) is amended to read:

(e) *Fees*. * * *
(1) $4.00 for each immediate container in the sample submitted in accordance with paragraph (d) (3) (i) (*a*), (ii), (iii), (iv), (v), and (4) (i) of this section; and

29a. Section 146.63 (d) (3) (i) is amended to read as follows:

§ 146.63 *Crystalline penicillin and bacitracin*. * * *
(d) * * *
(3) * * *
(i) The batch:
(*a*) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 10 or more than 17 immediate containers.
(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

b. Section 146.63 (d) (4) is amended to read as follows:

(4) If such batch is packaged for repacking, such person shall submit with his request a sample consisting of the following:
(i) For all tests except sterility; 10 approximately equal portions of at least 2 grams each.
(ii) For sterility testing; 10 approximately equal portions of at least 0.5 gram each.

Each such portion shall be taken from different parts of such batch, and each shall be packaged in a separate container and in accordance with the re-

quirements of paragraph (b) of this section.

c. Section 146.63 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (*a*), (ii), (iii), (iv), and (4) (i) of this section; and

30a. Section 146.64 (d) (2) is amended to read as follows:

§ 146.64 *l-Ephenamine penicillin G.* * * *

(d) * * *

(2) Such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; 10 packages.

(ii) For sterility testing; 10 packages.

Each such package shall contain approximately 300 milligrams taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.64 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i) and (3) of this section; and

31a. Section 146.65 (d) (3) (i) and (ii) are amended to read as follows:

§ 146.65 *l-Ephenamine penicillin G in oil.* * * *

(d) * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility; one package for each 500 packages in the batch, but in no case less than 3 packages or more than 12 packages.

(*b*) For sterility testing; 10 packages.

Such samples shall be collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The *l*-ephenamine penicillin G used in making the batch:

(*a*) For all tests except sterility; 10 packages, each containing approximately equal portions of not less than 300 milligrams.

(*b*) For sterility testing; 10 packages, each containing approximately equal portions of not less than 300 milligrams.

Each such portion shall be packaged in accordance with the requirements of § 146.64 (b).

b. Section 146.65 (e) (1) is amended to read:

(e) *Fees.* * * *

(1) $4.00 for each package in the sample submitted in accordance with paragraph (d) (3) (i) (*a*), (ii) (*a*), and (iii) of this section; and

32a. Section 146.66 (d) (3) (i) is amended to read as follows:

§ 146.66 *l-Ephenamine penicillin G for aqueous injection.* * * *

(d) * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 10 or more than 17 immediate containers.

(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

b. Section 146.66 (d) (4) is amended to read as follows:

(4) If such batch is packaged for repacking, such person shall submit with his request a sample consisting of the following:

(i) For all tests except sterility; 10 packages.

(ii) For sterility testing; 10 packages.

Each such package shall contain approximately 300 milligrams taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

c. Section 146.66 (e) (1) is amended to read as follows:

(e) Fees. * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (a), (ii), (iii), (iv), and (4) (i) of this section; and

33a. Section 146.101 (d) (2) and (3) are amended to read as follows:

§ 146.101 *Streptomycin sulfate etc.* * * *

(d) * * *

(2) If such batch is packaged for dispensing, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 5 or more than 12 immediate containers.

(ii) For sterility testing; 10 immediate containers.

Such sample shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(3) If such batch is packaged for repacking or for use as an ingredient in the manufacture of another drug, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; 5 packages.

(ii) For sterility testing; 10 packages.

Each such package shall contain approximately 0.5 gram taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.101 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $10.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i), (3) (i), and (4) of this section; and

34a. Section 146.105 (d) (2) is amended to read as follows:

§ 146.105 *Streptomycin for topical use.* * * *

(d) * * *

(2) Such person shall submit in connection with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 50 or more than 100 immediate containers.

(ii) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers, before or after labeling, at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

b. In § 146.105, paragraph (e) (1) is amended by changing the words "paragraph (d) (2)" to read "paragraph (d) (2) (i)".

35a. Section 146.106 (d) (3) (i) and (ii) are amended to read as follows:

§ 146.106 *Streptomycin sulfate solution etc.* * * *

(d) * * *

(3) * * *

(i) The batch, if packaged for dispensing:

(a) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 5 or more than 12 immediate containers.

(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The batch, if packaged for repacking or for use in the manufacture of another drug:

(*a*) For all tests except sterility; 5 packages.

(*b*) For sterility testing; 10 packages.

Each such package shall contain approximately 2 milliliters taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.106 (e) (1), first clause, is amended to read as follows:

(e) *Fees.* * * *

(1) $10.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (*a*), (ii) (*a*), and (5) of this section; * * *

36a. Section 146.109 (d) (3) (i) is amended to read as follows:

§ 146.109 *Streptomycin - bacitracin - polymyxin gauze pads.* * * *

(d) * * *

(3) * * *

(i) The batch:

(*a*) For all tests except sterility: one pad for each 5,000 pads in the batch, but in no case less than 30 or more than 100 pads.

(*b*) For sterility testing: 10 pads.

Such samples shall be collected by taking single pads at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

b. In § 146.109, paragraph (e) (1), first clause, is amended to read as follows:

(e) *Fees.* * * *

(1) $1.00 for each pad in the sample submitted in accordance with paragraph (d) (3) (i) (*a*) of this section; * * *

37a. Section 146.401 (d) (2) and (3) are amended to read as follows:

§ 146.401 *Bacitracin.* * * *

(d) * * *

(2) If such batch is packaged for dispensing, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 6 or more than 13 immediate containers, except if the total potency contained in such immediate containers is less than 100,000 units and a sample of such batch has not been previously submitted under subparagraph (3) or (4) of this paragraph, such person shall submit, in addition to the quantity specified herein, one other container which contains a quantity sufficient to make the total potency of all containers in the sample equal to approximately 100,000 units.

(ii) For sterility testing: 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(3) If such batch is packaged for repacking or for use as an ingredient in the manufacture of another drug, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility; 6 packages.

(ii) For sterility testing; 10 packages.

Each such package shall contain approximately 0.5 gram, taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

b. Section 146.401 (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i), (3) (i), and (4) of this section; and

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

This order, which provides for changes in the test procedures for determining the sterility of penicillin, streptomycin, dihydrostreptomycin, bacitracin, and preparations of such antibiotics that are represented to be sterile, and for a new test designed to detect the presence of molds and yeasts if they are present in the batch, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industries will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industries and since it would be against public interest to delay providing for changes in the test procedures for determining the sterility of penicillin, streptomycin, dihydrostreptomycin, bacitracin, and preparations of such antibiotics that are represented to be sterile, and for a new test designed to detect the presence of molds and yeasts if they are present in the batch.

Dated: June 13, 1951.

[SEAL] JOHN L. THURSTON, *Acting Administrator.*

[F. R. Doc. 51-8340; Filed, July 19, 1951; 8:54 a. m.]

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR 141.1 et seq., and 1950 Supp.) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR 146.1 et seq., and 1950 Supp.) are amended as indicated below:

1. Part 141 is amended by adding the following new section:

§ 141.46 *Procaine penicillin in streptomycin sulfate solution, procaine penicillin in dihydrostreptomycin sulfate solution*—(a) *Potency*—(1) *Procaine penicillin content.* Proceed as directed in § 141.1, except paragraph (i) thereof. Its content of procaine penicillin is satisfactory, if it contains not less than 85 percent of the number of units that it is represented to contain.

(2) *Streptomycin sulfate content.* Proceed as directed in § 141.101 (j) and (k).

(3) *Dihydrostreptomycin sulfate content.* Proceed as directed in § 141.108 (a).

(b) *Sterility.* Proceed as directed in § 141.39 (b).

(c) *Toxicity.* Proceed as directed in § 141.103.

(d) *Pyrogens.* Proceed as directed in § 141.104.

(e) *pH.* Proceed as directed in § 141.5 (b), using the undiluted aqueous suspension.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

2. In § 146.24 *Sodium penicillin* * * *, paragraph (b) *Packaging* is amended by changing the words "or physiological salt solution U. S. P." at the end of the second sentence to read "physiological salt solution U. S. P., or an aqueous solution of a suitable local anesthetic.", and is further amended by deleting the last sentence in the paragraph.

3. Part 146 is amended by adding the following new section:

§ 146.67 *Procaine penicillin in streptomycin sulfate solution, procaine penicillin in dihydrostreptomycin sulfate solution (procaine penicillin in crystalline dihydrostreptomycin sulfate solution)*—(a) *Standards of identity, strength, quality, and purity.* Procaine penicillin in streptomycin sulfate solution is procaine penicillin suspended in an aqueous solution of streptomycin sulfate. Procaine penicillin in dihydrostreptomycin sulfate solution is procaine penicillin suspended in an aqueous solution of dihydrostreptomycin sulfate or crystalline dihydrostreptomycin sulfate. Such solution shall contain one or more suitable and harmless buffer substances, preservatives, and suspending or dispersing agents, and it may contain one or more suitable and harmless stabilizing agents. It is so purified that:

(1) Each immediate container or each milliliter shall contain not less than 300,000 units of procaine penicillin and not less than 0.25 gram of streptomycin sulfate or dihydrostreptomycin sulfate;

(2) It is sterile;
(3) It is nonpyrogenic;
(4) It is nontoxic; and
(5) Its pH is not less than 5.0 and not more than 8.0.

The procaine penicillin used conforms to the requirements prescribed by § 146.44 (a). The streptomycin sulfate used conforms to the requirements prescribed by § 146.101 (a). The dihydrostreptomycin sulfate used conforms to the requirements prescribed by § 146.106 (a). Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate container shall be a tight container as defined by the U. S. P., shall be sterile at the time of filling and closing, shall be so sealed that the contents cannot be used without destroying such seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. In case it is packaged for dispensing, it shall be in immediate containers of colorless transparent glass closed by a substance through which a hypodermic needle may be introduced and withdrawn without removing the closure or destroying its effectiveness. Each such container shall contain not less than 1 milliliter (unless it is packaged to contain a single dose) and not more than 10 milliliters, and each shall be filled with a volume in excess of that designated, which excess shall be sufficient to permit the withdrawal and administration of the volume indicated, whether administered in either single or multiple doses.

(c) *Labeling.* Each package shall bear, on its label or labeling as hereinafter indicated, the following:

(1) On the outside wrapper or container:

(i) The batch mark;

(ii) The number of units of procaine penicillin and the number of milligrams or grams of streptomycin sulfate or dihydrostreptomycin sulfate in each milliliter of the batch.

(iii) The name and quantity of each preservative used;

(iv) The statement "Expiration date ----," the blank being filled in with the date which is 12 months after the month during which the batch was certified;

(v) The statement "For intramuscular use only"; and

(vi) The statement "For manufacturing use," "For repacking," or "For manufacturing use or repacking," when packaged for repacking or for use as an ingredient in the manufacture of another drug, as the case may be.

(2) On the outside wrapper or container, the statement "Store in refrigerator not above 15° C. (59° F.)" or "Store below 15° C. (59° F.)."

(3) On the circular or other labeling within or attached to the package, if it is packaged for dispensing, adequate directions for use and warnings as required by section 502 (f) of the act, including:

(i) Clinical indications;

(ii) Dosage and administration;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration, including sensitization.

If two or more immediate containers are in such package, the number of such circulars or other labeling shall not be less than the number of such containers.

(d) *Requests for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the number of units of procaine penicillin and the number of milligrams or grams of streptomycin sulfate or dihydrostreptomycin sulfate in each milliliter of the batch, the batch marks and (unless they were previously submitted) the dates on which the latest assays of the procaine penicillin and streptomycin sulfate or dihydrostreptomycin sulfate used in making such batch were completed, the date on which the latest assay of the drug comprising such batch was completed, the quantity of each ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided by subparagraph (5) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; potency, sterility, toxicity, pyrogens, pH.

(ii) The procaine penicillin used in making the batch; potency, crystallinity, penicillin K content (unless it is procaine penicillin G), and the penicillin G content if it is procaine penicillin G.

(iii) The streptomycin sulfate or dihydrostreptomycin sulfate used in making the batch; potency, histamine content, streptomycin content if it is dihydrostreptomycin, and crystallinity if it is crystalline dihydrostreptomycin.

(3) Except as otherwise provided by subparagraph (5) of this paragraph, if such batch is packaged for dispensing, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch:

(*a*) For all tests except sterility; one immediate container for each 5,000 immediate containers in such batch, but in no case less than 12 or more than 19 immediate containers.

(*b*) For sterility testing; 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The procaine penicillin used in making the batch; three packages, each containing approximately equal portions of not less than 0.5 gram, packaged in accordance with the requirements of § 146.44 (b).

(iii) The streptomycin sulfate or dihydrostreptomycin sulfate used in making the batch; three packages, each containing approximately equal portions of not less than 0.5 gram, packaged in accordance with the requirements of § 146.101 (b).

(iv) In case of an initial request for certification, each other ingredient used in making the batch; one package of each containing approximately 5 grams.

(4) If such batch is packaged for repacking, such person shall submit with his request a sample consisting of:

(i) For all tests except sterility; 12 approximately equal portions of at least 2 milliliters.

(ii) For sterility testing; 10 approximately equal portions of at least 1 milliliter.

Each such portion shall be taken from different parts of such batch, and each shall be packaged in a separate container and in accordance with the requirements of paragraph (b) of this section.

(5) No result referred to in subparagraph (2) (ii) and (iii) of this paragraph, and no sample referred to in subparagraph (3) (ii) and (iii) of this paragraph, is required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) $4.00 for each immediate container in the sample submitted in accordance with paragraph (d) (3) (i) (*a*), (ii), (iii), (iv), and (4) (i) of this section; and

(2) If the Commissioner considers that investigations, other than examination of such immediate containers, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

4. Section 146.106 (c) (1) (iii) and (2) are amended to read as follows:

§ 146.106 *Streptomycin sulfate solution.* * * *

(c) *Labeling.* * * *

(1) * * *

(iii) The statement "Expiration date ____________," the blank being filled in with the date which is 12 months after the month during which the batch was certified, except that the blank may be filled in with the date which is 18 months after the month during which the batch

was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such time period such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section;

* * * * *

(2) On the outside wrapper or container the statement "Store in refrigerator not above 15° C. (59° F.)" or "Store below 15° C. (59° F.)," unless the person who requests certification has submitted to the Commissioner results of tests and assays showing that such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section after having been stored at room temperature.

5a. In § 146.205 *Aureomycin powder* * * *, the first sentence of paragraph (a) *Standards of identity, etc.* is amended to read as follows: "Aureomycin powder is crystalline aureomycin, with or without suitable and harmless buffer substances, preservatives, diluents, colorings, and flavorings."

b. In § 146.205, subparagraph (1) of paragraph (c) *Labeling* is amended by changing the period at the end of subdivision (iii) to a semicolon and by adding the following subdivision:

(iv) If it contains a preservative, the name and quantity of each such ingredient.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

This order, which provides for a change in the packaging requirements for penicillin sodium, calcium, and potassium to permit them to be packaged in combination with a container of a suitable local anesthetic when recommended for other than dental use only; for tests and methods of assay and certification of two new antibiotic preparations, procaine penicillin in streptomycin sulfate solution and procaine penicillin in dihydrostreptomycin sulfate solution; for a change in the expiration date of streptomycin sulfate solution and dihydrostreptomycin sulfate solution from 12 to 18 months, if the person who requests certification has proved that his drug is stable for such period of time; and for addition of suitable and harmless preservatives to aureomycin powder, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industries will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industries and since it would be against public interest to delay providing for a change in the packaging requirements for penicillin sodium, calcium, and potassium to permit them to be packaged in combination with a container of a suitable local anesthetic when recommended for other than dental use only; for tests and methods of assay and certification of two new antibiotic preparations, procaine penicillin in streptomycin sulfate solution and procaine penicillin in dihydrostreptomycin sulfate solution; for a change in the expiration date of streptomycin sulfate solution and dihydrostreptomycin sulfate solution from 12 to 18 months, if the person who requests certification has proved that his drug is stable for such period of time; and for addition of suitable and harmless preservatives to aureomycin powder.

Dated: July 13, 1951.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 51-8338; Filed, July 19, 1951; 8:53 a. m.]

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

STREPTOMYCIN OR DIHYDROSTREPTOMYCIN AND KAOLIN IN GEL; STREPTOMYCIN OR DIHYDROSTREPTOMYCIN OTIC WITH ANTIFUNGAL AGENT

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR 141.1 et seq. and 1950 Supp.) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR 146.1 et seq. and 1950 Supp.) are amended as indicated below:

1. Section 141.113 is amended to read follows:

§ 141.113 *Streptomycin syrup, streptomycin and kaolin in gel, dihydrostreptomycin syrup, dihydrostreptomycin and kaolin in gel; potency.* Proceed as directed in § 141.101, except paragraph (k) thereof, and except if it is dihydrostreptomycin use the dihydrostreptomycin working standard as a standard of comparison. Its potency is satisfactory if it contains not less than 85 percent of the number of milligrams of streptomycin or dihydrostreptomycin per milliliter that it is represented to contain.

2. Part 141 is amended by adding the following new section:

§ 141.115 *Streptomycin otic with antifungal agent, dihydrostreptomycin otic with antifungal agent*—(a) *Potency.* Proceed as directed in § 141.101, except paragraph (k) thereof, and if it is dihydrostreptomycin otic with antifungal agent use the dihydrostreptomycin working standard as a standard of comparison. Its potency is satisfactory if it contains not less than 85 percent of the number of milligrams of streptomycin or dihydrostreptomycin per milliliter that it is represented to contain.

(b) *pH.* Proceed as directed in § 141.5 (b), using the undiluted solution or suspension.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

3a. The headnote and paragraph (a) of § 146.108 are amended to read as follows:

§ 146.108 *Streptomycin sirup, streptomycin and kaolin in gel, dihydrostreptomycin sirup, dihydrostreptomycin and kaolin in gel*—(a) *Standards of identity, strength, quality, and purity.* Streptomycin sirup and dihydrostreptomycin sirup are streptomycin or dihydrostreptomycin dissolved in a suitable and harmless diluent that contains one or more suitable and harmless preservatives. Streptomycin and kaolin in gel and dihydrostreptomycin and kaolin in gel are streptomycin or dihydrostreptomycin dissolved or suspended in a suitable and harmless gel base that contains kaolin and one or more suitable and harmless preservatives and with or without pectin. Its potency is not less than 10 milligrams per milliliter. The streptomycin used conforms to the standards prescribed therefor by § 146.101 (a), except subparagraphs (2), (4), and (6) of that paragraph. The dihydrostreptomycin used conforms to the standards prescribed therefor by § 146.103, except the standards for sterility, pyrogens, and moisture. Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

b. Section 146.108 (c) (1) (ii) is amended to read as follows:

(c) *Labeling.* * * *
(1) * * *
(ii) The number of milligrams of streptomycin or dihydrostreptomycin in each milliliter of the batch;

c. Section 146.108 (c) (1) is amended by deleting the word "and" at the end of subdivision (iii), by changing the period at the end of subdivision (iv) to a semicolon, and by adding the following new subdivision:

(v) If it contains pectin and kaolin, the quantity of each such ingredient used and the name of the gel base.

d. Section 146.108 (c) (3) is amended by changing the word "syrup" to read "drug".

e. Section 146.108 (d) (1) is amended by inserting the words "or dihydrostreptomycin" between the word "streptomycin" and the word "used".

f. Section 146.108 (d) (2) (ii) is amended to read as follows:

(ii) The streptomycin or dihydrostreptomycin used in making the batch; potency, toxicity, histamine content, pH,

streptomycin content if it is dihydrostreptomycin, and crystallinity if it is crystalline dihydrostreptomycin.

g. Section 146.108 (d) (3) (ii), first clause, is amended to read: "The streptomycin or dihydrostreptomycin used in making the batch;".

h. Section 146.108 (e), first sentence, is amended by deleting the words "of streptomycin syrup".

4. Part 146 is amended by adding the following new section:

§ 146.110 *Streptomycin otic with antifungal agent, streptomycin otic with ________, dihydrostreptomycin otic with antifungal agent, dihydrostreptomycin otic with ________ (the blank being filled in with the common or usual name of the antifungal agent)*—(a) *Standards of identity, strength, quality, and purity.* Streptomycin otic with antifungal agent and dihydrostreptomycin otic with antifungal agent are streptomycin or dihydrostreptomycin and one or more suitable antifungal agents, preservatives, and buffer substances, dissolved or suspended in a suitable and harmless vehicle. Its potency is not less than 2.5 milligrams per milliliter. Its pH is not less than 4.8 and not more than 6.0. The streptomycin used conforms to the standards prescribed therefor by § 146.101 (a), except subparagraphs (2), (4), (5), and (6) of that paragraph. The dihydrostreptomycin used conforms to the standards prescribed therefor by § 146.103 (a), except the standards for sterility, pyrogens, histamine, and moisture. Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate container shall be glass, so closed as to be a tight container as defined by the U. S. P., and of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package shall bear, on its label or labeling as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of milligrams of streptomycin or dihydrostreptomycin in each milliliter of the batch.

(iii) The name and quantity of each antifungal agent and preservative used.

(iv) The statement "Expiration date ________," the blank being filled in with the date which is 12 months after the month during which the batch was certified.

(2) On the outside wrapper or container:

(i) The statement "*Caution:* To be dispensed only by or on the prescription of a physician."

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(ii) A reference specifically identifying a readily available medical publication containing directions and precautions (including contraindications and possible sensitization) adequate for the use of such drug, or a reference to a brochure or other printed matter containing such directions and precautions, and a statement that such brochure or printed matter will be sent on request.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the streptomycin or dihydrostreptomycin used in making the batch was completed, the potency per milliliter of the batch, the date on which the latest assay of the drug comprising such batch was completed, the quantity of each ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; average potency per milliliter, pH.

(ii) The streptomycin or dihydrostreptomycin used in making the batch; potency, toxicity, pH, streptomycin content if it is dihydrostreptomycin, and crystallinity if it is crystalline dihydrostreptomycin sulfate.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; one immediate container for each 5,000 immediate containers in the batch, but in no case less than 5 or more than 12 immediate containers, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The streptomycin or dihydrostreptomycin used in making the batch; 5 packages, each containing approximately equal portions of not less than 0.5 gram, packaged in accordance with the requirements of § 146.101 (b).

(iii) In case of an initial request for certification, each other ingredient used in making the batch; 1 package of each containing approximately 5 grams.

(4) No result referred to in subparagraph (2) (ii) of this paragraph, and no sample referred to in subparagraph (3) (ii) of this paragraph, is required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (i), (ii), and (iii) of this section.

(2) If the Commissioner considers that investigations, other than examination of such packages, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

This order, which provides for two new antibiotic products, streptomycin or dihydrostreptomycin and kaolin in gel, and streptomycin otic or dihydrostreptomycin otic with antifungal agent, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industries will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industries and since it would be against public interest to delay providing for tests and methods of assay and certification of the two new antibiotic preparations, streptomycin or dihydrostreptomycin and kaolin in gel and streptomycin otic or dihydrostreptomycin otic with antifungal agent.

Dated: July 16, 1951.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 51-8344; Filed, July 19, 1951; 8:55 a. m.]

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357), the regulations for certification of batches of antibiotic and antibiotic-containing drugs (21 CFR 146.1 et seq., and 1950 Supp.; 16 F. R. 714, 2471, 4182) are amended as indicated below:

1. Section 146.211 *Aureomycin surgical powder (aureomycin hydrochloride surgical powder)* is amended in the following respects:

a. Paragraph (a), first sentence, is amended to read: "Aureomycin surgical powder is crystalline aureomycin, with or without suitable and harmless diluents, preservatives, and lubricants."

b. Paragraph (c) (1) is amended by deleting the word "and" at the end of subdivision (ii), by changing the period at the end of subdivision (iii) to a semicolon, and by adding the following new subdivision:

(iv) If it contains a preservative, the name and quantity of each such ingredient.

2. Section 146.402 *Bacitracin ointment* is amended in the following respects:

a. Paragraph (a), second sentence, is amended to read: "It may contain a suitable local anesthetic and one or more suitable sulfonamides."

b. Paragraph (c) (1) (iii) is amended to read:

(iii) If the batch contains a local anesthetic or one or more sulfonamides, the name and quantity of each such substance.

c. Paragraph (c) (3) is amended to read:

(3) On the label or labeling, if a local anesthetic and/or sulfonamides are present, after the name "bacitracin ointment," wherever it appears, the words "with ____________," (the blank being filled in with the common or usual names of the local anesthetic and sulfonamides) in juxtaposition with such name.

This order, which provides for the addition of suitable and harmless preservatives to aureomycin surgical powder and for the addition of one or more suitable sulfonamides to bacitracin ointment, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industries will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industries, and since it would be against public interest to delay providing for the addition of suitable and harmless preservatives to aureomycin surgical powder and for the addition of one or more suitable sulfonamides to bacitracin ointment.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: July 13, 1951.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 51-8339; Filed, July 19, 1951; 8:53 a. m.]

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 4—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

The Child Labor Regulations of the Secretary of Labor pursuant to the Fair Labor Standards Act of 1938, as amended, have heretofore been codified in the Code of Federal Regulations under Chapter IV of Title 29. Because of changes in administrative organization within the Department of Labor, it has been determined that codification of the Child Labor Regulations in Chapter IV is no longer appropriate, and that codification of these regulations under Subtitle A—Office of the Secretary of Labor, more properly conforms to the structure of the Code.

In order to accomplish the transfer of this material from Chapter IV to Subtitle A—Part 4, the entire body of these regulations is set forth below with the new part and section designations. The following table shows the new designation under Subtitle A Part 4 and the previous designation under Chapter IV:

New	Old
Subpart A, §§ 4.1 et seq	Part 401
Subpart B, §§ 4.21 et seq	Part 402
Subpart C, §§ 4.31 et seq	Part 441
Subpart D, §§ 4.41 et seq	Part 421
Subpart E, §§ 4.51 et seq	Part 422
Subpart F, §§ 4.81 et seq	Part 481
Subpart G, §§ 4.101 et seq	Part 450

In addition to the recodification of this material as described in the foregoing, certain changes in Part 401—Certificates of Age (new Part 4, Subpart A), are being made to reflect the revised Departmental organization established on July 1, 1949, by Labor Department General Order Number 42 and under the Fair Labor Standards Amendments of 1949 (63 Stat. 910; 29 U. S. C. section 201), hereinafter specifically mentioned.

Section 401.1 and the footnote thereto are amended to reflect the amendment of section 3 (l) by the Fair Labor Standards Amendments of 1949, and the delegation by the Secretary of Labor of certain functions under the child labor provisions to the Administrator of the Wage and Hour Division and to the Director of the Bureau of Labor Standards under General Order No. 42. These changes are reflected throughout the revised regulation.

Section 401.3 is amended to permit the issuance of a certificate for agricultural employment directly to the minor to be returned by the employer to the minor upon the termination of his employment. These changes which adapt the certificate to the specific needs of employment in agriculture are necessitated by the restrictive amendment to the child labor agricultural exemption in section 13 (c) of the act effected by the Fair Labor Standards Amendments of 1949. Clarification is made therein where experience has shown it to be necessary.

Section 401.4 is amended to eliminate undue delay experienced in issuance of certificates.

The new § 401.5 reflects administrative changes incidental to General Order No. 42.

Section 401.7 concerning revocation of certificates is revised to conform with the division of responsibility established by General Order No. 42 and is simplified in the light of administrative experience.

Section 401.8 is revised to conform with § 401.7, as revised.

Several minor editorial changes are made throughout the regulation.

The above changes are for the most part editorial or formal in nature and deal with internal administrative organization and procedure and it has therefore been determined that no public procedure relative to these amendments is necessary. The following table indicates the transposition of the section numbers of this part from Part 401 to Subpart A of Part 4.

Old	New	Old	New
401.1	4.1	401.6	4.6
401.2	4.2	401.7	4.7
401.3	4.3	401.8	4.8
401.4	4.4	401.9	4.9
401.5	4.5	401.10	4.10

SUBPART A—CERTIFICATES OF AGE (CHILD LABOR REG. 1)

Sec.
4.1 Definitions.
4.2 Certificates of age, effect.
4.3 Information contained in certificate and disposition of certificate.
4.4 Proof of age.
4.5 Federal certificat of age.
4.6 Acceptance of State certificates.
4.7 Continued acceptability of certificates.
4.8 Revoked certificates.
4.9 Effect on other laws.
4.10 Revision of regulation.

SUBPART B—ACCEPTANCE OF STATE CERTIFICATES

4.21 Designation of States.
4.22 Designation of Territory of Alaska.

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

4.31 Determination.
4.32 Effect of this subpart.
4.33 Occupations.
4.34 Periods and conditions of employment.
4.35 Certificates of age; effect.
4.36 Effect on other laws.
4.37 Revision of this subpart.

SUBPART D—PROCEDURE GOVERNING DETERMINATIONS OF HAZARDOUS OCCUPATIONS (CHILD LABOR REG. 5)

4.41 Investigation and conference.
4.42 Public hearing on proposed finding and order.
4.43 Rehearing.
4.44 Finding and order.
4.45 Revision of regulation.

SUBPART E—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

4.51 Occupations in or about plants manufacturing explosives or articles containing explosive components (Order 1).
4.52 Motor-vehicle driver and helper (Order 2).
4.53 Coal-mine occupations (Order 3).
4.54 Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill (Order 4).

Sec.
4.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).
4.56 Occupations chart applying to Hazardous Occupations Orders Nos. 4 and 5 (§§ 4.54 and 4.55)
4.57 Occupations involving exposure to radioactive substances (Order 6).
4.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).
4.59 Occupations involving the operation of power-driven metal forming, punching, and shearing machines (Order 8).
4.60 Occupations in connection with mining, other than coal (Order 9).

SUBPART F—UTILIZATION OF STATE AGENCIES FOR INVESTIGATIONS AND INSPECTIONS [1]

4.81 Definitions.
4.82 Agreements with State agencies.
4.83 Qualifications of the State agency.
4.84 Submission of plan.
4.85 Additional requirements.
4.86 Audits.
4.87 Transmission of official mail.
4.88 Enforcement.
4.89 Agreements and approved plans.
4.90 Amendments and repeal.

SUBPART G—GENERAL STATEMENTS OF INTERPRETATION OF THE CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

GENERAL

4.101 Introductory statement.
4.102 General scope of statutory provisions.
4.103 Comparison with wage and hours provisions.

COVERAGE OF SECTION 12 (a)

4.104 General.
4.105 "Producer, manufacturer, or dealer".
4.106 "Ship or deliver for shipment in commerce".
4.107 "Goods".
4.108 "Produced".
4.109 "Establishment situated in the United States".
4.110 "In or about".
4.111 Removal "within 30 days".

COVERAGE OF SECTION 12 (c)

4.112 General.
4.113 Employment "in commerce or in the production of goods for commerce".

JOINT AND SEPARATE APPLICABILITY OF SECTIONS 12 (a) AND 12 (c)

4.114 General.
4.115 Joint applicability.
4.116 Separate applicability.

OPPRESSIVE CHILD LABOR

4.117 General.
4.118 Sixteen year minimum.
4.119 Fourteen year minimum.
4.120 Eighteen year minimum.
4.121 Age certificates.

EXEMPTIONS

4.122 General.
4.123 Agriculture.
4.124 Delivery of newspapers.
4.125 Actors and performers.
4.126 Parental exemption.

ENFORCEMENT

4.127 General.
4.128 Good faith defense.
4.129 Relation to other laws.

[1] The regulations in this subpart are also codified as Part 515 of this title.

SUBPART A—CERTIFICATES OF AGE (CHILD LABOR REG. 1)

AUTHORITY: §§ 4.1 to 4.10 issued under secs. 3, 11, 52 Stat. 1061, 1066, as amended; 29 U. S. C. 203, 211.

§ 4.1 *Definitions.* As used in this subpart:

(a) "Act" means the child-labor provisions of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201–219);

(b) "Wage and Hour Division" means the Wage and Hour Division of the United States Department of Labor;

(c) "Bureau of Labor Standards" means the Bureau of Labor Standards of the United States Department of Labor;

(d) "Oppressive child-labor age" means:

(1) Under the age of 16 years with respect to employment in any occupation;[1]

(2) 16 and under 18 years of age with respect to employment in any occupation found and by order declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such ages or detrimental to their health or well-being.

(e) "A certificate of age" means a certificate as provided in § 4.2 (a) (1) or (2).

(f) "State agency" means any executive department, board, bureau or commission of the State or any division or unit thereof.

§ 4.2 *Certificates of age; effect.* (a) The employment of any minor shall not be deemed to constitute oppressive child labor under the act if his employer shall have on file an unexpired certificate, issued and held in accordance with this subpart, which shall be either:

(1) A Federal certificate of age, issued by a person authorized by the Administrator of the Wage and Hour Division showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed, or

(2) A State certificate, which may be in the form of and known as an age, employment, or working certificate or permit, issued by or under the supervision of a State agency in such States as may be designated for this purpose by the Secretary of Labor on recommendation of the Director of the Bureau of Labor Standards showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed. Any such certificate shall have the force and effect specified in § 4.6.

(b) The prospective employer of a minor, in order to protect himself from unwitting violation of the act, should obtain a certificate (as specified in paragraphs (a) (1) and (2) of this section) for the minor if there is any reason to believe that the minor's age may be below the applicable minimum for the occupation in which he is to be employed. Such certificate should always be obtained where the minor claims to be only one or two years above the applicable minimum age for the occupation in which he is to be employed. It should also be obtained for every minor claiming to be older than two years above the applicable minimum age if his physical appearance indicates that this may not be true.

§ 4.3 *Information contained in certificate and disposition of certificate.* (a) Except as provided in § 4.6, a certificate of age which shall have the effect specified in § 4.2 shall contain the following information:

(1) Name and address of minor.

(2) Place[2] and date of birth of minor, together with a statement indicating the evidence on which this is based.

(3) Sex of minor.

(4) Signature of minor.

(5) Name and address of minor's parent or person standing in place of parent.[2]

(6) Name and address of employer (if minor is under 18).[3]

(7) Industry of employer (if minor is under 18).[3]

(8) Occupation of minor (if minor is under 18).[3]

(9) Signature of issuing officer.

(10) Date and place of issuance.

(b) A certificate of age for a minor under 18 years of age shall be sent by a person authorized to issue such certificates to the prospective employer of the minor, who shall keep such certificate on file at the place of the minor's employment and who on the termination of the employment of the minor shall return the certificate to the person issuing it, except that a certificate issued for a minor 16 years of age or over for employment in agriculture may be given to the minor. A certificate returned to the issuing officer may be accepted as proof of age for the issuance of any subsequent certificate of age for that minor, without presentation of further proof of age, unless it is found that the proof of age originally submitted was in error. Whenever a certificate of age is issued for a minor 18 or 19 years of age it may be given to the minor by the person issuing the certificate. Every minor 18 or 19 years of age shall, upon entering employment, deliver his certificate of age to his employer for filing and upon the termination of the employment the

[1] Employment of a child by his parent or by a person standing in place of a parent in occupations other than manufacturing or mining or an occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being is exempt (section 3 (1)) from the 16-year minimum age standard. The act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

[2] This information need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

[3] This information need not appear on a certificate issued for employment in agriculture.

employer shall return the certificate to the minor.

§ 4.4 *Proof of age.* (a) Except as provided in § 4.6, a certificate of age which shall have the effect specified in § 4.2 shall be issued only upon application of the minor desiring employment or of the prospective employer to the person authorized to issue such certificate and only after acceptable documentary evidence of age has been received, examined, and approved. Such evidence shall consist of one of the following proofs of age, to be required in the order of preference herein designated, as follows:

(1) A birth certificate or attested transcript thereof or a signed statement of the recorded date and place of birth, issued by a registrar of vital statistics or other officer charged with the duty of recording births.

(2) A record of baptism or attested transcript thereof showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Director of the Bureau of Labor Standards or, in case of a Federal certificate of age, to the Administrator of the Wage and Hour Division, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the United States immigration office and showing the age of the minor, or a life-insurance policy: *Provided,* That such other documentary evidence has been in existence at least one year prior to the time it is offered as evidence: *And provided further,* That a school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in subparagraph (3) of this paragraph;

(3) The school record or the school-census record of the age of the minor, together with the sworn statement of a parent or person standing in place of a parent as to the age of the minor and also a certificate signed by a physician specifying what in his opinion is the physical age of the minor. Such certificate shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician as to the physical age of the minor is based. If the school or school-census record of age is not obtainable, the sworn statement of the parent or person standing in place of a parent as to the date of birth of the minor, together with a physician's certificate of age as hereinbefore specified, may be accepted as evidence of age.

(b) The officer issuing a certificate of age for a minor shall require the evidence of age specified in paragraph (a) (1) of this section in preference to that specified in paragraphs (a) (2) and (3) of this section, and shall not accept the evidence of age permitted by either subsequent paragraph unless he shall receive and file evidence that reasonable efforts have been made to obtain the preferred evidence required by the preceding paragraph or paragraphs before accepting any subsequently named evidence: *Provided,* That to avoid undue delay in the issuance of certificate, evidence specified in paragraph (a) (2) of this section may be accepted, or if such evidence is not available, evidence specified in paragraph (a) (3) of this section may be accepted if a verification of birth has been requested but has not been received from the appropriate bureau of vital statistics.

§ 4.5 *Federal certificates of age.* A Federal certificate of age which shall have the effect specified in § 4.2 shall be issued by a person authorized by the Administrator of the Wage and Hour Division and shall be issued in accordance with the provisions of §§ 4.3 and 4.4.

§ 4.6 *Acceptance of State certificates.* (a) A State in which age, employment, or working certificates or permits are found by the Director of the Bureau of Labor Standards to be issued by or under the supervision of a State agency substantially in accordance with the provisions of §§ 4.3 and 4.4 may be designated by the Secretary of Labor as a State in which certificates so issued shall have the force and effect specified in § 4.2 except as individual certificates may be revoked in accordance with § 4.7 hereof: *Provided,* That any State having a certificate system which does not entirely conform with this subpart may be so designated temporarily by the Secretary of Labor upon the basis of an agreement with an agency of the State pending such improvements in State law and procedure as will bring such State system up to the standard of this subpart.

(b) Certificates requiring conditions or restrictions additional to those required by this subpart shall not be deemed to be inconsistent herewith.

(c) The designation of a State under this section shall have force and effect during the period of time specified therein unless withdrawal of such designation at an earlier date is deemed desirable for the effective administration of the act. No withdrawal or expiration of the designation of a State under this section shall make any certificate invalid if it was issued by or under the supervision of a State agency as herein provided prior to such withdrawal or expiration. (For designation of States under this section see Subpart B of this part.)

§ 4.7 *Continued acceptability of certificates.* Whenever a person duly authorized to make investigations under this act shall obtain substantial evidence that the age of the minor as given on a certificate held by an employer subject to this act is incorrect, he shall inform the employer and the minor of such evidence and of his intention to request through the appropriate channels that action be taken to establish the correct age of the minor and to determine the continued acceptability of the certificate as proof of age under the act. The said authorized person shall request in writing through the appropriate channels that action be taken on the acceptability of the certificate as proof of age under the Fair Labor Standards Act and shall state the evidence of age of the minor which he has obtained and the reasons for such request. A copy of this request shall be sent by the Administrator of the Wage and Hour Division to the Director of the Bureau of Labor Standards for further handling through the State agency responsible for the issuance of certificates, except that in those States where Federal certificates of age are issued, action necessary to establish the correct age of the minor and to revoke the certificate if it is found that the minor is under age shall be taken by the Administrator of the Wage and Hour Division or his designated representative. The Director of the Bureau of Labor Standards shall have final authority in those States in which State certificates are accepted as proof of age under the act for determining the continued acceptability of the certificate, and the Administrator of the Wage and Hour Division shall have final authority for such determination in those States in which Federal certificates of age are issued. When such determination has been made in any case, notice thereof shall be given to the employer and the minor. In those cases involving the continued acceptability of State certificates, the appropriate State agency and the official who issued the certificate shall also be notified.

§ 4.8 *Revoked certificates.* A certificate which has been revoked as proof of age under the act shall be of no force and effect under the act after notice of such revocation.

§ 4.9 *Effect on other laws.* No provision of this subpart shall under any circumstances justify or be construed to permit noncompliance with the provisions of any other Federal law or of any State law or municipal ordinance establishing higher standards than those established under this subpart.

§ 4.10 *Revision of regulation.* Any person wishing a revision of any of §§ 4.1 to 4.9 may submit in writing to the Secretary of Labor a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Secretary of Labor believes that reasonable cause for amendment of the regulation is set forth, he shall either schedule a hearing, with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to present their views, both in support of and in opposition to the proposed changes.

Subpart B—Acceptance of State Certificates

Authority: §§ 4.21 and 4.22 issued under secs. 3, 11, 52 Stat. 1061, 1066, as amended; 29 U. S. C. 203, 211.

§ 4.21 *Designation of States.* Pursuant to the provisions of Subpart A of this part (Child Labor Regulation No. 1), the following States are hereby designated as States in which State age, employment, or working certificates or permits shall have the same force and effect as

Federal certificates of age under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060 as amended; 29 U. S. C. 201):

Alabama.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware.
District of Columbia.
Florida.
Georgia.
Hawaii.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Puerto Rico.
Rhode Island.
South Dakota.
Tennessee.
Utah.
Vermont.
Virginia.
Washington.
West Virginia.
Wisconsin.
Wyoming.

§ 4.22 *Designation of Territory of Alaska.* The Territory of Alaska is designated as a State in which any of the following documents shall have the same force and effect as Federal certificates of age issued under Subpart A of this part:

(a) A birth certificate or attested transcript thereof, or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or

(b) A record of baptism or attested transcript thereof showing the age of the minor, or

(c) A statement based on the census records of the Alaska Native Service and signed by an administrative representative of the Service showing the name, date of birth, and place of birth of the minor.

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

AUTHORITY: §§ 4.31 to 4.37 issued under sec. 3, 52 Stat. 1061; 29 U. S. C. 203.

§ 4.31 *Determination.* The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ 4.32 *Effect of this subpart.* In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § 4.34 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ 4.33 *Occupations.* This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3 (1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair);

except such office (including ticket office) work, or sales work, in connection with subparagraphs (1), (2), (3), and (4) of this paragraph, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ 4.34 *Periods and conditions of employment.* Employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(a) Outside school hours;

(b) Not more than 40 hours in any one week when school is not in session;

(c) Not more than 18 hours in any one week when school is in session;

(d) Not more than 8 hours in any one day when school is not in session;

(e) Not more than 3 hours in any one day when school is in session;

(f) Between 7 a. m. and 7 p. m. in any one day. This period shall be measured by applicable standard time, except that it shall be measured by applicable daylight saving time whenever such time is adopted as the official time of the community.

§ 4.35 *Certificates of age; effect.* The employment of any minor in any of the occupations to which this subpart is applicable, if confined to the periods specified in § 4.34, shall not be deemed to constitute oppressive child labor within the meaning of the act if the employer shall have on file an unexpired certificate, issued in substantially the same manner as that provided for the issuance of certificates in Subpart A of this part relating to certificates of age, certifying that such minor is of an age between 14 and 16 years.

§ 4.36 *Effect on other laws.* No provision of this subpart shall under any circumstances justify or be construed to permit noncompliance with the wage and hour provisions of the act or with the provisions of any other Federal law or of any State law or municipal ordinance establishing higher standards than those established under this subpart.

§ 4.37 *Revision of this subpart.* Any person wishing a revision of any of the terms of this subpart may submit in writing to the Secretary of Labor a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Secretary of Labor believes that reasonable cause for amendment of the subpart is set forth, he shall either schedule a hearing with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to be heard.

SUBPART D—PROCEDURE GOVERNING DETERMINATIONS OF HAZARDOUS OCCUPATIONS (CHILD LABOR REG. 5)

AUTHORITY: §§ 4.41 to 4.45 issued under sec. 3, 52 Stat. 1061; 29 U. S. C. 203.

§ 4.41 *Investigation and conference.* Preparatory to the making of a finding by the Secretary of Labor that an occupation or a group of occupations is particularly hazardous for the employment of minors between 16 and 18 years of age or is detrimental to their health or well-being, a study shall be made of information obtained by the Director of the Bureau of Labor Standards or submitted to him with respect to the hazardous or detrimental nature of such occupation or occupations. Conferences may be held with representative employers and workers in the industry, experts in industrial health and safety, and others for the purpose of discussing the nature and characteristics of the occupation or occupations under consideration. A public hearing may be held upon reasonable public notice of the time and place thereof whenever such action is deemed by the Director to be expedient for the purpose of obtaining such evidence with respect to the nature and characteristics of such occupation or group of occupations. A transcript of the proceedings of any such hearing shall be made and filed with the Bureau. A report of facts and conclusions with respect to the hazardous or detrimental nature of the occupation or occupations under consideration shall be prepared upon the basis of such information and evidence.

§ 4.42 *Public hearing on proposed finding and order.* A proposed finding and order shall be prepared upon the basis of the report of facts and conclusions with respect to a particular occupation or group of occupations. Before a proposed finding and order is made final, opportunity to be heard, on notice published in the FEDERAL REGISTER, shall be afforded interested parties as well as opportunity to submit briefs and documentary evidence with respect to such finding and order. Copies of the proposed finding and order shall be made available to the public at the office of the Bureau. A transcript of the proceedings, together with all information offered as evidence in writing, shall be filed with the Secretary of Labor for consideration.

§ 4.43 *Rehearing.* If, after such hearing, a substantial change in the pro-

posed finding and order is in the judgment of the Secretary of Labor required, a rehearing shall be held with respect to the proposed finding and order as so changed. Every such rehearing shall be conducted in the manner prescribed for hearings in § 4.42.

§ 4.44 *Finding and order.* A finding and order shall be made by the Secretary of Labor upon the basis of all the information and evidence in the case, including the report of facts and conclusions with respect to the particular occupation or occupations under consideration, and the evidence and briefs received with respect to the proposed finding and order. Every such finding and order shall be published, pursuant to law, in the FEDERAL REGISTER and by such other means as the Secretary of Labor deems reasonably calculated to give interested parties general notice of the making of such order. Such orders shall become effective 30 days after publication in the FEDERAL REGISTER or at such other time as may be provided therein upon good cause found and published therewith, and shall be made available to the public at the office of the Bureau.

§ 4.45 *Revision of regulation.* Any person wishing a revision of any of the terms of this subpart may submit in writing to the Secretary of Labor a petition setting forth the changes desired and the reason for proposing them. If, after consideration of the petition, the Secretary of Labor believes that reasonable cause for amendment of the regulation is set forth, he shall either schedule a hearing, with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.

SUBPART E—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

AUTHORITY: §§ 4.51 to 4.60 issued under sec. 3, 52 Stat 1061; 29 U. S. C. 203.

NOTE: The provisions of this subpart declaring certain occupations to be particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being do not apply to employment in agriculture.

§ 4.51 *Occupations in or about plants manufacturing explosives or articles containing explosive components (Order 1)*—(a) *Finding and declaration of fact.* The following occupations in or about plants manufacturing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age:

(1) All occupations in or about any plant manufacturing explosives or articles containing explosive components except plants manufacturing small-arms ammunition not exceeding .50 caliber in size, shotgun shells, or blasting caps when manufactured in conjunction with small-arms ammunition.

(2) The following occupations in or about any plant manufacturing small-arms ammunition not exceeding .50 caliber in size, shotgun shells, or blasting caps when manufactured in conjunction with small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, and shipping of blasting caps.

(b) *Definitions.* For the purpose of this section:

(1) The term "plant manufacturing explosives or articles containing explosive components" means the land with all buildings and other structures thereon, used in connection with the manufacturing or processing of explosives or articles containing explosive components.

(2) The terms "explosives" and "articles containing explosive components" mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in "Regulations for Transportation by Rail of Explosives, etc." (49 CFR Parts 71-78) as amended, Docket 3666, issued pursuant to the act of March 4, 1921 (41 Stat. 1444, as amended; 18 U. S. C. Sup., 831, 832).

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.52 *Motor-vehicle driver and helper (Order 2).* (a) *Finding and declaration of fact.* The occupations of motor-vehicle driver and helper are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Definitions.* For the purpose of this section:

(1) The term "motor vehicle" shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term "driver" shall mean any individual who, in the course of his employment, drives a motor vehicle at any time.

(3) The term "helper" shall mean any individual other than a driver, whose work in connection with the transportation or delivery of goods includes riding on a motor vehicle.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.53 *Coal-mine occupations (Order 3).* (a) *Finding and declaration of fact.* All occupations in or about any coal-mine, except the occupation of slate or other refuse picking at a picking table or picking chute in a tipple or breaker and occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal-mining plant, are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Definitions.* For the purpose of this section:

(1) The term "coal" shall mean any rank of coal, including lignite, bituminous, and anthracite coals.

(2) The term "all occupations in or about any coal mine" shall mean all types of work performed in any underground working, open-pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.54 *Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill (Order 4)*—(a) *Finding and declaration of fact.* All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill are particularly hazardous for the employment of minors between 16 and 18 years of age, except the following:

(1) Exceptions applying to logging:

(i) Work in offices or in repair or maintenance shops.

(ii) Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps.

(iii) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining fire-fighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrolman away from the actual logging operations: *Provided,* That the provisions of this paragraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

(iv) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this section.

(v) Work in the feeding or care of animals.

(2) Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill: *Provided*, That these exceptions do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained: *And further provided*, That these exceptions do not apply to work which entails entering the sawmill building:

(i) Work in offices or in repair or maintenance shops.

(ii) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.

(iii) Pulling lumber from the dry chain.

(iv) Clean-up in the lumberyard.

(v) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.

(vi) Clerical work in yards or shipping sheds, such as done by ordermen, tallymen, and shipping clerks.

(b) *Definitions.* As used in this section:

(1) The term "all occupations in logging" shall mean all work performed in connection with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of such products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency fire-fighting.

(2) The term "all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill" shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.55 *Occupations involved in the operation of power-driven woodworking machines (Order 5)*—(a) *Finding and declaration of fact.* The following occupations involved in the operation of power-driven woodworking machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) *Definitions.* As used in this section:

(1) The term "power-driven woodworking machines" shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term "off-bearing" shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include (i) the removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: the carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) *Exemptions.* This section shall not apply to the employment of apprentice pattern makers, cabinet makers, airplane-model makers, ship joiners, and mold-loftsmen in the occupations declared particularly hazardous in paragraph (a) of this section, if such employment is incidental to their apprentice training, is intermittent and for short periods of time and under the direction and supervision of an instructor as a necessary part of such apprentice training, and is carried on in accordance with a written apprenticeship agreement that has been approved by the Federal Committee on Apprenticeship of the Bureau of Apprenticeship, United States Department of Labor, or by a State apprenticeship council or other authority recognized by the Federal Committee on Apprenticeship.

(d) [Reserved]

(e) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.56 *Occupations Chart Applying to Hazardous-Occupations Orders Nos. 4 and 5 (§§ 4.54 and 4.55).* (a) The Fair Labor Standards Act of 1938 establishes a basic minimum age of 16 years for employment and provides that this minimum age shall be raised to 18 in occupations found and declared particularly hazardous in accordance with the terms of the act.

(b) Hazardous-Occupations Order No. 4 (§ 4.54) declares that all occupations in logging and in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill, with certain specific exceptions, are particularly hazardous. This order applies to all work in connection with logging, including work in connection with the logging of saw timber, pulpwood, excelsior wood, chemical wood, fence posts, cordwood, or similar products, with a few occupations specifically excepted. It also applies to all work in the sawmill building and to all work about the sawmill except for a few specific occupations outside the sawmill building.

(c) Hazardous-Occupations Order No. 5 (§ 4.55) declares that occupations involving the operation of power-driven woodworking machines and off-bearing from certain machines are particularly hazardous. This applies to the operation of power-driven woodworking machines in the planing-mill department or other remanufacturing department of a sawmill, also to the operation of power-driven woodworking machines wherever found.

(d) This chart has been prepared to spell out the application of Hazardous-Occupations Orders Nos. 4 and 5 (§§ 4.54 and 4.55) in terms of the specific occupations usually found in industries the orders cover. It lists in separate columns occupations permitted for 16- and 17-year-old minors and occupations not permitted for minors of these ages. All of the occupations enumerated will not be found in all establishments and in some establishments additional occupations not listed may be found. The chart lists occupations in the usually accepted sense, as found in large establishments. It is not intended that it be used for interpreting Orders Nos. 4 and 5 (§§ 4.54 and 4.55, as applied to unusual conditions or to occupations not specifically described in the chart. In case of occupations not listed, or in case of doubt about any occupation, information as to whether the employment of minors under 18 is permitted should be obtained from the Bureau of Labor Standards or from the Wage and Hour and Public Contracts Divisions' regional offices in Boston, New York, Philadelphia, Birmingham, Nashville, Cleveland, Chicago, Kansas City, Dallas, and San Francisco, or from the North Carolina State Department of Labor, Raleigh, N. C., or the Minnesota Department of Labor and Industry, St. Paul, Minn.

(e) The chart is based on Order No. 4 as revised February 2, 1948, and on Order No. 5, as amended October 31, 1945.

HAZARDOUS-OCCUPATIONS ORDER NO. 4

LOGGING OCCUPATIONS

Type of work	Occupation permitted for 16- and 17-year-old persons	Occupation not permitted for 16- and 17-year-old persons
I. Logging engineering	(a) Timber cruising (estimating amount of timber in a tract; map making, etc.). (b) In surveying parties as transit man, rod man, chain man, etc.	
II. Construction and repair or maintenance of railroads, roads, or flumes.	(a) Repair or maintenance work (not construction work) as done by section hands, grade and track crews, laborers, swampers, carpenters, and all other jobs except those listed in opposite column (see (a)).	(a) Any work that involves the construction of railroads, roads, or flumes, and any work that involves the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.
III. Felling and bucking trees in the woods	None	(a) Faller (cuts down the tree). (b) Bucker (cuts tree into log length). (c) Scaler (measures the amount of lumber in the log). (d) Swamper (laborer, cuts brush, etc.). (e) Limber (cuts limbs from fallen trees). (f) Saw filer (keeps saws and axes filed and ground).
IV. Skidding or yarding logs into place for loading on trucks or train:		
A. Power skidding	None	(a) Rigging slinger (installs equipment for yarding, helps yard logs). (b) Chokesetter (places choker (wire sling) about log to be moved, attaches sling to cable). (c) Chaser (removes the sling after log has been moved). (d) Whistle punk (transmits signals to yarder engineer for starting and stopping yarder engines). (e) Hook tender (foreman of yarding crew). (f) Sniper (rounds off ends of log to be moved). (g) Yarder engineer or skidder leverman (operates the yarder engine used to move logs). (h) Swamper (laborer, cuts away brush, etc.). (i) Fireman (fires the boiler on yarder engine).
B. Tractor skidding	None	(a) Tractor operator or cat skinner—(operates tractors used to move logs). (b) Chokesetter (places choker about log to be moved). (c) Tongs hooker (places tongs on log when tongs are used instead of slings). (d) Swamper (laborer who clears away brush and helps make landing for logs).
C. Animal skidding	None	(a) Loader (loads logs for transportation). (b) Swamper (laborer who clears away brush and helps make landing for logs). (c) Log snaker (drives animals used in skidding logs).
V. Loading logs on truck or train for transportation.	None	(a) Tongs hooker or loader (places tongs or hooks on log to be loaded). (b) Loader engineer or jammer operator (operates loading engine). (c) Top loader (foreman of loading crew). (d) Fireman (fires the boiler on loader).
VI. Transportation of logs by truck, train or water.	None	(a) Train crew (engineer, fireman, brakeman). (b) Truck driver. (c) Boom-crewman (crew which transports logs by water). (d) Unloader (unloads truck or train). (e) Teamster (drives animals when usedfor hauling logs). (f) Scaler (measures number of board feet in logs on truck).
VII. Construction, operation, repair, or maintenance of living and administrative quarters of logging camps.	(a) Cook. (b) Cook house crew. (c) Carpenters. (d) Other camp work.	
VIII. Maintenance or repairs of equipment	(a) Any work done in the maintenance or repair shop, except the operation of power-driven woodworking machines (blacksmith, mechanic, carpenter, etc.).	(a) Any maintenance or repair work on equipment in the woods.
IX. Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cord-wood, or similar products.	(a) Peeler, barker, rosser (removes bark from logs) when work is not done in conjunction with and at the same time and place as other jobs declared hazardous.	(a) Peeling when done in conjunction with and at the same time and place as jobs declared hazardous.
X. Miscellaneous work in connection with logging.	(a) Fire patrolman and fire lookout (watch for fires, build fire trails and telephone lines, collect and burn brush). (b) Stableman, hostler (in charge of stables). (c) Office work.	(a) Fire watch (stationed near the logging operation, while work is in progress, to watch for sparks from rigging and machinery).

SAWMILL OCCUPATIONS [1]

Type of work	Occupation permitted for 16- and 17-year-old persons	Occupation not permitted for 16- and 17-year-old persons
I. Log pond and log storage yard	None	(a) Pondman (poles logs into the log slip for moving to log deck). (b) Drag-saw operator (cuts long logs in half). (c) Yardman (rolls logs to log deck).
II. In the sawmill building	None	(a) Scaler (measures logs on log deck and rolls log into position for the head saw). (b) Log deckman or log turner (the scaler's assistant). (c) Head sawyer (operates the head saw). (d) Dogger (operates the log holding mechanism on the head saw log carriage). (e) Block setter (operates mechanism controlling thickness of the cut of head saw). (f) Tail sawyer (removes boards and refuse at rear of head saw). (g) Edger man (operates the edger saw that cuts off bark from side of boards). (h) Edger line-up man or edger spotter (lines up boards for edger man). (i) Edger off-bearer (separates good boards from scrap at rear of edger). (j) Slasher man (operates slasher saw cutting up waste lumber). (k) Trimmer man (operates trimmer saw that cuts lumber to length). (l) Trimmer spotter (lines up boards for trimmer saw). (m) Gang sawyer (operates gang saw that saws large lumber into smaller boards). (n) Gang loader (lines up lumber for the gang sawyer). (o) Gang-saw tailer (removes lumber at rear of gang saw). (p) Resaw operator (operates a saw for resawing boards). (q) Resaw line-up (lines up lumber for resaw operator). (r) Resaw tailer (removes lumber at rear of resaw). (s) Hog feeder (operates hog mill to grind up scrap lumber). (t) Clean-up man (sweeps sawdust and refuse into refuse conveyors). (u) Saw-filer (sharpens saws in the filing room).

See footnote 1 at end of table.

HAZARDOUS-OCCUPATIONS ORDER NO. 4—Continued

SAWMILL OCCUPATIONS—continued

Type of work	Occupation permitted for 16- and 17-year-old persons	Occupation not permitted for 16- and 17-year-old persons
III. On the green or dry chain, the dry kiln and in the lumberyard.	(a) Grader, tallyman, and puller on dry chain or on dry drop sorter (grader grades and marks lumber on dry chain, tallyman records the amount of each grade of lumber, puller pulls lumber from chain). (b) Shipping clerk, tallyman, orderman, and other clerical work in yards or shipping sheds. (c) Clean-up in yard (cleans up refuse, etc., in lumberyard.)	(a) Grader, tallyman, and puller on the green chain and all other work on the green chain. (b) Lumber stacker, unstacker, loader, and unloader (stacks lumber or lumber products, unstacks lumber, loads or unloads cars). (c) Crane operator (operates a crane for handling lumber). (d) Crane hooker (hooks lumber on the crane for moving). (e) Jitney operator, truck driver, carrier operator (operates a lumber carrier or lumber truck for moving lumber).
IV. In a lath mill, shingle mill, or cooperage-stock mill.	(a) Handling and shipping of cooperage stock in yards or storage sheds, except operating or assisting in the operation of power-driven equipment.	(a) Handling and shipping of laths and shingles. (b) Stock picker (lath mill, picks pieces from conveyor for making into laths). (c) Bolterman (lath mill, operates a small gang saw). (d) Lath-feeder (lath mill, operates lath machines). (e) Lath tier (ties laths into bundles). (f) Shingle packer (shingle mill, packs shingles into bundles). (g) Cut-off sawyer (shingle mill, cuts logs into shingle lengths). (h) Knee bolter (shingle mill, cuts shingle bolts in quarters). (i) Block piler (shingle mill, piles blocks for shingle sawyer). (j) Shingle sawyer (shingle mill, operates shingle saw). (k) Splitter (cooperage-stock mill, splits bolts of cooperage stock). (l) Knee bolter, head turner, equalizer operator, cut-off sawyer, jointer operator, matcher operator, stave-saw operator, etc. (cooperage-stock mill, operate machines of various kinds). (m) Off-bearers, gluers, etc. (cooperage-stock mill, off-bearing from machines and other hand work).
V. Miscellaneous work about a sawmill	(a) Any work done in the repair or maintenance shop, except the operation of power-driven woodworking machines (mechanics, blacksmiths, etc.). (b) Office work.	(a) Millwright and maintenance work in the sawmill. (b) Work in the boiler house or powerhouse. (c) Work in the sawdust storage bins.

HAZARDOUS-OCCUPATIONS ORDER NO. 5

WOODWORKING OCCUPATIONS

Type of work	Occupation permitted for 16- and 17-year-old persons	Occupation not permitted for 16- and 17-year-old persons
I. In the planing mill, box factory, or other remanufacturing department.	(a) Off-bearing or tailing from: (1) Band saws. (2) Circular saws when the material is conveyed away from the saw table by some mechanical means such as an expulsion roller (cleat saw), moving belt, or gravity chute. (3) Planers, molders, or other surfacing machines. (4) Sanding machines. (5) Nailing or wire-stitching machines. (6) Presses, such as glue presses and box-board squeezers. (b) Placing material on a moving chain or in a hopper or slide for automatic feeding of special machines as used in box factories: (1) Band resaw with a chain feed. (2) Automatic nailing machine with hopper, belt, or chain feed. (3) Automatic wire-stitching machines with hopper or chain feed. (4) Box-board squeezers (Linderman machines with chain feed). (c) Operation of any woodworking machine by apprentice patternmakers, cabinet makers, airplane-model makers, ship jointers, and moldloftsmen (see Order No. 5 for conditions of apprenticeship). (d) Carrying or moving materials from one machine to another (hike-away). (e) Arranging materials for another person to feed into machine (table-up). (f) Work in preparation for shipment (tying-up, bundling, wrapping, etc.). (g) Handling or shipping of lumber products. (h) Operating machines or tools that are not woodworking machines such as: (1) Screw driver. (2) Wood-polishing machines. (3) Machines for tightening bolts.	(a) Operating or assisting the operator to feed: (1) Band saws. (2) Circular saws (table saws, swing saws, portable saws, etc.). (3) Surfacing machines (planers, shapers, jointers, molders, matchers, stickers, panel raisers, tenoners, etc.). (4) Lathes. (5) Drills, boring machines, mortisers. (6) Sanding machines (belt sanders, disc sanders, drum sanders, cone sanders, etc.). (7) Nailing and stapling machines, wire stitchers, berry box machines. (8) Veneer presses, other pressing machines. (b) Off-bearing or tailing from: (1) Circular saws, when the material is not conveyed away from the saw table by some mechanical means such as an expulsion roller, moving belt, or gravity chute. (c) Setting-up, adjusting, repairing, oiling, or cleaning machines.
II. In the manufacturing of veneer	(a) Work about the soaking pit. (b) Off-bearing from: (1) Veneer lathe. (2) Guillotine clipper when material is conveyed away from the point of operation by moving belt or gravity chute. (3) Other machines as listed under planing mill, etc. (c) Operating or assisting to operate: (1) Veneer-taping machine. (2) Glue spreader. (3) Veneer drier. (d) Carrying or moving material from one machine to another or otherwise handling or shipping veneer.	(a) Operating or assisting the operator to feed: (1) Veneer lathe. (2) Veneer clipper. (3) Veneer press. (4) Any other woodworking machine as given under planing mill, etc. (b) Off-bearing from a guillotine-action veneer clipper when material is not conveyed away from the point of operation by moving belt or gravity chute. (c) Setting-up, adjusting, repairing, oiling, or cleaning machines.

[1] None of these sawmill occupations are permitted in portable sawmills, that is in sawmills that are readily dismantled and moved from one tract of timber to another. Order No. 4 refers to a portable sawmill as one in which the lumberyard is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained. Further, none of these occupations are permitted in permanent sawmills when the work entails entering the sawmill building.

§ 4.57 *Occupations involving exposure to radioactive substances (Order 6)*—(a) *Finding and declaration of fact.* The following occupations involving exposure to radioactive substances are particularly hazardous and detrimental to health for minors between 16 and 18 years of age: Any work in any workroom in which (1) radium is stored or used in the manufacture of self-luminous compound, (2) self-luminous compound is made, processed, or packaged, (3) self-luminous compound is stored, used, or worked upon, (4) incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged, or (5) other radioactive substances which require precautions in handling are manufactured, stored, or used.

(b) *Definitions.* As used in this section:

(1) The term "self-luminous compound" shall mean any mixture of phos-

phorescent material and radium, mesothorium, or other radioactive element.

(2) The term "workroom" shall include the entire area bounded by walls of solid material and extending from floor to ceiling.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.58 *Occupations involved in the operation of power-driven hoisting apparatus (Order 7)*—(a) *Finding and declaration of fact.* The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a freight elevator or on a manlift. (Where employees are customarily transported to their work place at the beginning and end of scheduled work periods in a freight elevator operated by an assigned operator, such riding shall not be considered as work within the intent of this paragraph.)

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) *Definitions.* As used in this section:

(1) The term "elevator" shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term "crane" shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term "derrick" shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term "hoist" shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.

(5) The term "high-lift truck" shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high-lift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term "manlift" shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.59 *Occupations involving the operation of power-driven metal forming, punching, and shearing machines (Order 8)*—(a) *Finding and declaration of fact.* The occupation of operator of or helper on the following power-driven metal forming, punching and shearing machines is particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being, and employment in such occupations is therefore prohibited under section 12 of the Fair Labor Standards Act, as amended:

(1) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(2) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(3) All bending machines, such as apron brakes and press brakes.

(4) All hammering machines, such as drop hammers and power hammers.

(5) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(b) *Definitions.* As used in this section:

(1) The term "operator" shall mean one who operates a forming, punching, or shearing machine by performing such functions as setting up the machine, starting and stopping it, placing the work in the machine and removing the finished work from the machine, and performing other related functions in connection with its operation.

(2) The term "helper" shall mean one who assists in the operation of a forming, punching, or shearing machine by helping place the work in or remove it from the machine.

(3) The term "forming, punching, and shearing machines" shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) *Exemptions.* (1) This section shall not apply to the employment of apprentices in the occupations herein declared particularly hazardous: *Provided*, That (i) the apprentice is employed in a craft recognized as an apprenticeable trade, (ii) the work of the apprentice in the occupations herein declared hazardous is incidental to the apprentice training, is intermittent and for short periods of time, and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training, and (iii) the apprentice is registered by the Bureau of Apprenticeship of the United States Department of Labor as employed in accordance with the standards established by that Bureau, or is registered by a State agency as employed in accordance with the standards of the State apprenticeship agency recognized by the Bureau of Apprenticeship, or is employed under a written apprenticeship agreement under conditions which substantially conform to such Federal or State standards as determined by the Secretary of Labor.

(2) In addition to the exemption for apprentices provided in subparagraph (1) of this paragraph, upon application to the Secretary of Labor, an exemption may be granted for minors, employed under a written agreement for organized training which provides for at least 4,000 hours of employment in a craft recognized as an apprenticeable trade and under conditions which the Secretary of Labor finds to conform substantially to Federal apprenticeship standards, provided that the work of the minor in the occupations herein declared hazardous is incidental to his training, is intermittent and for short periods of time, and is under the direct and close supervision of a journeyman.

(d) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

§ 4.60 *Occupations in connection with mining, other than coal (Order 9)*—(a) *Finding and declaration of fact.* All occupations in connection with mining, other than coal, are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and employment in such occupations is there-

fore prohibited under section 12 of the Fair Labor Standards Act, as amended, except the following:

(1) Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.

(2) Work in the operation and maintenance of living quarters.

(3) Work outside the mine in surveying, in the repair and maintenance of roads, and in general clean-up about the mine property such as clearing brush and digging drainage ditches.

(4) Work of track crews in the building and maintaining of sections of railroad track located in those areas of open-cut metal mines where mining and haulage activities are not being conducted at the time and place that such building and maintenance work is being done.

(5) Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.

(6) The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process:

(i) Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters;

(ii) Work of hand-sorting at picking table or picking belt;

(iii) General clean-up work:

Provided, however, That nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other hazardous occupations order issued by the Secretary of Labor.

(b) *Definitions.* As used in this section: The term "all occupations in connection with mining, other than coal" shall mean all work performed underground in mines and quarries; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where such operations are performed as a part of a manufacturing process. The term shall not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded and further processed, or plants manufacturing clay, glass or ceramic products. Neither shall the term include work performed in connection with coal mining, in petroleum production, in natural-gas production, nor in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

(c) *Higher standards.* This section shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established in this section.

Subpart F—Utilization of State Agencies for Investigations and Inspections

Authority: §§ 4.81 to 4.90 issued under sec. 4, 49 Stat. 2038, sec. 11, 52 Stat. 1066; 41 U. S. C. 38, 29 U. S. C. 211.

§ 4.81 *Definitions.* As used in this subpart:

(a) *Acts.* The term "acts" means the Fair Labor Standards Act of 1938 (52 Stat. 1060–1069, as amended; 29 U. S. C. and Sup., 201–219) and the Public Contracts Act (act of June 30, 1936; 49 Stat. 2036; 41 U. S. C. 35–45).

(b) *Administrator.* The term "Administrator" means the Administrator of the Wage and Hour Division of the United States Department of Labor.

(c) *Division.* The term "Division" means the Wage and Hour Division of the United States Department of Labor.

(d) *State.* The term "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(e) *State agency.* The term "State agency" means the agency in the State charged with the administration of labor laws which necessitate inspection of places of employment for (1) enforcement of State child-labor regulations and (2) enforcement of State maximum-hour or State minimum-wage regulations.

(f) *Official forms.* The term "official forms" means forms prescribed by the Administrator or the Secretary of Labor.

§ 4.82 *Agreements with State agencies*—(a) *Purpose.* The Secretary and the Administrator may enter into agreements with State agencies for the utilization of services of State and local agencies and their employees in making investigations and inspections under the acts and for reimbursement therefor, when such State agencies have submitted plans of cooperation for such purposes and such plans have been found to be reasonably appropriate and adequate to carry out the respective functions of the Secretary and the Administrator.

(b) *Certificates of attorneys general.* No such agreement shall become effective and operative until a statement of the Attorney General of the State, or, if the Attorney General is not authorized to make such a statement, the State official who is so authorized, has been received by the Division and the Secretary of Labor certifying that the agreement is valid in the form as executed under the laws of the State.

§ 4.83 *Qualifications of the State agency.* The State agency shall have as its primary function the administration of State labor laws and shall be under the direction of an executive who gives full time to the work of the agency. The agency shall be engaged in inspecting places of employment for (a) enforcement of State child-labor laws and regulations, and (b) enforcement of State maximum-hour or minimum-wage laws and regulations. An administrative division of the State agency shall be designated to make investigations and inspections under the acts; qualified staff, under adequate supervision, shall be specifically assigned for work connected with State and Federal child-labor, maximum-hour and minimum-wage laws and regulations; and provision shall be made to inspect any establishment subject to the acts.

§ 4.84 *Submission of plan.* The State agency shall submit a plan, in quadruplicate, which shall include the following:

(a) A copy of the act establishing the State agency, copies of the laws administered by the State agency, and if there is an act specifically authorizing the State to cooperate with the Division or the Secretary of Labor, or both, a copy of such act.

(b) A description of the organization of the State agency, illustrated by organization charts, showing the delegation of responsibility and lines of authority to be followed within the agency in the enforcement of the act and State labor laws.

(c) A description (1) of the manner in which investigations and inspections under the acts will be coordinated with the investigations and inspections for enforcement of State child-labor, maximum-hour and minimum-wage laws and regulations; (2) of the location of offices of the administrative division designated to make inspections under the acts, with the job titles of employees located in each such office and employees assigned to work in connection with the acts so designated; and (3) of the manner in which the work of inspectors will be supervised.

(d) Provisions for the establishment and maintenance of personnel administration, with respect to personnel engaged in work under the acts for the Division and the Secretary of Labor in accordance with the following standards:

(1) Job classifications based upon an analysis of the duties and responsibilities of positions;

(2) A compensation schedule adjusted to State salary schedules for similar positions: *Provided, however,* That all salaries paid by the State for services rendered in accordance with an agreement entered into pursuant to § 4.82 shall be on the basis of applicable State laws or regulations, or in the absence of such applicable laws or regulations, on the approved and usual scale paid by the State for similar services and shall in no case exceed salaries paid for comparable Federal positions in the competitive classified service. Allowances for necessary traveling expenses shall be on the basis of State laws and regulations governing travel allowances;

(3) Assignment of personnel to Federal work only when their qualifications conform substantially with qualifications of Federal employees engaged in similar work, such assignment to be made only after submission to and approval by the Division and the Secretary of Labor of a statement of the training and experience of each person who will engage in Federal work;

(4) Appointment of new personnel on the basis of merit, either (i) from lists

of eligible persons certified in the order of merit, secured under a merit system through State-wide competitive examinations which prescribe requirements of training and experience in substantial conformity with Federal civil service requirements for similar positions or (ii) from lists taken from Federal registers established through competitive examinations for similar positions, it being understood that such registers may be broken down by States;

(5) Adequate training of staff;

(6) Promotion on the basis of qualifications and performance;

(7) Security of tenure assured satisfactory employees, including right of notice and hearing prior to demotion or dismissal;

(8) Prohibition against employees engaging in political activities other than the exercise of their right to vote and to express privately their opinions on political questions.

(e) A budget which shall show, in detail, estimated expenditures by the State agency on behalf of the Division and the Secretary of Labor for services to be rendered in connection with the administration of the acts and a budget which shall show estimated expenditure for the enforcement of comparable State laws and regulations during the period covered by the agreement; a statement showing funds appropriated to or allocated for meeting the budget for estimated State expenditures; and a statement showing expenditures by the State agency for the enforcement of comparable State laws and regulations during the last fiscal year.

(f) A statement of State requirements in regard to fiscal practices and to appointment of personnel, together with copies of the laws and regulations setting forth such requirements.

(g) A statement from the Attorney General of the State or, if the Attorney General is not authorized to make such a statement, from the State official who is so authorized certifying that the State agency has authority to enter into an agreement with the Division and the Secretary of Labor in accordance with this subpart.

§ 4.85 *Additional requirements.* (a) The State agency shall follow the procedure set forth in the Inspection Manual for the enforcement of the act and such supplements to or provisions thereof as may be issued from time to time by the Division or the Secretary of Labor; use official forms for recording findings; make reports as required; and carry on the work connected with the administration of the acts in conformity with the plans and budget agreed upon and with the instructions and policies of the Division and the Secretary of Labor.

(b) Representatives of the Division and the Secretary of Labor may at any time, upon notifying the State agency, make such inspections and investigations and secure such information as may be necessary for the administration of the acts.

§ 4.86 *Audits.* The accounting records and the supporting data pertaining to expenditures for investigations and inspections under the acts shall be subject to audit by the Division and the Secretary of Labor, annually, or so often as the Administrator and the Secretary of Labor, may require.

§ 4.87 *Transmission of official mail.* Subject to the requirements of law and of the regulations of the Post Office Department, franked self-addressed envelopes may be used for communications from the field staff to a State official designated by the Division and the Secretary of Labor, and for communication from the State agency to the Division or the Secretary of Labor.

§ 4.88 *Enforcement.* All litigation relating to the enforcement of the acts, other than civil actions for the recovery of wages due instituted pursuant to section 16 (b) of the Fair Labor Standards Act of 1938 and all administrative proceedings instituted pursuant to section 5 of the Public Contracts Act shall be undertaken by and be under the direction and control of the Federal Government. Any State agency intending to institute a civil action in behalf of an employee or employees for the recovery of wages due, pursuant to section 16 (b) of the Fair Labor Standards Act of 1938 shall notify the Division and the Secretary of Labor prior to the institution of such action.

§ 4.89 *Agreements and approved plans.* Agreements and approved plans incorporated therein may be amended upon the consent of the parties thereto.

§ 4.90 *Amendments and repeal.* This subpart may be amended or repealed by appropriate joint regulations issued by the Secretary of Labor and the Administrator: *Provided, however,* That no such amendment or repeal shall be effective as to any agreement previously entered into by a State agency without its consent thereto.

SUBPART G—GENERAL STATEMENTS OF INTERPRETATION OF THE CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 138, AS AMENDED

AUTHORITY: §§ 4.101 to 4.129 issued under 52 Stat. 1060–1069, as amended; 29 U. S. C. and Sup., 201–219.

GENERAL

§ 4.101 *Introductory statement.* (a) This subpart discusses the meaning and scope of the child labor provisions of the Fair Labor Standards Act, as amended[1] (hereinafter referred to as the act). These provisions seek to protect the safety, health, well-being and opportunities for schooling of youthful workers and authorize the Secretary of Labor to issue legally binding orders or regulations in certain instances and under certain conditions. The child labor provisions are found in sections 3 (l), 11 (b), 12, 13 (c) and (d), 15 (a) (4), 16 (a), and 18 of the act. They are administered and enforced by the Secretary of Labor who has delegated[2] to the Wage and Hour Division the duty of making investigations to obtain compliance, and to the Bureau of Labor Standards the duty of developing standards for the issuance of regulations and orders relating to (1) hazardous occupations, (2) employment of 14- and 15-year-old children, and (3) age certificates.

(b) The interpretations of the Secretary contained in this subpart indicate the construction of the law which will guide him in performing his duties until he is directed otherwise by authoritative rulings of the courts or until he shall subsequently decide that his prior interpretation is incorrect.

§ 4.102 *General scope of statutory provisions.* The most important of the child labor provisions are contained in sections 12 (a), 12 (c), and 3 (l) of the act. Section 12 (a) provides that no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce any goods produced in an establishment in or about which oppressive child labor was employed within 30 days before removal of the goods. The full text of this subsection is set forth in § 4.104 and its terms are discussed in §§ 4.105 to 4.111, inclusive. Section 12 (c) prohibits any employer from employing oppressive child labor in interstate or foreign commerce or in the production of goods for such commerce. The text and discussion of this provision appear in §§ 4.112 and 4.113. Section 3 (l) of the act, which defines the term "oppressive child labor," is set forth in § 4.117 and its provisions are discussed in §§ 4.118 to 4.121, inclusive. It will further be noted that the act provides various specific exemptions from the foregoing provisions which are set forth and discussed in §§ 4.122 to 4.126, inclusive.

§ 4.103 *Comparison with wage and hours provisions.* A comparison of the child labor provisions with the so-called wage and hours provisions contained in the act discloses some important distinctions which should be mentioned.

(a) The child labor provisions contain no requirements in regard to wages. The wage and hours provisions, on the other hand, provide for minimum rates of pay for straight time and overtime pay at a rate not less than one and one-half times the regular rate of pay for overtime hours worked. Except as provided in certain exemptions contained in the act, these rates are required to be paid all employees subject to the wage and hours provisions, regardless of their age or sex. The fact, therefore, that the employment of a particular child is prohibited by the child labor provisions or that certain shipments or deliveries may be proscribed on account of such

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[1] Pub. No. 718, 75th Cong., 3d sess. (52 Stat. 1060), as amended by the act of June 26, 1940 (Pub. Res. No. 88, 76th Cong., 3d sess.); by Reorganization Plan No. 2 (60 Stat. 1095), effective July 16, 1946; by the Portal-to-Portal Act of 1947, approved May 14, 1947 (61 Stat. 84); and by the Fair Labor Standards Amendments of 1949, approved October 26, 1949 (Pub. Law 393, 81st Cong., 1st sess.). Amendments provided by the Fair Labor Standards Amendments of 1949 are effective as of January 25, 1950. These amendments leave the existing law unchanged except as to provisions specifically amended and the addition of certain new provisions.

[2] General Order No. 42 issued by the Secretary on July 1, 1949.

employment, does not relieve the employer of the duties imposed by the wage and hours provisions to compensate the child in accordance with those requirements.

(b) There are important differences between the child labor provisions and the wage and hours provisions with respect to their general coverage. As pointed out in § 4.114, two separate and basically different coverage provisions are contained in section 12 relating to child labor. One of these provisions (section 12 (c)), which applies to the employment by an employer of oppressive child labor in commerce or in the production of goods for commerce, is similar to the wage and hours coverage provisions, which include employees engaged in commerce or in the production of goods for commerce. The other provision (section 12 (a)), however, differs fundamentally in its basic concepts of coverage from the wage and hours provisions, as will be explained in §§ 4.104 to 4.111.

(c) Another distinction is that the exemptions provided by the act from the minimum wage and/or overtime provisions are more numerous and differ from the exemptions granted from the child labor provisions. There are only four specific child labor exemptions of which only one applies to the minimum wage and overtime pay requirements as well. This is the exemption for employees engaged in the delivery of newspapers to the consumer.[3] With this exception, none of the specific exemptions from the minimum wage and/or overtime pay requirements applies to the child labor provisions. However, it should be noted that the exclusion of certain employers by section 3 (d)[4] of the act applies to the child labor provisions as well as the wage and hours provisions.

COVERAGE OF SECTION 12 (a)

§ 4.104 *General.* Section 12 (a) of the act provides as follows:

> No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided,* That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further,* That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

In determining the applicability of this provision, consideration of the meaning of the terms used is necessary. These terms are discussed in §§ 4.105 to 4.111, inclusive.

§ 4.105 *"Producer, manufacturer, or dealer".* It will be observed that the prohibition of section 12 (a) with respect to certain shipments or deliveries for shipment is confined to those made by producers, manufacturers, and dealers. The terms "producer, manufacturer, or dealer" used in this provision are not expressly defined by the statute. However, in view of the definition of "produced" in section 3 (j), for purposes of this subsection a "producer" is considered to be one who engages in producing, manufacturing, handling or in any other manner working on goods in any State.[5] Since manufacturing is considered a specialized form of production, the word "manufacturer" does not have as broad an application as the word "producer." Manufacturing generally involves the transformation of raw materials or semifinished goods into new or different articles. A person may be considered a "manufacturer" even though his goods are made by hand, as is often true of products made by homeworkers. Moreover, it is immaterial whether manufacturing is his sole or main business. Thus, the term includes retailers who, in addition to retail selling, engage in such manufacturing activities as the making of slip-covers or curtains, the baking of bread, the making of candy, or the making of window frames. The word "dealer" refers to anyone who deals in goods (as defined in section 3 (i) of the act),[6] including persons engaged in buying, selling, trading, distributing, delivering, etc. It includes middlemen, factors, brokers, commission merchants, wholesalers, retailers and the like.

§ 4.106 *"Ship or deliver for shipment in commerce."* (a) Section 12 (a) forbids producers, manufacturers, and dealers to "ship or deliver for shipment in commerce" the goods referred to therein. A producer, manufacturer, or dealer may "ship" goods in commerce either by moving them himself in interstate or foreign commerce or by causing them to so move, as by delivery to a carrier.[7] Thus, a baker "ships" his bread in commerce whether he carries it in his own truck across State lines or sends it by contract or common carrier to his customers in other States. The word "ship" must be applied in its ordinary meaning. For example, it does not apply to the transmission of telegraphic messages.[8]

(b) To "deliver for shipment in commerce" means to surrender the custody of goods to another under such circumstances that the person surrendering the goods knows or has reason to believe that the goods will later be shipped in commerce.[9] Typical is the case of a Detroit manufacturer who delivers his goods in Detroit to a distributor who, as the manufacturer is well aware, will ship the goods into another State. A delivery for shipment in commerce may also be made where raw materials are delivered by their producer to a manufacturer in the same State who converts them into new products which are later shipped across State lines. If the producer in such case is aware or has reason to believe that the finished products will ultimately be sent into another State, his delivery of the raw materials to the manufacturer is a delivery for shipment in commerce. Another example is a paper box manufacturer who ships a carton of boxes to a fresh fruit or vegetable packing shed within the same State, with knowledge or reason to believe that the boxes will there be filled with fruits or vegetables and shipped outside the State. In such case the box manufacturer has delivered the boxes for shipment in commerce.

§ 4.107 *"Goods".*[10] (a) Section 12 (a) prohibits the shipment or delivery for shipment in commerce of "any goods" produced in an establishment which were removed within 30 days of the employment there of oppressive child labor. It should be noted that the statute does not base the prohibition of section 12 (a) upon the percentage of an establishment's output which is shipped in commerce.

(b) The act furnishes its own definition of "goods" in section 3 (i), as follows:

> "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

The term includes such things as foodstuffs, clothing, machinery, printed materials, blueprints and also includes intangibles such as news, ideas, and intelligence. The statute expressly excludes goods after their delivery into the actual physical possession of an ultimate consumer other than a producer,

[3] Section 13 (d) of the act.

[4] Section 3 (d) defines "employer" to include "any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

[5] For a discussion of the definition of "produced" as it relates to section 12 (a), see § 4.108.

[6] See § 4.107.

[7] Section 3 (b) of the act defines "commerce" to mean "trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof."

[8] Western Union Telegraph Co. v. Lenroot, 323 U. S. 490.

[9] Tobin v. Grant, N. D. Calif., 79 F. Sup. 975 which was a suit for injunction by the Secretary of Labor against a manufacturer of books and book covers employing oppressive child labor. The facts showed that the manufactured articles sold by defendant to purchasers in the same State had an ultimate out-of-State destination which was manifest to defendant. The court construed the words "deliver for shipment in commerce" as sufficiently broad to cover this situation even though the purchasers acquired title to the goods.

[10] The term "goods" is discussed in more detail in Part 776 of this title (Interpretative Bulletin on the coverage of the wage and hours provisions) issued by the Administrator of the Wage and Hour Division.

manufacturer, or processor thereof. Accordingly, such a consumer may lawfully ship articles in his possession although they were ineligible for shipment (commonly called "hot goods") before he received them.[11]

§ 4.108 *"Produced"*. The word "produced" as used in the act is defined by section 3 (j) to mean:

* * * produced, manufactured, mined, handled, or in any other manner worked on in any State; * * *[12]

(a) The prohibition of section 12 (a) cannot apply to a shipment of goods unless those goods (including any part or ingredient thereof) were actually "produced" in and removed from an establishment where oppressive child labor was employed. This provision is applicable even though the under-age employee does not engage in the production of the goods themselves if somewhere in the establishment in or about which he is employed goods are "produced" which are subequently shipped or delivered for shipment in commerce. In contrast to this restrictive requirement of section 12 (a), it will be noted that the employees covered under the wage and hours provisions as engaged in the production of goods for commerce are not limited to those in or about establishments where such goods are being produced. If the requisite relationship[13] to production of such goods is present, an employee is covered for wage and hours purposes regardless of whether his work brings him in or near any establishment where the goods are produced.[14]

(b) Since the first word in the definition of "produced" repeats the term being defined, it seems clear that the first word must carry the meaning that it has in everyday language. Goods are commonly spoken of as "produced" if they have been brought into being as a result of the application of work. The words "manufactured" and "mined" in the definition refer to special forms of production. The former term is generally applied to the products of industry where existing raw materials are transformed into new or different articles by the use of industrial methods, either by the aid of machinery or by manual operations. Mining is a type of productive activity involving the taking of materials from the ground, such as coal from a coal mine, oil from oil wells, or stone from quarries. The statute also defines the term "produced" to mean "handled" or "in any other manner worked on."[15] These words relate not only to operations carried on in the course of manufacturing, mining, or production as commonly described, but include as well all kinds of operations which prepare goods for their entry into the stream of commerce, without regard to whether the goods are to be further processed or are so called "finished goods."[16] Accordingly, warehouses, fruit and vegetable packing sheds, distribution yards, grain elevators, etc., where goods are sorted, graded, stored, packed, labeled or otherwise handled or worked on in preparation for their shipment out of the State are producing establishments for purposes of section 12 (a).[17] However, the handling or working on goods, performed by employees of carriers which accomplishes the interstate transit or movement in commerce itself, does not constitute production under the act.[18]

§ 4.109 *"Establishment situated in the United States"*. (a) (1) The statute does not expressly define "establishment." Accordingly, the term should be given a meaning which is not only consistent with its ordinary usage, but also designed to accomplish the general purposes of the act. As normally used in business and in Government, the word "establishment" refers to a distinct physical place of business. This is the meaning attributed to the term as it is used in section 13 (a) (2) of the act.[19] Since the establishments covered under section 12 (a) of the act are those in which goods are produced, the term "establishment" there refers to a physical place where goods are produced. Typical producing establishments are industrial plants, mines, quarries, and the like. The producing establishment, however, need not have a permanently fixed location as is the case with a factory or mine. A boat, for instance, where productive activities such as catching or canning fish are carried on, is considered a producing establishment for purposes of section 12 (a).

(2) Frequently, questions arise as to what should be considered a single establishment. No hard and fast rule can be laid down which will fix the area of all establishments. Accordingly, a determination of the area contained in a single establishment must be based upon the facts of each individual situation. Facts which are particularly pertinent in this connection, however, are those which relate to the physical characteristics and the manner of operation and control of the business. Sometimes, an establishment may extend over an area of several square miles as is common with farms, logging enterprises, mines, and quarries. On the other hand, it may be confined to a few square feet. A typical illustration of this is a loft building that houses the workshops of hundreds of independent manufacturing firms. Each of the workshops is, for purposes of this section, a separate establishment.

(3) Similar principles are applicable in determining whether several buildings located on the same premises constitute one establishment or more than one. For example, where several factory buildings are located on the same premises and owned and operated by the same person, they are generally to be considered as a single establishment. On the other hand, factory buildings located on the same premises, but owned and operated by different persons, will not ordinarily be treated as a single establishment. Where the several factories, however, are engaged in a joint productive enterprise, they may constitute a single establishment. This is the case, for example, where a large shipyard contains the plants of a number of subcontractors who are engaged in making parts or equipment for the boats that are built in the yard.

(b) The phrase "situated in the United States" is construed to include any of the 48 States or the District of Columbia or any Territory or possession of the United States.

§ 4.110 *"In or about"*. (a) Section 12 (a) excludes from the channels of interstate commerce goods produced in an establishment "in or about" which oppressive child labor has been employed. In a great many situations it is obviously easy to determine whether a minor is employed "in" an establishment. Thus, he is so employed where he performs his occupational duties on the premises of the producing establishment. Furthermore, a minor is also considered as employed in an establishment where he performs most of his duties off the premises but is regularly required to perform certain occupational duties in the establishment, such as loading or unloading a truck, checking in or out, or washing windows. This is true in such cases even though the minor is employed by someone other than the owner or operator of the particular establishment. On the other hand, a minor is not considered to be employed in an establishment other than his employer's merely because such establishment is visited by him for brief periods of time and for the sole purpose of picking up

[11] For a discussion of the exclusionary clause in section 3 (i) of the act, see Powell et al. v. United States Cartridge Co., 70 S. Ct. 755.

[12] The remaining portion of section 3 (j) provides: "* * * and for the purposes of this act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State."

[13] See footnote 12.

[14] See Part 776 of this title (Interpretative Bulletin on the coverage of the wage and hours provisions) issued by the Administrator of the Wage and Hour Division. Also, see §§ 4.112 and 4.113.

[15] For a more complete discussion of these words, see § 776.16 of Part 776 (bulletin on coverage of the wage and hours provisions) of Chapter V of this title.

[16] In Western Union Telegraph Co. v. Lenroot, 323 U. S. 490, the Supreme Court stated that these words bring within the statutory definition "every step in putting the subject of commerce in a state to enter commerce," including "all steps, whether manufacture or not, which lead to readiness for putting goods into the stream of commerce," and "every kind of incidental operation preparatory to putting goods into the stream of commerce."

[17] Lenroot v. Kemp and Lenroot v. Hazlehurst Mercantile Co., 153 F. 2d 153 (C. A. 5), where the court directed issuance of injunctions to restrain violations of the child labor provisions by operators of vegetable packing sheds at which they bought, then washed, sorted, crated, and packed cabbage and tomatoes for shipment in interstate commerce.

[18] Western Union Telegraph Co. v. Lenroot, 323 U. S. 490.

[19] A. H. Phillips, Inc. v. Walling, 324 U. S. 490. See Part 779 (bulletin on the retail and service establishment exemption from the wage and hours provisions) of Chapter V of this title.

or delivering a message or other small article.

(b) If, in the light of the statements in paragraph (a) of this section, the minor cannot be considered as employed in the establishment, he may, nevertheless, be employed "about" it if he performs his occupational duties sufficiently close in proximity to the actual place of production to fall within the commonly understood meaning of the term "about." This would be true in a situation where the foregoing proximity test is met and the occupation of the minor is directly related to the activities carried on in the producing establishment. In this connection, occupations are considered sufficiently related to the activities carried on in the producing establishment to meet the second test above at least where the requisite relationship to production of goods exists within the meaning of section 3 (j) of the act.[20] By way of example, a driver's helper employed to assist in the distribution of the products of a bottling company who regularly boards the delivery truck immediately outside the premises of the bottling plant is considered employed "in or about" such establishment, without regard to whether he ever enters the plant itself. On the other hand, employees working entirely within one establishment are not considered to be employed "in or about" a wholly different establishment occupying separate premises and operated by another employer. This would be true even though the two establishments are contiguous. But in other situations the distance between the producing establishment and the minor's place of employment may be a decisive factor. Thus, a minor employed in clearing rights-of-way for power lines many miles away from the power plant cannot well be said to be employed "in or about" such establishment. In view of the great variety of establishments and employments, however, no hard and fast rule can be laid down which will once and for all distinguish between employments that are "about" an establishment and those that are not. Therefore, each case must be determined on its own merits. In determining whether a particular employment is "about" an establishment, consideration of the following factors should prove helpful: (1) actual distance between the producing establishment and the minor's place of employment; (2) nature of the establishment; (3) ownership or control of the premises involved; (4) nature of the minor's activities in relation to the establishment's purpose; (5) identity of the minor's employer and the establishment's owner; (6) extent of control by the producing establishment's owner over the minor's employment.

§ 4.111 *Removal "within 30 days."* According to section 12 (a) goods produced in an establishment in or about which oppressive child labor has been employed are barred as "hot goods" from being shipped or delivered for shipment in commerce in the following two situations: First, if they were removed from the establishment while any oppressive child labor was still being employed in or about it; second, if they were removed from an establishment in or about which oppressive child labor was no longer employed but less than 30 days had then elapsed since any such employment of oppressive child labor came to an end. Once any goods have been removed from a producing establishment within the above-mentioned thirty-day period, they are barred at any time thereafter from being shipped or delivered for shipment in commerce so long as they remain "goods" for purposes of the act.[21] Goods are considered removed from an establishment just as soon as they are taken away from the establishment as that term has been defined.[22] The statute does not require that this "removal" from the establishment be made for the purpose or in the course of a shipment or delivery for shipment in commerce. A "removal" within the meaning of the statute also takes place where the goods are removed from the establishment for some other purpose such as storage, the granting of a lien or other security interest, or further processing.

COVERAGE OF SECTION 12 (C)

§ 4.112 *General.* (a) Section 12 (c) of the act provides as follows: "No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce."

(b) This provision, which was added by the Fair Labor Standards Amendments of 1949,[23] broadens child labor coverage to include employment in commerce. Moreover, it establishes a direct prohibition of the employment of oppressive child labor in commerce or in the production of goods for commerce. The legislative history pertaining to this provision leads to the conclusion that Congress intended its application to be generally consistent with that of wage and hours coverage provisions. The application of the provision depends on the existence of two necessary elements: (1) the employment of "oppressive child labor"[24] by some employer and (2) the employment of such oppressive child labor in commerce or in the production of goods for commerce.

§ 4.113 *Employment*[25] *"in commerce or in the production of goods for commerce".* (a) The term "employ" is broadly defined in section 3 (g) of the act to include "to suffer or permit to work." The act expressly provides that the term "employer" includes "any person acting directly or indirectly in the interest of an employer in relation to an employee." The nature of an employer-employee relationship is ordinarily to be determined not solely on the basis of the contractual relationship between the parties but also in the light of all the facts and circumstances. Moreover, the terms "employer" and "employ" as used in the act are broader than the common-law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Thus, neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists for purposes of section 12 (c) of the act. However, these are matters which should be considered along with all other facts and circumstances surrounding the relationship of the parties in arriving at such determination. The words "suffer or permit to work" include those who suffer by a failure to hinder and those who permit by acquiescence in addition to those who employ by oral or written contract. A typical illustration of employment of oppressive child labor by suffering or permitting an under-aged minor to work is that of an employer who knows that his employee is utilizing the services of such a minor as a helper or substitute in performing his employer's work. If the employer acquiesces in the practice or fails to exercise his power to hinder it, he is himself suffering or permitting the helper to work and is, therefore, employing him, within the meaning of the act. Where employment does exist within the meaning of the act, it must, of course, be in commerce or in the production of goods for commerce in order for section 12 (c) to be applicable.

(b) As previously indicated, the scope of coverage of section 12 (c) of the act is, in general, coextensive with that of the wage and hours provisions. The basis for this conclusion is provided by the similarity in the language used in the respective provisions and by statements appearing in the legislative history concerning the intended effect of the addition of section 12 (c). Accordingly, it may be generally stated that employees considered to be within the scope of the phrases "in commerce or in the production of goods for commerce" for purposes of the wage and hours provisions are also included within the identical phrases used in section 12 (c). To avoid needless repetition, reference is herein made to the full discussion of principles relating to the general coverage of the wage and hours provisions contained in Part 776 (Interpretative Bulletin issued by the Administrator of the Wage and Hour Division) of Chapter V of this title. In this connection, however, it should be borne in mind that lack of coverage under the wage and hours provisions or under section 12 (c) does not necessarily preclude the applicability of section 12 (a) of the act.[26]

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[20] See Part 776 (bulletin on coverage of the wage and hours provisions) of this title.

[21] However, section 12 (a) contains a provision relieving innocent purchasers from liability thereunder provided certain conditions are met. For a discussion of this provision, see § 4.125.

Also, section 15 (a) (1) relieves any common carrier from liability under the act for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier.

[22] For a discussion of the meaning of "establishment," see § 4.109.

[23] Pub. Law 393, 81st Cong., 1st sess. (63 Stat. 910). These amendments became effective on January 25, 1950.

[24] "Oppressive child labor" is discussed in §§ 4.117 to 4.121, inclusive.

[25] For a more detailed discussion, see Part 787 (bulletin on employment issued by the Administrator of the Wage and Hour Division) of this title.

[26] See § 4.116.

JOINT AND SEPARATE APPLICABILITY OF SECTIONS 12 (A) AND 12 (C)

§ 4.114 *General.* It should be noted that section 12 (a) does not directly outlaw the employment of oppressive child labor. Instead, it prohibits the shipment or delivery for shipment in interstate or foreign commerce of goods produced in an establishment where oppressive child labor has been employed within 30 days before removal of the goods. Section 12 (c), on the other hand, is a direct prohibition against the employment of oppressive child labor in commerce, or in the production of goods for commerce. Morever, the two subsections provide different methods for determining the employees who are covered thereby. Thus, subsection (a) may be said to apply to young workers on an "establishment" basis. If the standards for child labor are not observed in the employment of minors in or about an establishment where goods are produced and from which such goods are removed within the statutory 30-day period, it becomes unlawful for any producer, manufacturer, or dealer (other than an innocent purchaser who is in compliance with the requirements for a good faith defense as provided in the subsection) to ship or deliver those goods for shipment in commerce. It is not necessary for the minor himself to have been employed by the producer of such goods or in their production in order for the ban to apply. On the other hand, whether the employment of a particular minor below the applicable age standard will subject his employer to the prohibition of subsection (c) is dependent upon the minor himself being employed in commerce or in the production of goods for commerce, within the meaning of the act. If such a minor is so employed by his employer and is not specifically exempt from the child labor provisions then his employment under such circumstances constitutes a violation of section 12 (c) regardless of where he may be employed or what his employer may do. Moreover, a violation of section 12 (c) occurs under the foregoing circumstances without regard to whether there is a "removal" of goods or a shipment or delivery for shipment in commerce.

§ 4.115 *Joint applicability.* The child labor coverage provisions contained in sections 12 (a) and 12 (c) of the act may be jointly applicable in certain situations. For example, a manufacturer of women's dresses who ships them in interstate commerce, employs a minor under 16 years of age who gathers and bundles scraps of material in the cutting room of the plant. Since the employment of the minor under such circumstances constitutes oppressive child labor and involves the production of goods for commerce, the direct prohibition of section 12 (c) is applicable to the case. In addition, section 12 (a) also applies to the manufacturer if the dresses are removed from the establishment during the course of the minor's employment or within 30 days thereafter. To illustrate further, suppose that a transportation company employs a 17-year-old boy as helper on a truck used for hauling materials between railroads and the plants of its customers who are engaged in producing goods for shipment in commerce. The employment of the minor as helper on a truck is oppressive child labor because such occupation has been declared particularly hazardous by the Secretary for children between 16 and 18 years of age. Since his occupation involves the transportation of goods which are moving in interstate commerce, his employment in such occupation by the transportation company is, therefore, directly prohibited by the terms of section 12 (c). If the minor's duties in this case should, for example, include loading and unloading the truck at the establishments of the customers of his employer, then the provisions of section 12 (a) might be applicable with respect to such customers. This would be true where any goods which they produce and ship in commerce are removed from the producing establishment within 30 days after the minor's employment there.

§ 4.116 *Separate applicability.* There are situations where section 12 (c) does not apply because the minor himself is not considered employed in commerce or in the production of goods for commerce. This does not exclude the possibility of coverage under the provisions of section 12 (a), however. Thus, the employment of a minor by a local window-cleaning company to wash the windows of a factory producing goods for shipment in commerce is not subject to section 12 (c) because the work performed by the minor is not closely related and directly essential to production. However, the prohibition contained in section 12 (a) would apply in such a situation to shipments from the factory of goods removed within the statutory 30-day period provided, of course, the minor was below the applicable age minimum. In those cases where oppressive child labor is employed in commerce but not in or about a producing establishment, coverage exists under section 12 (c) but not under the provisions of section 12 (a). The employment of telegraph messengers under 16 years of age would normally involve this type of situation.[27] There may also be cases where oppressive child labor is employed in occupations closely related and directly essential to the production of goods in a separate establishment and therefore covered by section 12 (c) but due to the fact that none of the goods produced in the establishment where the minors work are ever shipped or delivered for shipment in commerce either in the same form or as a part or ingredient of other goods, coverage of section 12 (a) is lacking. An illustration of this type of situation would be the employment of a minor under the applicable age minimum in a plant engaged in the production of electricity which is sold and consumed exclusively within the same State and some of which is used by establishments in the production of goods for commerce.

[27] In Western Union Telegraph Co. v. Lenroot, 323 U. S. 490, the court held section 12 (a) inapplicable to Western Union on the grounds that the company does not "produce" or "ship" goods within the meaning of that subsection.

OPPRESSIVE CHILD LABOR

§ 4.117 *General.* (a) Section 3 (l) of the act defines "oppressive child labor" as follows:

"Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being, but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(b) It will be noted that the term includes generally the employment of young workers under the age of 16 years in any occupation. In addition, the term includes employment of minors 16 and 17 years of age by an employer in any occupation which the Secretary finds and declares to be particularly hazardous for the employment of children of such ages or detrimental to their health or well-being. Authority is also given the Secretary to issue orders or regulations permitting the employment of children 14 and 15 years of age in nonmanufacturing and nonmining occupations where he determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being. The subsection further provides for the issuance of age certificates pursuant to regulations of the Secretary which will protect an employer from unwitting employment of oppressive child labor.

§ 4.118 *Sixteen-year minimum.* The act sets a 16-year age minimum for employment in manufacturing or mining occupations. Furthermore, this age minimum is applicable to employment in all other occupations unless otherwise provided by regulation or order issued by the Secretary.

§ 4.119 *Fourteen-year minimum.* With respect to employment in occupations other than manufacturing and mining, the Secretary is authorized to

issue regulations or orders lowering the age minimum to 14 years where he finds that such employment is confined to periods which will not interfere with the minors' schooling and to conditions which will not interfere with their health and well-being. Pursuant to this authority, the Secretary permits the employment of 14- and 15-year-old children in a limited number of occupations where the work is performed outside school hours and is confined to other specified limits. Under the provisions of Child Labor Regulation No. 3, as amended,[28] employment of minors in this age group is not permitted in the following occupations: (a) Manufacturing, mining, or processing occupations; (b) occupations requiring the performance of any duties in a work room or work place where goods are manufactured, mined or otherwise processed; (c) occupations involving the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines; (d) public messenger service; (e) occupations declared to be particularly hazardous or detrimental to health or well-being by the Secretary; or (f) occupations (except office or sales work) in connection with (1) transportation of persons or property by rail, highway, air, water, pipeline, or other means; (2) warehousing and storage; (3) communications and public utilities; and (4) construction (including demolition and repair). The exception permitting office and sales work performed in connection with the occupations specified in (f) above does not apply if such work is performed on trains or any other media of transportation or at the actual site of construction operations. Employment of fourteen- and fifteen-year-olds in all occupations other than the foregoing is permitted by the Regulation, if the following conditions are observed: (1) employment only outside school hours and between the hours of 7 a. m. and 7 p. m.; (2) employment for not more than 3 hours a day nor more than 18 hours a week when school is in session; and, (3) employment for not more than 8 hours a day nor more than 40 hours a week when school is not in session. The employment of minors under 14 years of age is not permissible, under any circumstances if the employment is covered by the child labor provisions and not specifically exempt.

§ 4.120 *Eighteen-year minimum.* To protect young workers from hazardous employment, the act provides for a minimum age of 18 years in occupations found and declared by the Secretary to be particularly hazardous or detrimental to health or well-being for minors 16 and 17 years of age. Hazardous-occupations orders are the means through which occupations are declared to be particularly hazardous for minors. They are issued after public hearing and advice from committees composed of representatives of employers and employees of the industry and the public and in accordance with procedure established in Child Labor Regulation No. 5.[29] The effect of these orders is to raise the minimum age for employment to 18 years in the occupations covered. Seven orders[30] have thus far been issued under the act and are now in effect. In general, they cover:

No. 1. Occupations in or about plants manufacturing explosives or articles containing explosive components.

No. 2. Occupations of motor-vehicle driver and helper.

No. 3. Coal-mine occupations.

No. 4. Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill.

No. 5. Occupations involved in the operation of power-driven woodworking machines.

No. 6. Occupations involving exposure to radioactive substances.

No. 7. Occupations involved in the operation of power-driven hoisting apparatus.

§ 4.121 *Age certificates.* (a) To protect an employer from unwitting violation of the minimum age standards, it is provided in section 3 (l) (2) of the act that "oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age." An age certificate is a statement of a minor's age issued under regulations of the Secretary (Child Labor Regulation No. 1),[31] based on the best available documentary evidence of age, and carrying the signatures of the minor and the issuing officer. Its purpose is to furnish an employer with reliable proof of the age of a minor employee in order that he may, as specifically provided by the act, protect himself against unintentional violation of the child labor provisions. Pursuant to the regulations of the Secretary, State employment or age certificates are accepted as proof of age in 44 States, the District of Columbia, Hawaii, and Puerto Rico, and Federal certificates of age in Idaho, Mississippi, South Carolina and Texas. If there is a possibility that the minor whom he intends to employ is below the applicable age minimum for the occupation in which he is to be employed, the employer should obtain an age certificate for him.

(b) It should be noted that the age certificate furnishes protection to the employer as provided by the act only if it shows the minor to be above the minimum age applicable thereunder to the occupation in which he is employed. Thus, a State certificate which shows a minor's age to be above the minimum required by State law for the occupation in which he is employed does not protect his employer for purposes of the Fair Labor Standards Act unless the age shown on such certificate is also above the minimum provided under that act for such occupation.

EXEMPTIONS

§ 4.122 *General.* Specific exemptions from the child labor requirements of the act are provided for (a) employment of children in agriculture outside of school hours for the school district where they live while so employed; (b) employment of employees engaged in the delivery of newspapers to the consumer; (c) employment of children as actors or performers in motion pictures or in theatrical, radio, or television productions; and (d) employment by a parent or a person standing in a parent's place of his own child or a child in his custody under the age of sixteen years in any occupation other than the following: (1) Manufacturing, (2) mining, (3) an occupation found by the Secretary to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being. In his interpretations of these provisions, the Secretary will be guided by the principle that such exemptions should be narrowly construed and their application limited to those employees who are plainly and unmistakably within their terms. Thus, the fact that a child's occupation involves the performance of work which is considered exempt from the child labor provisions will not relieve his employer from the requirements of section 12 (c) or the producer, manufacturer, or dealer from the requirements of section 12 (a) if, during the course of his employment, the child spends any part of his time doing work which is covered but not so exempt.

§ 4.123 *Agriculture.* (a) Section 13 (c) of the act provides an exemption from the child labor provisions for "any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed." This is the only exemption from the child labor provisions relating to agriculture or the products of agriculture. The various agricultural exemptions provided by sections 7 (b) (3), 7 (c), 13 (a) (6), 13 (a) (10) and 13 (b) (5) from all or part of the minimum wage and overtime pay requirements are not applicable to the child labor provisions. This exemption, it will be noted, is limited to periods outside of school hours in contrast to the complete exemption for employment in "agriculture" under the wage and hours provisions. Under the original act, the exemption became operative whenever the applicable State law did not require the minor to attend school. The legislative history clearly indicates that in amending this provision, Congress sought to establish a clearer and simpler test for permissive employment which could be applied without the necessity of exploring State legal requirements regarding school attendance in the particular State. It recognized that the original provision fell short of achieving the objective of permitting agricultural work only so long as it did not infringe upon the opportunity of children for education. By recasting the exemption on an "outside of school hours" basis, Congress intended to provide a test which could be more effectively applied toward carrying out this purpose.

(b) The applicability of the exemption to employment in agriculture as defined

[28] Subpart C of this part.

[29] Subpart D of this part.

[30] Subpart E of this part.

[31] Subpart A of this part.

in section 3 (f) [32] of the act depends in general upon whether such employment conflicts with school hours for the locality where the child lives. Since the phrase "school hours" is not defined in the act, it must be given the meaning that it has in ordinary speech. Moreover, it will be noted that the statute speaks of school hours "for the school district" rather than for the individual child. Thus, the provision does not depend for its application upon the individual student's requirements for attendance at school. For example, if an individual student is excused from his studies for a day or a part of a day by the superintendent or the school board, the exemption would not apply if school was in session then. "Outside of school hours" generally may be said to refer to such periods as before or after school hours, holidays, summer vacation, Sundays, or any other days on which the school for the district in which the minor lives does not assemble. Since "school hours for the school district" do not apply to minors who have graduated from high school, the entire year would be considered "outside of school hours" and, therefore, their employment in agriculture would be permitted at any time.

(c) Attention is directed to the fact that by virtue of the parental exemption provided in section 3 (l) of the act, children under 16 years of age are permitted to work for their parents on their parents' farms at any time provided they are not employed in a manufacturing or mining occupation.

(d) The orders (Subpart E of this part) declaring certain occupations to be particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being do not apply to employment in agriculture, pending study as to the hazardous or detrimental nature of occupations in agriculture.[33]

§ 4.124 *Delivery of newspapers.* Section 13 (d) of the act provides an exemption from the child labor as well as the wage and hours provisions for employees engaged in the delivery of newspapers to the consumer. This provision applies to carriers engaged in making deliveries to the homes of subscribers or other consumers of newspapers (including shopping news). It also includes employees engaged in the street sale or delivery of newspapers to the consumer. However, employees engaged in hauling newspapers to drop stations, distributing centers, newsstands, etc., do not come within the exemption because they do not deliver to the consumer.

§ 4.125 *Actors and performers.* Section 13 (c) of the act provides an exemption from the child labor provisions for "any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions." The term "performer" used in this provision is obviously more inclusive than the term "actor." In regulations issued pursuant to section 7 (d) (3) of the act, the Administrator of the Wage and Hour Division has defined a "performer" on radio and television programs for purposes of that section.[34] The Secretary will follow this definition in determining whether a child is employed as a "* * * performer * * * in radio or television productions" for purposes of this exemption. Moreover, in many situations the definition will be helpful in determining whether a child qualifies as a "* * * performer in motion pictures or theatrical productions * * *" within the meaning of the exemption.

§ 4.126 *Parental exemption.* By the parenthetical phrase included in section 3 (l) (1) of the act, a parent or a person standing in place of a parent may employ his own child or a child in his custody under the age of 16 years in any occupation other than the following: (a) Manufacturing; (b) mining; (c) an occupation found by the Secretary to be particularly hazardous or detrimental to health or well-being for children between the ages of 16 and 18 years. This exemption may apply only in those cases where the child is exclusively employed by his parent or a person standing in his parents' place. Thus, where a child assists his father in performing work for the latter's employer and the child is considered to be employed both by his father and his father's employer, the parental exemption would not be applicable. The words "parent" or a "person standing place of a parent" include natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent. It should further be noted that occupations found by the Secretary to be hazardous or detrimental to health or well-being for children between 16 and 18 years of age, as well as manufacturing and mining occupations, are specifically excluded from the scope of the exemption.

ENFORCEMENT

§ 4.127 *General.* Section 15 (a) (4) of the act makes any violation of the provisions of sections 12 (a) or 12 (c) unlawful. Any such unlawful act or practice may be enjoined by the United States District Courts under section 17 upon court action, filed by the Secretary pursuant to section 12 (b) and, if willful will subject the offender to the criminal penalties provided in section 16 (a) of the act.[35]

§ 4.128 *Good faith defense.* A provision is contained in section 12 (a) of the act relieving any purchaser from liability thereunder who ships or delivers for shipment in commerce goods which he acquired in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with section 12, and which he acquired for value without notice of any violation.[36]

§ 4.129 *Relation to other laws.* Section 18 provides, in part, that "no provision of this act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this act." The child labor requirements of the Fair Labor Standards Act, as amended, must be complied with as to the employment of minors within their general coverage and not excepted from their operation by special provision of the act itself regardless of any State, local, or other Federal law that may be applicable to the same employment. Furthermore, any administrative action pursuant to other laws, such as the issuance of a work permit to a minor or the referral by an employment agency of a minor to an employer does not necessarily relieve a person of liability under this act. Where such other legislation is applicable and does not contravene the requirements of the Fair Labor Standards Act, however, nothing in the act, the regulations or the interpretations announced by the Secretary should be taken to override or nullify the provisions of these laws. Although compli-

[32] "Agriculture" as defined in section 3 (f) includes "farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry, or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market."

[33] See note, Subpart E of this part.

[34] Section 550.2 (b) of this title provides:
(b) The term "performer" shall mean a person who performs a distinctive, personalized service as a part of an actual broadcast or telecast including an actor, singer, dancer, musician, comedian, or any person who entertains, affords amusement to, or occupies the interest of a radio or television audience by acting, singing, dancing, reading, narrating, performing feats of skill, or announcing, or describing or relating facts, events and other matters of interest, and who actively participates in such capacity in the actual presentation of a radio or television program. It shall not include such persons as script writers, stand-ins, or directors who are neither seen nor heard by the radio or television audience; nor shall it include persons who participate in the broadcast or telecast purely as technicians such as engineers, electricians and stage hands;

[35] Section 16 (a) provides:
Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than $10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

[36] For a complete discussion of this subject see Part 789 of this title, General Statement on the Provisions of section 12 (a) and section 15 (a) (1) of the Fair Labor Standards Act, as amended, relating to Written Assurances.

ance with other applicable legislation does not constitute compliance with the act unless the requirements of the act are thereby met, compliance with the act, on the other hand, does not relieve any person of liability under other laws that establish higher child labor standards than those prescribed by or pursuant to the act. Moreover, such laws, if at all applicable, continue to apply to the employment of all minors who either are not within the general coverage of the child labor provisions of the act or who are specifically excepted from their requirements.

Signed at Washington, D. C., this 16th day of July 1951.

MAURICE J. TOBIN,
Secretary of Labor.

[F. R. Doc. 51-8366; Filed, July 19, 1951; 8:56 a. m.]

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE

CANE SUGAR INDUSTRY IN LOUISIANA

In the matter of the application to include the extraction and processing of calcium aconitate within that portion of the cane sugar industry which is located in Louisiana and which has been determined to be of a seasonal nature pursuant to section 7 (b) (3) of the Fair Labor Standards Act.

On June 30, 1951, notice was published in the FEDERAL REGISTER (16 F. R. 6403) that the authorized representative of the Administrator of the Wage and Hour Division designated to hear and consider this matter had granted a petition to amend the seasonal industry determination for that portion of the cane sugar processing and milling branch of the cane sugar industry located in Louisiana so as to include within such industry the extraction and processing of calcium aconitate from "B" molasses.

The notice provided that any person aggrieved by the said determination could, within 15 days after the date of publication of the notice in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the action of the authorized representative upon the record of the hearing. No petition for review has been filed and in accordance with § 526.7 of the regulations contained in this part, the findings and determination of the authorized representative have become final. Accordingly, effective August 20, 1951, the seasonal industry determination of November 16, 1939 (4 F. R. 4615) for that portion of the cane sugar processing and milling branch of the cane sugar industry which is located in Louisiana, as amended July 13, 1944 (9 F. R. 8175) and as further amended September 7, 1945 (10 F. R. 11643) will apply to the extraction and processing of calcium aconitate from "B" molasses, in accordance with the findings and determination of the authorized representative of the Administrator, which were set out in the notice of opportunity to petition for review of June 30, 1951 (16 F. R. 6403).

Signed at Washington, D. C. this 17th day of July 1951.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 51-8365; Filed, July 19, 1951; 8:56 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

COOPERATIVE REFUGES

ADDITION TO BATCHTOWN WILDLIFE REFUGE

Pursuant to section 4 (a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 237), the act of August 14, 1946 (60 Stat. 1080), and the regulations issued pursuant thereto (50 CFR Parts 18 and 22), notice is hereby given that the Director of the Fish and Wildlife Service intends to take the following action:

By virtue of Public Land Order No. 380 (12 F. R. 4597, 5487) certain lands were made available to the Department of the Interior for administration by the Fish and Wildlife Service as wildlife refuges and management areas. As a result of studies by the field representatives of the Illinois Department of Conservation and the Fish and Wildlife Service, and as a measure required for the protection of migratory birds and other wildlife, it is proposed to add certain lands to the area designated as Batchtown Wildlife Refuge on October 6, 1947 (12 F. R. 6597), and to prohibit hunting and trapping thereon, which additional lands comprise all of the Federally owned lands in Illinois, in sections 30 and 31, T. 10 S., R. 2 W., and sections 13, 14, 24, 25 and 36, including the offshore islands adjacent thereto in T. 10 S., R. 3 W., 4th principal meridian, in Calhoun County, Illinois. When these lands are added to the Batchtown Wildlife Refuge, they will be administered under the regulations contained in Part 22 of Title 50, Wildlife, Code of Federal Regulations.

The foregoing description is to be effective beginning September 1, 1951, and to continue in effect until further notice.

Interested persons are hereby given an opportunity to submit their views, data, or arguments with respect to this designation in writing to Albert M. Day, Director, Fish and Wildlife Service, Washington, D. C.

O. H. JOHNSON,
Acting Director.

JULY 13, 1951.

[F. R. Doc. 51-8312; Filed, July 19, 1951; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

HUGH W. FORD LIVESTOCK COMMISSION CO.

PROPOSED POSTING OF STOCKYARD

The Secretary of Agriculture has information that the Hugh W. Ford Livestock Commission Company, LaJunta, Colorado, is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 202), and should be made subject to the provisions of that act.

Therefore, notice is hereby given that the Secretary of Agriculture proposes to issue a rule designating the stockyard named above as a posted stockyard subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), as is provided in section 302 of that act. Any interested person who desires to do so may submit, within 15 days of the publication of this notice, any data, views or arguments, in writing, on the proposed rule to the Director, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

Done at Washington, D. C., this 17th day of July 1951.

[SEAL] H. E. REED,
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 51-8415; Filed, July 19, 1951; 9:03 a. m.]

[7 CFR Part 934]

[Docket No. Ao 23-A 16]

HANDLING OF MILK IN LOWELL-LAWRENCE, MASS., MARKETING AREA

RECOMMENDED DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO ORDER AS AMENDED.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Andover, Massachusetts, on April 11, 1951, and April 14, 1951 (16 F. R. 2517).

upon a proposed marketing agreement and proposed amendments to the order, as amended, regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area. Interested parties may file written exception to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this decision in the FEDERAL REGISTER. Exception should be filed in quadruplicate.

The material issues presented on the record of the hearing were whether:

1. The marketing area should be extended to include the city of Haverhill and the towns of Groveland, Merrimac, and West Newberry, Massachusetts.

2. Certain changes should be made in sequence of assignment with reference to milk received from country plants in consumer packages for Class I use.

3. Any changes made in the basis of determining the Class II price and the butterfat differential under the Boston order should be incorporated in the Lowell-Lawrence order.

4. The present city plant price for Class II milk should be revised.

5. A method for computing a composite wage index for use in the Class I formula should be provided.

6. Present location differentials paid to nearby producers should be eliminated.

7. Required payments on outside milk should be eliminated under certain circumstances.

8. Disposition from one city plant to another city plant shall be considered as a disposition of Class I milk for purposes of determining the volume of Class I disposition in the marketing area.

9. The requirement that milk moved by buyer-handlers to other plants be classified as Class I should be revised.

10. Credits should be granted for payments made by handlers to the Boston pool in computation of the pool handlers' obligation.

11. The pooling provisions should be revised to exclude from the current pool computation milk of any nonpool handler in noncompliance with reference to the payment and reporting provisions.

12. Certain other nonsubstantive changes should be made to delete obsolete language and to make language of the Lowell-Lawrence order conform with that of the Boston and other secondary market orders.

Findings and conclusions. From the evidence introduced at the hearing and the record thereof with respect to the aforementioned issues, it is hereby found and concluded that:

1. The present limits of the Lowell-Lawrence marketing area should be extended to include the city of Haverhill and the towns of Groveland, Merrimac, and West Newbury, all in the State of Massachusetts. This area, constituting what is commonly referred to as the Haverhill market lies adjacent to the present northeastern boundary of the Lowell-Lawrence marketing area and is supplied by dairy farmers from the same general supply area as Lowell and Lawrence. At the present time the Haverhill market operates as an individual handler pool under prices established by the Massachusetts State Milk Control Board. The utilization of the several handlers in the market varies substantially resulting, under the individual handler pool, in wide discrepancies in producer prices. The market has very limited facilities for handling surplus milk with the result that the bulk of the local surplus is handled through the New England Milk Producers' Association plant at Andover, largely as outside milk under the Lowell-Lawrence order. While certain Haverhill distributors, who would be handlers under the proposed extension, contend that there is no relationship between the two markets and that they have no surplus disposal problem, the record shows that these particular handlers actually operate on a short supply basis, depending on Lowell-Lawrence handlers for supplementary supplies as needed to their their market requirements.

The proposal to include the Haverhill marketing area as a part of the Lowell-Lawrence marketing area was made by the New England Milk Producers' Association whose membership includes a majority of the producers in the Haverhill market. The extension of the marketing area would have little effect on present Lowell-Lawrence producers since the high average utilization of Haverhill handlers will tend to offset the cost of any location differentials which would be required to be paid to nearby Haverhill producers. While class prices in the two markets presently maintain a very close relationship, Haverhill producers will be assured of uniform prices, and greater market stability under a marketwide pool. By inclusion in the same market pool, transfers from Haverhill plants to Lowell-Lawrence pool plants would be permitted as receipts from regulated plants rather than as outside milk which can be received by Lowell-Lawrence handlers at the present time only as Class II milk or at a credit representing the Class II price.

(2) The proposal to amend the assignment provisions to provide that receipts of fluid milk products, other than cream and skim milk, at a city plant from a country plant, in containers of 8 quarts or less, be assigned to Class I ahead of receipts at the city plant direct from producers should not be adopted. Under the present provisions receipts from a country pool plant of another handler are assigned after receipts of producer milk and outside milk at the city plant. Manchester Dairy System, Inc., operator of a country plant, contends that this assignment sequence places an unreasonable burden on them in that it results in a Class II assignment to some milk which they dispose of in the form of fluid milk products in bottled form as Class I milk to city handlers, who in turn dispose of such milk as Class I milk direct to consumers in the marketing area.

Manchester Dairy System, Inc. does a substantial business with certain city handlers in the form of homogenized milk, fluid milk products in paper containers, and other Class I specialty items. Because these city handlers receive more milk at the city plants direct from producers than they dispose of in Class I, exclusive of purchases from Manchester Dairy System, Inc., some of the milk so purchased from Manchester is ultimately classified as Class II. Accordingly, there results numerous adjustments in billings between the cooperative and its customers, revisions in handlers' reports, and audit adjustment billings to the cooperative which must be passed on to city plant handlers.

The order provisions place no restrictions on Manchester Dairy System, Inc. with reference to resale prices. The homogenizing and bottling which they do for certain city plant handlers represents a service for which Manchester charges these city plant handlers. The proposal made by Manchester Dairies deals primarily with the question of the assignment sequence for milk received from country plants. The present assignment provisions are designed to discourage city plants from receiving Class I milk from country plants when milk is available at the city plant. A special treatment for Manchester Dairy System in its capacity as a country plant would obstruct this principle. To the extent that the problems of Manchester Dairy System relate to the difference between the city and country Class II prices, they are further considered under the discussion on the proposal to raise the Class II price.

(3) The proposal to make such changes in the Class II pricing provisions as are necessary to maintain the present relationship between the Lowell-Lawrence and Boston Class II prices should be adopted. The present basis of Class II pricing was established in recognition of the necessity of maintaining a direct relationship with prices under the Boston order and of having the Lowell-Lawrence Class II price move with the price of milk for similar use in the Boston market. For the same reasons that the present relationship was established it is essential that any changes made in the Boston Class II pricing be reflected in the Lowell-Lawrence Class II pricing. Similarly the basis for determining the butterfat differential in the Lowell-Lawrence market has been the same as that used in other Federal orders effective in the New England regions. Accordingly, in the computation of the butterfat differential the weight per can of 40 percent cream should be considered 33 pounds, rather than the 33.48 pounds presently used. Certain producers interests proposed that in the computation of the butterfat differential the 1.5 cents transportation allowance be deleted. They contend that the factor represents a freight adjustment and since in the secondary markets the bulk of the milk is received at the city plants no allowance is justified. However, there is also a substantial portion of the total producer milk received at country plants. There appear to be certain advantages to maintaining one butterfat differential for all locations but whether it should be determined with or without

the 1.5 cent factor is not clear from this record.

The evidence in the record on this point is not conclusive. Accordingly no further changes can be considered on the basis of this record.

(4) The proposal for a 32-cent increase in the price of Class II milk delivered direct to city plants and utilized in the manufacture of products other than nonfat dry milk solids, condensed milk, and casein should not be adopted. Proponents claim that they are at a disadvantage in marketing Class II milk in the form of milk at city points because other handlers have Class II milk delivered directly to their city plants at a Class II price which is not as high as the country plant Class II prices plus the cost of shipping milk. The Class II price has been established at a level at both country and city points which should insure the acceptance of Class II milk by handlers even though a part of such milk must be disposed of in manufactured dairy products. If the proposed increase of 32 cents in the city plant price were adopted and did result in more country plant milk being shipped to the city for disposition as Class II the outlets for Class II milk from city plants would be thereby diminished. Since the record indicates that adequate facilities are available at country locations for the disposition of Class II milk it is not necessary for country plant handlers to incur the expense of shipping surplus milk to the city.

The country plant differentials which are established under the order represent the costs of shipping milk in carloads from country plants to the marketing area. Direct receipts from producers at city plants are ordinarily made in 40-quart cans loaded in a refrigerated truck. Therefore, unless the present country plant differentials are too high in relation to actual transportation costs it is unlikely that direct receipts at city plants can be accomplished from distant locations at less than country plant price plus carload shipping cost to the city plant. If a substantial volume of producer milk were moving directly to city plants for Class II use consideration should be given to whether the present country plant differentials are high and to whether some downward adjustment in these allowances would be warranted. However, the question of country plant differentials applicable to class prices and the blend price was not an issue at the hearing and therefore that issue cannot be considered at this time.

(5) The order should provide for the computation of a composite wage rate index which would be similar to the farm wage rate index which has been utilized in the calculation of the Class I formula price since the adoption of that formula April 1, 1948. The United States Department of Agriculture is no longer collecting information from which the monthly composite wage rates were computed and that series has been discontinued. Therefore, it is necessary to compute an equivalent composite farm wage rate. Farm wage rates are recorded quarterly by the United States Department of Agriculture as rates per month with board and room, per month with house, per week with board and room, per week without room or board, and per day without board or room. These rates should be expressed as a simple average monthly composite rate by converting the weekly rates to a monthly equivalent by multiplying by 4.33 weeks and by converting the daily rate to a monthly basis by using 26 working days per month. The simple average monthly composite farm wage rates for each of the four States used in the Class I formula should be combined according to the weights expressed in the order. In order to express this weighted average farm wage rate as an index on the same basis as that used in converting the previously published monthly composite farm wage rate to an index number for computation of the formula price, it is necessary to divide the milkshed average composite wage rate figure by 0.6394. This factor is determined from the average relationship of the milkshed average wage rate figure derived from the currently published data to this series which was previously published and used in the computation of the formula price.

(6) No change should be made at this time in the location differentials required to be paid to nearby producers. Certain producers representatives proposed that § 934.64 of the order, which sets forth the conditions for and the amount of location differentials to be paid, be deleted. However, in support of their proposal they presented no material facts different from those considered in establishing the present location differentials.

(7) No change should be made in the present order provisions with reference to the equalization payments required on outside milk. Proponents proposed that the order be amended to provide that the outside milk definition be amended to exclude outside milk received when an emergency has been declared under the Boston order. It does not necessarily follow that an emergency will exist in the secondary markets at any time that there is an emergency in the Boston market. If a provision of the nature proposed were desirable it should take the form of an independent determination with specific reference to the Lowell-Lawrence market.

(8) The order presently provides that any city plant meeting the basic qualifications for pooling shall be a pool plant in only those months in which at least 10 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk in the marketing area. Since different treatment is prescribed for pool and nonpool handlers it is essential that a handler be in a position to readily determine his status as a pool handler. Since the final classification of milk transferred between handlers is dependent on the actual utilization and source of all receipts in the transferee plant, it should be provided that for the purpose of determining the pool status of the shipping plant the transfers of fluid milk products, other than cream from one city plant to another regulated city plant be considered a disposition of Class I milk in the marketing area, up to the quantity of Class I milk disposed of in the marketing area from such other plant.

(9) The proposal to revise the present order provisions which provide that milk moved by buyer-handlers to other plants be classified as Class I should not be adopted. Buyer-handlers get no milk direct from producers but purchase all of their requirements for fluid products from other handlers. Accordingly they are in a position to maintain a day to day balance between their requirements and procurement. The present order provisions do not limit purchases for Class II use in the buyer-handlers' plant but merely restrict the transfer of milk to a third plant for other than Class I use. Class II milk is defined and priced for the purpose of removing necessary excesses from the market. It appears that buyer-handlers do not need to purchase Class II milk in excess of their own use. To encourage a buyer-handler to buy long and permit free transfer to nonpool plants for Class II use could adversely affect producers by resulting in a lower classification for such milk than might otherwise be available through other outlets.

(10) Provision should be made whereby Lowell-Lawrence pool handlers' payments for milk would be reduced by any amount which they are required to pay into the Boston pool on Class I milk distributed directly to consumers in the Boston marketing area. The proximity of the Lowell-Lawrence marketing area to the Boston marketing area makes it probable that an overlapping of sales between handlers in the two marketing areas will occur. Boston handlers can presently distribute Class I milk in the Lowell-Lawrence market without any payment to the Lowell-Lawrence pool. Provisions of the Boston order result in Class I sales by Lowell-Lawrence in the Boston marketing area being credited at the Class II price even though the Lowell-Lawrence order requires payment to producers at the Class I price. Because of the manner in which such sales are handled under the Boston order Lowell-Lawrence handlers are for practical purposes precluded under present provisions from distributing milk in the Boston marketing area.

(11) The proposal to exclude from each current pool computation milk of any nonpool handler who is not in compliance with the reporting and payment provisions for any prior period should be adopted. The order presently has such a provision with reference to pool handlers in noncompliance. However, the nonpool handler in violation because of nonreporting or nonpayment of assessments due continues to be carried in the current pool computation. Under such arrangement it is possible that such indebtedness to the pool could reach the point of threatening its solvency. Exclusion of the milk of such nonpool handlers from the current pool computation assures the solvency of the settlement fund and at the same time does not relieve such nonpool handler of any of his obligations or responsibilities under the order.

(12) The other proposals considered at the hearing involve nonsubstantive

changes which would clarify the language of the present provisions. There was no opposition and it is accordingly concluded that they should be adopted.

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

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

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (c) of the act are not reasonable in view of the price of feed, available supplies of feed, and other economic conditions which effect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Ruling on proposed finding and conclusions. Briefs were filed on behalf of producers, certain proprietory handlers operating in the market and the Director of Milk Control of the Massachusetts Department of Agriculture. The briefs contained suggested findings of facts, conclusions, and arguments with respect to the proposals considered at the hearing. Every point covered in the briefs was carefully examined along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the suggested findings and conclusions contained in the brief are inconsistent with findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied.

Recommended marketing agreement and order. The following order amending the order, as amended, is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as amended, and as hereby proposed to be further amended.

1. Amend § 934.1 (b) by adding to the list of place names "Haverhill, Groveland, Merrimac, and West Newberry".

2. Delete paragraph (d) of § 934.12.

3. Renumber paragraphs (e), (f), and (g) of § 934.12 as paragraphs (d), (e), and (f), respectively.

4. Amend § 934.21 by adding a sentence as follows: "In determining whether a city plant has disposed of the required 10 percent of its receipts as Class I milk in the marketing area, the total quantity of fluid milk products, other than cream, moved from that plant to another city plant which is a regulated plant shall be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from the other plant."

5. In § 934.22 (b) delete the opening language, "Any country plant which is a pool plant continuously from the effective date of this subpart through February 1951 and any country plant which thereafter", and substitute therefor the following: "Any country plant which".

6. Amend § 934.40 (c) (2) by deleting the present language and substituting therefor the following:

(2) Compute the simple average of monthly equivalent farm wage rates for each of the States named below by converting the rates reported by the United States Department of Agriculture to monthly equivalents as follows: Rate per month with board, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and rate per day without board or room, 26. Next compute a weighted monthly wage rate by combining the average wage rates for the respective States with the weights: Maine, 10;, Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly wage rate by 0.6394 and multiply by 0.4.

7. Delete § 934.41 and substitute therefor the following:

§ 934.41 *Class II price at city plants.* The Class II price per hundredweight at city plants shall be determined for each month pursuant to this section.

(a) Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month, multiply by 0.98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price:

(1) Compute the simple average of the difference between the cream price reported for the latest three months and the average price for Grade A (92-score) butter at wholesale in the Chicago market as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption, in carlots, f. o. b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) The amount set forth in the table in paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes f. o. b. plants, United States, for the 12 months ending with the preceding month.

(2) Adjust the Class II prices under the Boston order for milk received at plants in the 201–210 mile zone for the preceding 12 months to the average butterfat tests for which the prices described in subparagraph (1) of this paragraph are reported by applying the butterfat differential pursuant to the Boston order and compute a simple average of such adjusted prices.

(3) Determine the amount, computed to the nearest one-half cent, by which the average determined pursuant to subparagraph (1) of this paragraph exceeds the average computed pursuant to subparagraph (2) of this paragraph: *Provided*, That this provision shall not be applicable for the first time until the plus amount determined hereby for the previous month exceeds 5 cents.

8. Amend § 934.50 by adding a new paragraph (g) as follows:

(g) Subtract any amount which the handler is required to pay on such milk pursuant to § 904.66 (b) of the Boston order.

9. Amend § 934.51 (a) by deleting the present language and substituting in lieu thereof the following:

(a) Combine into one total the respective net values of milk, computed pursuant to § 934.50, and payments required pursuant to §§ 934.65 and 934.66 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 934.61 (b), 934.65, and 934.66 for milk received during each month since the effective date of the most recent amendment to this subpart.

10. Amend § 934.52 (c) by deleting the period and adding in lieu thereof the following: "because of failure to make reports or payments pursuant to this subpart."

11. Amend § 934.63 by deleting the factor "33.48" and substituting therefor the factor "33.00".

12. Add to § 934.63 the following: "If the cream price described above is not reported as indicated an equivalent determined as follows shall be used in lieu of such cream price:

Compute the simple average of the difference between the cream price reported for the latest three months and the average price for Grade A (92-score) butter at wholesale in the Chicago mar-

ket as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22."

Issued at Washington, D. C., this 13th day of July 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51-8324; Filed, July 19, 1951; 8:50 a. m.]

[7 CFR Parts 943, 945]

[Docket No. AO-231]

HANDLING OF MILK IN THE NORTH TEXAS AND WICHITA FALLS, TEX., MARKETING AREAS

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENTS AND PROPOSED ORDERS

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Dallas, Texas, on January 31–February 20, 1951, pursuant to notice thereof which was issued on December 30, 1950 (15 F. R. 9522).

Upon the basis of the evidence introduced at the hearing and the record thereof the Assistant Administrator, Production and Marketing Administration, on May 11, 1951, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto which was published in the FEDERAL REGISTER on May 16, 1951 (16 F. R. 4568).

The material issues of record related to

1. Whether the handling of milk produced for the marketing area(s) is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;
2. Whether marketing conditions justify the issuance of milk marketing agreement(s) or order(s);
3. The extent of the marketing area(s);
4. The proper scope of regulation;
5. The classification and allocation of milk;
6. The determination and level of class prices;
7. Payments to producers; and
8. Administrative provisions.

Findings and conclusions. The following findings and conclusions on the material issues decided herein are hereby made on the basis of the record of the hearing. In view of the findings and conclusions with respect to the extent of the marketing area and the evidence in the record, findings and conclusions with respect to other issues are included herein concerning a separate marketing agreement and order for the Wichita Falls, Texas, marketing area.

Upon the evidence adduced at the hearing and on the record thereof it is found and concluded that:

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

Substantial quantities of milk produced in other states are imported regularly each fall and winter to supply the needs of handlers in the North Texas marketing area, since local production has not for several years been sufficient at this season of the year. Shipments from Wisconsin and Missouri to Dallas and Fort Worth handlers totaled almost 5 million pounds of whole milk during 1949 and approximately 3.5 million pounds in 1950. Additional quantities of milk were received by handlers in other cities of the marketing area. In addition substantial quantities of condensed skim milk and cream are transported to the area from points outside of Texas and used in reconstitution of buttermilk and the manufacture of ice cream.

During the spring and summer flush production season milk produced for the North Texas marketing area which is surplus to the needs for fluid distribution is used in the manufacture of ice cream, butter, cheese, condensed milk and non-fat dry milk solids. The products made from this surplus milk are sold in competition with similar products manufactured in other states. Cream, condensed skim milk and non-fat dry milk solids imported from other states are also used in the production of ice cream.

Twenty-three producers whose farms are located in the State of Oklahoma supply milk to a handler whose plant is located in Paris, Texas, which is a part of the North Texas marketing area. This handler distributes fluid milk in competition with other handlers in the North Texas marketing area and also distributes fluid milk in the State of Oklahoma. In addition, this handler operates a manufacturing plant to which seasonal surpluses of milk produced for fluid distribution is transferred from his own operation and those of numerous other North Texas handlers. Ice cream mix made in part from such surplus milk is distributed in Oklahoma, Arkansas, and Louisiana, as well as Texas.

The handling of milk produced for the Wichita Falls, Texas, marketing area is also in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in the handling of milk and its products.

Milk produced in other states is imported regularly during the short production season to supplement local supplies. For reasons indicated elsewhere such imports in 1950 were less than usual, amounting to approximately 156,000 pounds. Seasonal surpluses of inspected milk are used in the manufacture of dairy products particularly as ingredients of ice cream. Ice cream made from such surplus milk is sold regularly in Oklahoma. In addition milk surplus to local needs is marketed in bulk to other Texas markets in competition with supplementary supplies from northern states.

2. *Need for an order.* Marketing conditions in the North Texas marketing area justify the issuance of a marketing agreement and order.

During and since World War II the North Texas marketing area, of which the cities of Dallas and Fort Worth represent the largest centers of urban population, has experienced a marked growth in population. As a consequence the demand for milk for fluid consumption has also increased materially. While the production of milk for fluid consumption has also increased rapidly, there is not yet sufficient locally approved milk to supply the needs of the market for fluid consumption in fall and winter months when production is seasonally low. In an effort to increase supplies of locally inspected milk Dallas and Fort Worth handlers have since 1947 expanded the area from which they buy milk. In this period they have likewise expanded their sales areas. In this period of expansion of production and sales no organized plan for the marketing of the milk supply and no satisfactory plan for establishing the prices which milk producers receive for their milk have been developed.

Milk, because of its perishability, must be delivered daily to the market as it is produced. Farmers cannot hold milk on their farms to await favorable price conditions. Because of the breeding characteristics of cows, difference in the availability of fresh feeds and changes in the weather there is a marked seasonal variation in milk production in the supply areas for the North Texas and Wichita Falls, Texas, marketing areas. Sales of milk in fluid form on the other hand are subject to much less seasonable variation than milk production. Thus even though the milk supply were inadequate to supply the market needs at some seasons of the year there would be a surplus of milk at other seasons. Such surpluses must find their way into manufactured dairy products which do not return as high a price to producers as milk disposed of in fluid form. Production of milk for fluid use in conformity with rigid sanitary requirements prevailing in the North Texas marketing area and especially to maintain a satisfactory level of supply in the fall and winter months requires substantial investment and heavy operating costs.

Orderly marketing of the milk produced for fluid consumption in a metropolitan market supplied by numerous producers requires regular and dependable methods for determining prices of milk for various uses, equality of prices for each handler according to the use made of the milk, and means whereby the price reductions resulting from any surpluses may be borne equitably among producers. There is no plan operating in the North Texas market whereby prices of milk produced for fluid consumption are established in accordance with these objectives. Practically all

handlers in the market operate on some form of "base and surplus" plan. Under each of the plans the individual handler determines the prices of butterfat differentials to be paid for "base" and "surplus" milk and the means of determining what milk shall be paid for as "base milk" and as "surplus milk." Milk producers do not participate in the price making process.

The base plans of different handlers differ from each other in several material respects. Moreover, several handlers have varied the application of their own plans from year to year and even within a single year with little or no advance notice to producers. Under all of these plans the average deliveries of a producer during some of the short production months affects at some seasons of the year the quantity of milk for which he is paid "base price." The months used by different handlers for establishing bases have varied. Some handlers have failed to notify producers in advance what months were to be the "base-setting" period or have eliminated a part of a previously announced period. The most significant differences in the buying plans of handlers have, however, been in the application of their base plans to the quantity of each producer's milk that should be paid for at the "base" or higher price and the quantity to be paid for at a lower or "surplus" price. For some handlers this has been determined solely by the base established by each producer; each producer has been paid a "base" price for all deliveries which do not exceed his established base, and a "surplus" price for all deliveries in excess of this base. For other handlers the ratio of sales to the established bases of producers has been used to increase or decrease the quantity of "base milk" for which each producer was paid. These handlers do not all use sales of the same products in determining this ratio. Some include sales of all Grade A fluid products, while others include only sales of fluid milk, and at least one handler includes less than his total sales of fluid milk because he considers that he has additional costs for certain sales.

In spite of the fact that it has been necessary for practically all handlers, particularly those located in Dallas, to import substantial quantities of milk during the base forming months, producers have frequently been paid base prices for less milk than their established bases during the succeeding spring and summer months. The extent to which this results from failure to include all sales of Grade A products as base milk, from inclusion of bases for producers who did not establish bases with the handler during the base forming months, or variations in sales by the individual handler, cannot be determined from the evidence in the record. The record does indicate, however, that the expanding character of the market has generally resulted in higher total sales by all handlers during the succeeding spring and summer months than during the base forming months. In any event, producers have no means of determining the utilization of milk by the handlers they supply, and must accept payment on whatever basis the handlers used. Payments at substantially reduced "surplus" prices by handlers for milk which producers suspect was needed for such handlers' fluid sales is one of the great sources of producer dissatisfaction in the market.

There have also been variations in the prices different handlers have paid for base milk and for surplus milk. Except that price changes are not made simultaneously by all handlers the prices that handlers of each city of the marketing area pay for base milk tend to be rather uniform, but the prices Dallas handlers pay often differ from those paid by Fort Worth handlers. Differences in base prices were particularly pronounced after February 1950. For six of the twelve months ending in February 1951 the base price paid by Fort Worth handlers exceeded that paid by Dallas handlers by amounts ranging from 25 to 45 cents per hundredweight; for five of these months the Dallas base price exceeded that of Fort Worth by amounts of 5 or 10 cents per hundredweight, and in only one month do the base prices paid by handlers of the two cities appear to have been the same. Somewhat similar comparisons may be made for prices paid by handlers in other portions of the marketing area. These handlers generally follow more closely the prices paid by Dallas handlers than those paid by Fort Worth handlers. Different butterfat differentials are also used by different handlers in paying producers.

These buying practices of handlers result in a situation where producers with identical production delivering to different handlers with identical volumes of receipts and sales receive substantial differences in their returns. The costs of milk for the same use to individual handlers have likewise differed substantially.

These buying practices are factors of inherent instability in the marketing of milk in the area. The expanding nature of the demand for milk and the lack of an adequate year-round supply of locally inspected milk have generally prevented the lack of an organized plan for equalizing costs to handlers and returns to producers from demoralizing the market. In early 1950, however, chaotic conditions occurred in the pricing of producer milk. With some prospects of an adequate year-round supply of milk following a winter season in which deficits of supply were less severe than formerly, individual Dallas handlers engaged in aggressive price competition in the resale market. Handlers changed producer prices and conditions of their base plans frequently and without advance notice to producers. One handler mailed three letters to his producers within a period of four days notifying them of changes in buying plans and prices. As a result of this "price war" Dallas producers received a reduction of $1.00 per hundredweight for their base milk. Since the net reduction in consumer prices was 2 cents per quart or approximately 93 cents per hundredweight, it is evident that price cuts at resale were largely passed back to producers in reduced returns. Fort Worth handlers did not reduce their producer prices so severely and they were at a competitive disadvantage, relative to Dallas handlers at the numerous places where both sold milk.

The conditions that occurred in the spring of 1950 are indicative of conditions that are likely to occur under present buying practices whenever an adequate supply of locally produced milk is available for the market. These conditions thus militate against achieving a continually adequate supply of milk since the disparities in costs to handlers and returns to producers inherent in the system widen as the level of the milk supply approaches the needs of the market. The pressures on individual handlers and producers associated with these disparities may be expected to result in conditions which will reduce the level of returns to some producers drastically and to all producers generally and the production of a sufficient supply of inspected milk will be hindered.

Despite the elements of instability in the market, handlers have resisted the efforts of a cooperative association representing more than 1,750 of the approximately 2,500 producers of the market to negotiate uniform buying plans for the market. The handlers have failed or refused to negotiate with the association concerning the prices and marketing conditions which should apply to milk received from members of the association and they have not permitted the association to check the weights and tests of milk delivered by its members. In some cases producers have been threatened with loss of a market for their milk if they joined the association and some association members actually have been "cut off" by handlers without explanation. Handlers have offered producers individual contracts which conflict with association membership, and in some cases have conducted systematic campaigns urging these contracts on their producers. These contracts generally continue the buying plans of the handlers, and are written to expire in the surplus season when the producer would have difficulty in finding another handler who would buy his milk. One handler who apparently did not oppose the objectives of the association testified that he is now buying milk from about half of the members of the board of directors of the association because of the difficulties these producers encountered with other handlers. This fact strongly suggests that association members and officials have been subject to coercion and intimidation by handlers.

There is considerable and well justified dissatisfaction among producers with the butterfat tests on which they are paid for their milk. While the State of Texas does some checking of the tests upon which dairy farmers in the state receive payment, it appears that only about 3500 individual tests are made annually in the entire state. The protection thus afforded cannot substitute for the regular checks which association producers desire and are willing to pay for through their association membership. Similar systematic checks by an impartial market administrator should be afforded producers who do not belong to a cooperative association.

There is need for market-wide information concerning production and sales in order that producers may plan their production and marketing programs intelligently and upon which price-making determinations may be made. Neither producers nor handlers were able to present at the hearing data which showed both production and sales for the entire market over any period of time.

The adoption of a classified price plan based on the audited utilization of handlers and market-wide pooling of returns among producers will provide respectively equal costs to handlers for milk used for like purposes and a fair division among all producers of the returns from Class I sales in the market. The inherent instability in the present buying plans operated by individual handlers will be reduced.

The issuance of a marketing agreement and order for the North Texas marketing area is needed to establish and maintain orderly marketing in the area and provide an adequate supply of milk for the area.

In view of the conclusion contained herein with reference to the extent of the North Texas marketing area and the separate and extensive evidence concerning marketing conditions in the area including Wichita Falls, Texas, which was proposed for inclusion in the North Texas marketing area, consideration has been given to the need for separate regulation for the Wichita Falls marketing area. It is concluded that marketing conditions in the Wichita Falls, Texas, marketing area justify the issuance of a marketing agreement or order.

The history and marketing relationships of the North Texas market are similar to the history and marketing relationships in the Wichita Falls market. Buying practices of handlers have been on "base" plans which provide differing returns to producers similarly situated. With fewer handlers these differences have not been quite so marked. The trend of events has however been more rapid. Milk production increased nearly 69 percent from 1947 to 1950. Deficits were still in prospect, however, when producers were establishing bases in the fall of 1949. Thereafter the situation changed from deficit to surplus very quickly. An Army Air Force Base, Sheppard Field, lies adjacent to Wichita Falls, and the volume of milk involved in the contract for supplying this base is substantial in relation to the quantity of milk produced for the Wichita Falls market. A Dallas handler was the successful bidder for the contract to supply this base beginning January 1, 1950. As a result producers were paid surplus prices for some of their milk during their base forming periods, followed shortly by reductions in base prices to producers, which were, however, not so drastic as those that occurred in Dallas. Following this event a cooperative association of producers was formed with a membership representing a substantial majority of the approximately 175 producers of the market. The cooperative's attempt to negotiate with handlers was principally directed toward handling surplus milk so as to realize the most advantageous market and insure that no milk paid for at surplus prices was needed for fluid use. When no satisfactory agreement on these matters was reached in early May 1950 the association called a "milk strike" and its members withdrew all of their milk. At this period of flush production handlers were able to supply their needs from other sources, and milk deliveries were resumed on a verbal agreement that association producers would be restored to the same status as before the incident. This, however, did not materialize; handlers reserved for producers who continued deliveries during the "strike" period bases equal to their deliveries during this period of flush production and as a result the association producers bore the entire burden of surplus milk until September 1950. Since September 1950 this discrimination in payments to producers has ceased but the association has been unable to obtain any definite assurance that cooperative members were to receive bases on an equal footing with nonmember producers. To some extent these negotiations have been complicated by the acquisition by the association of a receiving station which it now operates for some of its members and from which milk is currently sold to one handler.

Negotiations were continuing concerning these problems at the date of the hearing. The fact remains that no uniform buying plan for the market has evolved therefrom and it is unlikely that one will result from any continuation of the negotiations. The adoption of a uniform classified price plan and a market-wide pool will provide a fair division among all producers of the fluid sales of the market. The issuance of a marketing agreement and order for the Wichita Falls, Texas, marketing area is needed to establish and maintain orderly marketing in the area.

3. *Extent of the marketing areas.* The North Texas marketing area should be defined to include all territory within the counties of Cooke, Collin, Dallas, Delta, Denton, Ellis, Fannin, Grayson, Hopkins, Hunt, Johnson, Kaufman, Lamar, Parker, Rockwall and Tarrant, all in the State of Texas. All municipal corporations, Federal military reservations, facilities and installations and State institutions located in these counties should be included.

The major fluid milk markets in the North Texas marketing area are the cities of Dallas and Fort Worth. Dallas and Fort Worth handlers sell milk over a wide area beyond the limits of these cities. In recent years, they have expanded their sales areas to include most of the smaller cities and towns within a considerable distance of Dallas and Fort Worth. The advent of the paper milk carton has accelerated this distribution of milk.

As Dallas and Fort Worth handlers have reached further from Dallas and Fort Worth for milk supplies, they have extended their distribution routes to cover smaller cities and towns in the expanded production area. As a consequence they compete actively for both milk supplies and milk sales with each other and with handlers in smaller cities and towns over much of the production area. Some handlers located in the smaller cities also distribute milk in other cities in competition with Dallas and Fort Worth handlers. A handler in Paris, Lamar County, Texas, in which a Fort Worth handler also sells milk, competes with Dallas and Fort Worth handlers for milk sales in Grayson, Fannin, Hunt, Hopkins, Delta and Red River Counties. This handler also had operated routes in Dallas for several months in 1949 and 1950. A handler at Sherman in Grayson County who bought milk from approximately 100 producers in several counties and competed with Dallas and Fort Worth handlers for sales in the same area, has recently sold his business to a Fort Worth handler. At the time of the hearing these producers were in the process of transfer to this handler's Fort Worth plant. Similarly a Dallas handler was at the time of the hearing incorporating with his Dallas business the operations of a handler of Bonham in Fannin County.

The fact that much of Texas, particularly to the west and south of Dallas and Fort Worth, is an area with more pronounced deficits in milk production than North Texas has resulted in some North Texas handlers establishing substantial distribution of milk at considerable distances beyond the limits of the production area. Milk bottled by one Dallas handler is sold regularly in Wichita Falls, 135 miles northwest of Dallas, Lubbock, 340 miles west of Dallas, El Paso, 640 miles southwest of Dallas, and in Harlingen and Corpus Christi, each more than 500 miles south of Dallas. No other handler extends his distributions to such extreme distances in so many directions, but other handlers distribute in Waco, Temple and other Texas points.

Eight proposals to define the marketing area were included in the notice of hearing. The North Texas Producers Association proposed that the marketing area be confined to the corporate limits of the cities of Dallas in Dallas County, Fort Worth in Tarrant County, Paris in Lamar County, Dublin in Erath County, Terrell in Kaufman County, Denison and Sherman in Grayson County, Gainesville in Cooke County, Tyler in Smith County, Decatur in Wise County, Denton in Denton County, McKinney in Collin County, Cleburne in Johnson County, Longview in Gregg County, and Waxahachie and one precinct in Ellis County, all in Texas. Several handlers proposed that the marketing area be defined by county boundaries. These proposals as a group included all the counties in which the cities proposed by the association are located plus some additional counties. The Paris handler proposed the addition of three counties in Texas and four in Oklahoma. One handler proposed that in addition to twenty-seven counties in North Texas the marketing area include thirteen cities in what is generally referred to as West Texas. The Wichita Falls Area Milk Producers Association proposed that the city of Wichita Falls be included. Handlers of Wichita Falls proposed that if Wichita Falls were included in the marketing area 18 counties also be included. In all forty counties in

Texas, four counties in Oklahoma, and twenty-nine cities and towns in Texas were proposed for inclusion in the marketing area.

It appears that practically all milk sold for fluid consumption in the North Texas area is sold as Grade A milk. To be labeled "Grade A", milk must be produced and handled under the supervision of local health officers in accordance with standards established by the Texas State Department of Health. The standards that have been so established are those of the 1939 Edition of the U. S. Public Health Service Milk Ordinance. These standards are also contained in the milk ordinances of the principal cities of the area. While there may be minor differences in the degree of effectiveness of enforcement of these uniform standards by the various health authorities of the area, the movement of milk from one health jurisdiction to another indicates that the quality of milk is generally uniform throughout the various portions of the area. While no route distribution from Dallas plants is made in Fort Worth, or vice-versa, Fort Worth approved milk is frequently used as an emergency supply by a Dallas plant.

In view of the uniformity of health regulations throughout the area the marketing area should so far as possible be contiguous and be defined by county boundaries. While this will result in the inclusion of much rural area, it does not appear that any considerable administrative difficulties will thereby be incurred. It is proposed that only handlers who distribute Grade A milk in the marketing area shall be regulated. Such handlers are readily identifiable under the health regulations, and it does not appear that there will be any substantial number of them who will confine their activities to the more rural portions of the area without selling milk in such North Texas cities as are appropriate for inclusion in the marketing area.

The sixteen counties to be defined as the marketing area include within their boundaries ten of the fourteen cities proposed by the proponents of the order. Decatur and Dublin, two of the cities not included in the area as defined, have less population than the other cities proposed; the distribution of Dallas and Fort Worth milk in these cities or the counties in which they are located does not appear very substantial, so that it is concluded that no substantial purpose would be served by including them in the marketing area. Tyler and Longview, the other cities thus proposed which are not located in the named counties, are of larger size and one Dallas handler estimates that more than 30 percent of all sales are by Dallas handlers. Local handlers in these cities, on the other hand, indicate that only 11 of 63 routes in the Tyler-Longview section are operated by Dallas handlers. Tyler and Longview are somewhat further removed from Dallas and Fort Worth than the other cities included. Handlers located in these cities compete not only with North Texas handlers for their milk supply but also with those of Houston and Shreveport, Louisiana, which are metropolitan markets. These handlers do not compete extensively with Dallas and Fort Worth handlers in other portions of the marketing area. Inclusion of the cities of Tyler and Longview in a contiguous marketing area defined by county boundaries would require naming some six or eight additional counties in the defined area. In view of the factors stated above, it is concluded that their significance is not sufficient to warrant their inclusion at this time.

The proposal that thirteen West Texas cities at distances varying from 120 to 430 miles from Dallas be included in the marketing area was made by a Dallas handler whose milk is distributed in these cities by a vendor. In support of the proposal it was shown that the volume of such distribution is sufficient to employ more than 80 people and to require an investment of $400,000. The vendor estimated that of the total sales of milk in each of these cities his sales represented percentages varying by cities from 15 percent to 75 percent. These percentages were contested by a handler with plants located in some of these West Texas cities. It was contended that an order which would price the milk received by the Dallas handler must also price the milk in competition with which it is sold in these West Texas cities. The distribution of North Texas milk in this area was represented as a disposition of milk which would otherwise be priced as surplus milk to North Texas producers. A cooperative association representing a substantial number of the producers supplying plants located in these cities opposed their inclusion in the North Texas marketing area on the basis that production conditions differed materially in that area and indicated that it had proposed a separate order with a marketing area that would include several of these cities and some others.

It is obviously impracticable to define a marketing area so that a handler may sell milk anywhere without competition from milk not priced under the order defining such marketing area. The West Texas cities here proposed for inclusion in the North Texas marketing area are in an area in which local production of milk is inadequate and prices for locally produced milk have historically been higher than in the North Texas area. As a result of the demand for more milk than was locally available a substantial distribution of North Texas milk has been built up in the past three and one-half years, much of it at resale prices higher than those of local handlers in these cities. While a West Texas handler purchases some milk at a receiving station at Springtown in Parker County in the North Texas area, and there is some further overlap of the production areas in Erath County, it does not appear that the competition for supply is extensive. There is serious question as to whether inclusion of the cities proposed would price as producer milk a substantial quantity of milk from the Brownwood area which is moved to Abilene. The inclusion of the cities proposed might result in including in the marketwide pool milk of producers far removed from North Texas should some other handler from a distant point market milk under a system comparable to that now used by the Dallas handler. The record indicates the need for higher prices which would apply to the milk received at plants in West Texas and that these prices should not be uniform for all such plants, but fails to provide enough evidence upon which to base such location differentials. For these reasons it is concluded that the proposal to include West Texas cities in the North Texas marketing area should not be adopted.

The proposals that Wichita Falls and counties in that general vicinity be included in the North Texas marketing area should not be adopted. With one notable exception, there is little competition for sales between Wichita Falls handlers and handlers of the defined North Texas marketing area. There is a minor overlap of the production areas of Wichita Falls and North Texas in Wise County, but little evidence of shifting of producers from one market to another. The competition for sales is with respect to the Sheppard Air Force Base at Wichita Falls. This is a large outlet for Grade A milk for which a Dallas handler currently holds the contract. While this volume of sales is of considerable importance in the Wichita Falls area, these sales of Dallas milk under a contract periodically open for competitive bids are not considered adequate reason for inclusion of Wichita Falls in the marketing area. As indicated elsewhere, a separate order for the Wichita Falls area is considered appropriate on the records of this hearing.

The Wichita Falls marketing area should be defined to include all territory within the County of Wichita, State of Texas. While Wichita Falls handlers market milk in a number of smaller towns in other counties, it does not appear that such distribution in any one locality is a substantial portion of the total business. Neither does it appear that any of the smaller handlers occasionally located in such towns has a wide area of distribution within which he competes with Wichita Falls handlers. There is no evidence that the producers supplying these handlers are so located that there is much competition for supplies of milk between these handlers and those of Wichita Falls. The record fails to indicate conclusively that the health requirements of such towns are equivalent to the Grade A regulations which apply in Wichita Falls and Wichita County. For these reasons the proposal of handlers that additional counties be included is denied.

4. *Scope of regulation*. The minimum class prices of the orders should apply only to milk which is produced under the inspection of the appropriate health authorities of the marketing areas and which is regularly received at a milk plant approved by such authorities for the receiving or processing of Grade A milk or milk products for distribution on routes in the marketing areas.

As indicated in the findings concerning the extent of the marketing areas, milk sold for fluid consumption in the marketing areas is almost exclusively Grade A milk. Specifications and requirements promulgated under the Texas Milk Grading and Labeling Law, to-

gether with municipal ordinances, prescribe the conditions under which such milk may be produced and distributed. The minimum class prices and the uniform prices computed under the marketwide pools should apply only to milk which is received directly from farmers at a locally approved Grade A plant.

In order to designate clearly what milk is to be subject to the pricing provisions of the orders, which processors and distributors are to be subject to regulation and which dairy farmers will participate in the market pools, it is necessary to include in each order definitions of "approved plant," "handler," "producer," and "other source milk."

"Approved plant" should be defined as a milk plant approved by any health authority having jurisdiction in the marketing area for distribution of Grade A milk and milk products, from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks or cream are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores). The definition should also include a receiving station which, with the approval and under the direct supervision of the appropriate health authorities, receives milk from producers and commingles such milk for movement to the plants previously described. The approved plant definition should not include plants not under the routine inspection of the health authorities of the marketing area to which the order applies, but which may furnish milk to handlers during periods of emergency or shortage. Inclusion of such plants would be beyond the intended scope of the orders, and would involve pricing milk not primarily produced for the North Texas market or the Wichita Falls market.

"Handler" to whom the regulatory provisions of the order are applicable, should be defined as the operator of an "approved plant" in his capacity as such, or a cooperative association with respect to producer milk which is diverted to an unapproved plant for the account of the association. During periods of high production proprietary handlers may not always accept milk from all regular producers, or arrange for the diversion of such milk, even though the production of all producers may be needed to supply the market at other seasons. The provision that a cooperative association may be a handler, even though it does not operate a plant, will enable such a cooperative association to retain in the market-pool milk of its members which it may have to divert for temporary periods to unapproved plants.

"Producer" should be defined as any person, other than a producer-handler, who produces milk which is received at an approved plant or which is diverted from an approved plant to an unapproved plant for the account of a handler or cooperative association. In case ungraded milk is regularly received at the premises of an approved plant provision should be made to restrict the producer definition to those dairy farmers delivering to such plant who have Grade A permits or ratings issued by the appropriate health authority. Likewise provision should be made that upon proper notice from the appropriate health authority farmers will lose their status as producers during periods in which they are degraded. In order to eliminate possible conflict between the order and other orders that may regulate the handling of milk in nearby areas it is provided that the term "producer" shall not include a person with respect to milk produced by him which is received by a handler who does a greater percentage of his Class I business under another Federal marketing order.

The orders do not propose to pool the Class I sales of producer-handlers, who distribute milk of their own production and buy no milk from producers. Any milk they sell to handlers who purchase milk from producers is normally surplus to their own operations. To pool such milk would result in a preferential market for producer-handlers as compared with regular producers. Producer-handlers should therefore not be defined as producers whose milk is pooled. Their exclusion from the producer definition will result in any milk produced from a producer-handler being treated as other source milk.

"Other source milk" should be defined to include all skim milk and butterfat received at an approved plant from a source other than producers, but not including that first received from producers at another approved plant. Other source milk is not normally available for the market either because it does not meet Grade "A" quality requirements or because it is produced primarily for other markets under the supervision of the health authorities of such markets. It is not priced under the terms of the order, but is allocated to the lowest use in a handler's plant in order to prevent its displacing from Class I milk of producers which constitutes the regular supply of the market.

5. *Classification of milk.* Two classes of milk should be established in each order. Class I milk should include skim milk or butterfat disposed of (except as livestock feed and by transfer or diversion as milk, skim milk, or cream to other milk plants) in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, any mixture (except eggnog and bulk ice cream and frozen dairy product mixes) of cream and milk or skim milk used to produce concentrated milk or milk drinks disposed of for fluid consumption, and all other skim milk and butterfat not specifically accounted for as Class II milk. Class II milk should include all skim milk and butterfat used to produce any product other than those specified in Class I milk, disposed of for livestock feed, in shrinkage of producer milk not in excess of 2 percent of receipts, in shrinkage of other source milk, and in inventory variations in Class I products.

The products included in Class I milk are those usually associated with the distribution of fluid milk, and with minor exceptions noted hereafter are required to be made from Grade A milk. The additional expense necessary to produce milk for these purposes warrants their inclusion as Class I milk. Handlers proposed that only fluid milk be included in Class I and that a separate class be provided for the other products here specifically included; they failed, however, to propose any basis for pricing this class of milk. These items are all disposed of in the respective marketing areas in fluid form through the same retail and wholesale channels as fluid milk. Their physical characteristics, purposes, values and uses are similar to those of fluid milk. The milk used for these products is subject to the same transportation costs in movement from farm to market. The separate accounting for skim milk and butterfat herein proposed results in handlers being charged for only the exact volume of skim milk or butterfat actually disposed of in any particular use. While it was indicated that in Dallas flavored milk drinks containing less than 3.25 percent butterfat are not required to be made from Grade A milk, testimony of the health officer indicates that under his requirements with respect to the materials that may be handled in Grade A bottling plants only Grade A ingredients are used.

Provision is made for the inclusion in Class I milk of fresh concentrated milk for fluid consumption, a new product which has appeared in several milk markets in recent months. While this product had not appeared in the North Texas or Wichita Falls markets at the time of the hearing it is desirable that provision be made at this time for its classification should it appear. This product is promoted as a direct and acceptable substitute for fresh whole milk, indistinguishable from regular fluid milk when water is added.

A proposal that aerated cream products be included in Class I milk should not be adopted. Such products are not now required by health authorities to be from Grade A milk. Their distribution is not necessarily limited to the handlers of Grade A fluid milk. A further proposal that products which may hereafter be required by health authorities to be made from Grade A milk is not adopted because it is unlikely that the separate health authorities involved will all institute such requirements simultaneously.

The products included in Class II milk are not required to be from Grade A milk. Such products, although they may contain Grade A milk, must be disposed of in the same competitive field as products made from non-Grade A milk. It is considered necessary to classify certain products as Class II milk in order to permit the free movement of any excess milk into manufacturing channels without burdensome competitive disadvantage to handlers when producer receipts are in excess of the market needs for Grade A milk for fluid uses. Unaccounted for shrinkage of producer milk in excess of a reasonable allowance for shrinkage (plant loss) should be Class I milk in order to require full accounting by handlers for the use of their receipts.

No limit need be placed on shrinkage of other source milk as Class II milk, since such milk is deducted from the lowest use class under the allocation provisions. It is, however, not feasible to

segregate shrinkage of producer milk from shrinkage of other source milk in the same plant. Accordingly, in such case, the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and to other source milk should be computed pro rata to the volumes of skim milk and butterfat, respectively, received from such sources.

The allocation provisions should provide that other source milk, which is unpriced, be allocated to the lowest use in the handler's plant. This is done to prevent other source milk from displacing from Class I the milk of producers which constitutes the regular supply of the market. While there may be a few occasions in which variations in producer receipts or Class I sales within the monthly accounting period for which such allocation is provided do not permit full use of the producer receipts for the available Class I sales, these are not so frequent or so substantial as to require a more frequent accounting for purposes of allocation.

In establishing the classification of milk the responsibility should be placed upon the handler who first receives milk from producers to account for all skim milk and butterfat received at his approved plant and to prove to the market administrator that such skim milk and butterfat should be classified as other than Class I. The handler who first receives milk from producers is responsible for reporting the proper utilization of such milk and making full payment for it. He must, therefore, maintain records to furnish adequate proof of utilization to the market administrator.

Provision should be made in each order to cover the classification of skim milk and butterfat transferred from an approved plant to another approved plant or to an unapproved plant. In the case of transfers between approved plants whose receipts are priced by the same order, classification should be on the basis of written agreement between the affected handlers to the extent of utilization in the agreed use in the transferee plant. This provision affords suitable flexibility in the pricing, classification, and accounting for milk transferred. It does not affect producer returns because all of the milk is accounted for in the same pool computation in any event. In order to assure adequate protection of producers in the classification of their milk it should be provided that in case other source milk is received in either or both plants the classification of milk in each plant shall be made in such a manner as will return the higher class utilization to producer milk.

Transfers to a producer-handler should be classified as Class I milk. Producer-handlers ordinarily carry on only fluid operations and any milk which they purchase from a handler would normally be for fluid uses. Accordingly, it is unnecessary to provide for the classification of such a transfer in a lower use class.

An unapproved plant may be either a strictly manufacturing plant in which milk is used only for Class II products or a plant engaging in fluid distribution in other markets. Further some unapproved plants have dual operations. The provisions for classification of skim milk and butterfat transferred to such plants should result in Class II classification for that milk which is transferred to plants where only Class II operations are carried on but should result in Class I classification for that milk which the receiving plant needs for Class I disposition.

Transfers from an approved plant to an unapproved plant not more than 200 miles distant should be classified on the basis of a written agreement as to utilization, provided that if skim milk or butterfat so transferred was actually required for Class I use at the unapproved plant (after allocating to Class I the milk received directly from dairy farmers who constitute its regular source of supply for Class I needs) such milk should be classified as Class I milk at the approved plant. This provision will facilitate the movement into manufacturing outlets of skim milk and butterfat in excess of the Class I needs of the North Texas market and at the same time protect producers in the classification of their milk.

Transfers in the form of milk or skim milk from an approved plant to an unapproved plant more than 200 miles distant should be Class I milk. Milk and skim milk ordinarily do not move long distances for manufacturing purposes. There are ample manufacturing facilities within 200 miles of each approved plant to dispose of any prospective surplus of producer milk. Accordingly, it is not necessary to provide classification as other than Class I milk for such transfers. To do so would be administratively impracticable in view of the distances at which the market administrator would have to verify any claimed utilization as Class II milk.

Cream is often moved long distances for manufacture into ice cream. Most localities into which cream is shipped from North Texas or Wichita Falls plants require a Grade A certificate if it is to be used for fluid purposes. It is concluded that cream transferred more than 200 miles should be Class I if it moves under certificate as Grade A, and should be classified as Class II otherwise. While this provides the lower classification on the basis of the absence rather than the presence of positive evidence, it is believed that under the conditions prevailing in this area producers will be assured of proper payment for their milk and handlers will be able to dispose of surplus cream at prices commensurate with the cost of the skim milk and butterfat ingredients.

6. *Class prices.* Class I milk prices in these areas should be determined by a formula made up of three major components: (1) A basic formula price representative of manufacturing milk values, (2) differentials over the basic formula price, and (3) an adjustment of the price to reflect changes in the rates of receipts of milk from producers to sales of Class I milk—in other words, a supply-demand adjustment.

The production and marketing of inspected milk for fluid purposes are influenced by many of the same economic factors as are the production and marketing of milk for manufacturing purposes. The market for most manufactured products is nation-wide, and changes in the prices of such products reflect some of the changes in general economic conditions affecting the supply and demand for all milk. Manufacturing milk plants serve as alternative outlets for milk which farmers produce. For these reasons prices of fluid milk are frequently determined by formulas based on prices of butter and non-fat dry milk and on prices paid by condenseries.

While the historical relationship to manufacturing milk prices in the North Texas and Wichita Falls markets has not been quite so close as in some other areas where the production of manufacturing milk is a more important farming enterprise, prices of milk for fluid use have generally followed a pattern related to the prices of manufactured products and the prices paid for manufacturing milk.

The basic formula price to be used in establishing the current month price for Class I milk of 4.0 percent butterfat test should be the highest of the following for the preceding month: the prices paid to farmers at 18 mid-west condenseries for milk of 3.5 percent butterfat test adjusted to a 4.0 percent basis; a formula price based on the market prices of butter and non-fat dry milk solids; or the average price paid to farmers for milk of 4.0 percent butterfat test by specified local manufacturing plants. The use of these alternative components in the basic formula price will reflect the value of manufacturing milk. The use of the highest price resulting from the three alternatives is appropriate because the fluid milk supplies for these markets must be obtained at any time in competition with the most favorably priced manufacturing outlet.

Handlers opposed the use of the paying prices of the 18 condenseries in the basic formula price. However, substantial quantities of emergency milk priced under the order for the Chicago marketing area are imported by North Texas handlers. Such emergency supplies are commingled with producer milk and sold in bottled form in competition with producer milk. The marketing order for the Chicago market prices such milk by use of a basic formula using this condensery pay-price. The Chicago order also provides an alternative butter-nonfat dry milk solids basic formula price equivalent to that here proposed. The basic formula price will reflect factors which influence the prices North Texas handlers pay for such emergency supplies.

The use of prices paid by local manufacturing plants was not supported by producers or handlers as a part of the Class I basic formula price. It was proposed by handlers as a basis for a Class II price. The conclusions with reference to pricing Class II milk are that such paying prices can only be used as an alternative pricing basis to one of the other component factors of the basic formula price. The use of the local manufacturing milk price in the basic formula will reflect local conditions of milk pricing when such conditions should be determinates of the Class I price, i. e., when local plants are paying prices

for milk higher than the prices resulting from the other two alternatives.

The use of the preceding month's manufacturing values in determining the Class I price for the current month permits handlers to know the Class I price at the time of purchase.

To the basic formula price should be added a differential to reflect the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get a regular and adequate supply of such milk produced. Producers of Grade A milk are required to make substantial investments to meet the inspection requirements of health authorities. Similar investments are not required of producers of manufacturing milk. Fluid milk is a perishable product which must reach the consumer within a short time after it is produced. Manufactured dairy products, on the other hand, may be stored for considerable periods before reaching the consumer. Producers of fluid milk must therefore furnish a regular daily supply to the market. Texas is an area in which milk production is especially costly and substantial price incentive is necessary to induce sufficient market milk productions to supply the needs of the market.

The amount of this differential should be $2.00. Producers advocated a differential of $2.25 while handlers made no specific proposal concerning the level of the differential to be used in determining Class I prices. The differential proposed by producers would have resulted in a Class I price for the period from March 1949 through February 1950 approximately the same as the base prices then prevailing in the markets and would have paralleled fairly closely the course of the prevailing base prices from July through December 1950, without the reductions associated with the chaotic conditions that prevailed in the months of March through June 1950.

Through the years of 1947 through 1950 there has been a continued increase in the production of milk for these markets. While milk sales have also increased, and the North Texas market in particular is not yet adequately supplied, the rate of increase in production appears to have exceeded that of sales during 1949 and much of 1950 so that the deficits in fall and winter months are less severe than those of 1947 and 1948. For the year 1949, when the most rapid increase in production took place, the prevailing base prices of the markets exceeded the basic formula price by an average of $2.48 as compared with the differential decided upon herein of $2.00. In 1950 this difference averaged $1.94.

While continued increases in the volumes of milk sales may be expected under the economic conditions prevailing in these markets, the rate of increase in production need not be as rapid as that of 1949 to provide an adequate supply within a reasonable time. Under an order which pays producers the Class I price for all milk disposed of in Grade A products, the price incentive required to assure an adequate supply of milk need not be quite so pronounced as under the present system of base prices. In view of the supply-demand adjustment of Class I prices provided herein, a differential of $2.00 should be included in the order. As of February 1950 the resulting Class I price would have been $6.19, 34 cents more than the $5.85 price then prevailing. Such an increase at that time was fully justified on the basis of the economic factors affecting the production of milk.

The minimum delivered cost of supplementary milk imported from the Chicago milkshed during the short production months has been about $3.00 per hundredweight more than the basic formula price. The level of prices resulting from the formula provided herein will be about $1.00 per hundredweight less than the cost of milk imported from the Chicago market.

Handlers proposed that the differential should be reduced during the months of seasonally high production, suggesting that the amount of reduction should not exceed 23 cents per hundredweight. There is some normal seasonal variation in the basic formula price. The base-rating plans incorporated in the orders are designed to influence the seasonal pattern of deliveries in the market. It is concluded that no seasonal reduction in the level of the differentials should be included in these orders at this time. Provision should be made, however, to prevent contra-seasonal movements of Class I prices except as they result from the operation of the supply demand adjustment included herein.

The prices resulting from the basic formula price and differential herein provided should be subject to adjustment for variation in the ratio of supplies of milk from approved producers to the sales of Class I milk. If a market is less than normally supplied, the differentials above the basic formula price should be increased in order to induce a greater supply of milk. Conversely, if the market is more than normally supplied, the differential should be reduced. Such adjustment should not be made, however, until the order in each market has been in effect for a length of time sufficient for the pricing mechanism of the order to have had opportunity to affect the responses of producers to the needs of the market. In these markets the record indicates that a minimum milk supply for the market of approximately 108 to 110 percent of Class I sales in any month is necessary in any one month to compensate for unequal distribution among handlers and daily and weekly variations in receipts and sales.

The object of a supply-demand price adjustment in these markets is to bring about an automatic price increase when the supply of producer milk in relation to Class I utilization is such that a shortage in the months of seasonally low production is indicated, and a price decrease when the supply may be expected to be above that needed to supply Class I needs in the low production months.

The rates of change in the volumes of both production of milk and Class I sales have been rapid in these markets. Any supply-demand ratio used should reflect conditions as currently as possible. Otherwise increased prices in spring months of high production may result from shortages in the previous fall months, and vice versa. The latest month for which data of receipts and sales are available for adjusting the Class I price to be announced on the 5th day of the month to which it applies is the second month preceding that month. It does not appear desirable to predicate adjustments on the experience of a single month; the experience of the latest two months for which data are available furnishes a more reliable indication without too much delay.

The use of a supply-demand ratio of two months requires consideration of the normal seasonal variations in production and sales that may be expected to occur. For months of seasonally high production the ratio of supplies to sales which indicates an adjustment in Class I prices should be higher than for those months in which production is normally less. The data available with reference to seasonal variations in production in the North Texas and Wichita Falls markets indicate some changes from year to year, with less seasonal variations in production in 1949 and 1950 than in 1947 and 1948. For purposes of the adjustment ratio it appears reasonable to expect seasonal variations in production slightly wider than the average of those shown for 1949 and 1950 in average production per producer but considerably narrower than those shown for the 1947-50 average monthly receipts adjusted for trend. Normally deliveries per day per producer appear to be about 25 percent greater in May and June, the months of highest production, than they are in November and December, the months of lowest production. There appears to be no significant seasonal variation in sales. Accordingly for purposes of this adjustment a supply equal to 125 percent of Class I sales in May and June is considered equivalent to a supply equal to 100 percent of sales in November and December. Similar ratios for each other two-month period are computed on the same basis.

In order to allow for the effect of year to year variations in the seasonal pattern of production, the supply-demand adjustment should not operate to modify the Class I price unless the relationship of supply to sales gives clear evidence that the quantity of milk deliveries will depart by a considerable amount from what is considered as an adequate but not excessive supply. It is therefore concluded that a supply of less than 100 percent of Class I sales in the short production months should result in an increase in price and that a supply of more than 115 percent of Class I sales in such months should result in a decrease in price. For other months these minimum and maximum percentages should reflect the seasonality of production to be expected in such months.

The rate of this adjustment should be 2.5 cents for each full percentage point that the supply-demand ratio actually prevailing for the second and third preceding months is either less than the minimum ratio established for such months (equivalent to 100 percent of Class I sales in the short production months) or is more than the maximum ratio established for such months (equivalent to 115 percent of Class I sales in the short production months). This

rate of adjustment corresponds to slightly more than one percent of the differential included in the Class I price and should be adequate to compensate promptly for any maladjustment in supply that may occur.

The price for Class II milk in each market should be the higher of the butter-nonfat dry milk solids formula price or the average of paying prices of the four Texas manufacturing plants for the current month.

Producers originally proposed the use of the paying prices of four Texas manufacturing plants as the means of determining Class II prices. At the hearing, however, they advocated the use of a Class II price based only on the mid-west condenseries and the butter-powder price. Handlers proposed the use of the paying prices of local manufacturing plants only, and suggested a number of such plants without furnishing data concerning the volumes of milk handled and the paying prices that have prevailed.

The local production of milk for manufacturing use does not supply the needs of the areas for the products manufactured there. It is necessary to import throughout the year substantial quantities of cream, condensed skim milk and nonfat dry milk solids for use in the manufacture of ice cream. A number of handlers have ice cream manufacturing facilities and buy imported ingredients to a considerable extent. Surplus Grade A milk is also used in the manufacture of ice cream but only at a price level commensurate with the prices of alternative ingredients in the form of nonfat dry milk solids, condensed skim milk, and unapproved cream. The prices of these products will therefore determine the prices for approved milk used to make ice cream. The costs of imported cream and milk solids are much more closely related to the prices of butter and nonfat dry milk solids than to the paying prices of mid-west condenseries. These costs include transportation costs from Oklahoma, Kansas, Missouri, Wisconsin, or Minnesota. The butter-powder formula price included in the orders has every month since September 1950 been almost identical with the price charged under the Chicago order for 4.0 percent milk used in the manufacture of butter and nonfat dry milk solids. Such a price should allow handlers to dispose of surplus milk in competition with both locally produced and imported supplies.

The only data concerning local manufacturing plants relate to those operated by handlers or their affiliates and to a cheese plant operated by a cooperative association for which annual patronage dividends are paid farmers in addition to the paying prices quoted for each month. While the use of the paying prices of plants operated by handlers or their affiliates as a sole determinant of producer prices would not be appropriate, the use of such prices as an alternative to a formula price based on national market values of butter and powder will prevent the price for Class II milk from being less than that paid for ungraded milk in the locality. The four plants selected appear the most representative that could be selected.

The class prices computed under the terms of the order would be those for milk containing 4.0 percent butterfat. The class prices for each handler should be adjusted by a butterfat differential to reflect the average test of producer milk classified in each class. Such differential for Class II milk shall be computed on the basis of the price of Grade A (92-score) bulk creamery butter at Chicago for the delivery period plus 15 percent. This differential represents a value somewhat less than the generally accepted value of butterfat for butter. With regard to Class I milk such differential should be computed on the same price for butter, plus 25 percent, reflecting the higher value of butterfat for fluid use. These differentials are both low in comparison with those in many other markets. This is in recognition of the fact that cream sales are low in the markets and that the average test of producer milk is high. As a consequence the market deficits are more concerned with total volume of receipts than with butterfat. The use of these moderate butterfat differentials will serve to allocate a higher proportion of the total price of each class to the skim milk which is in shorter supply.

The parity price of all milk sold at wholesale in the United States, which is the applicable parity price under present legislation, was $4.76 per hundredweight as of March 15, 1951. Such price does not reflect what the record shows to be the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing areas; nor would it insure a sufficient quantity of pure and wholesome milk for the marketing areas, or be in the public interest.

No adjustments are provided in the pricing provisions of the North Texas order with respect to the location of approved plants at which milk is received from producers. No such adjustments were proposed by producers or handlers of the North Texas marketing area. The record indicates that no such adjustments are now in effect. With respect to the Wichita Falls marketing area it was indicated that an adjustment in price to producers was customarily made with respect to milk received at a cooling plant at Windthorst, approximately 24 miles from Wichita Falls. This cooling plant is owned and operated by a cooperative association which receives uncooled milk twice daily from its members, cools such milk, and delivers it to Wichita Falls handlers. The order provides no adjustment in minimum class prices with respect to the milk received at this cooling plant, but does permit the cooperative association which is the handler to deduct not to exceed 25 cents per hundredweight from the uniform prices of the order for milk received at this plant. Many producers would not be able to supply the market without the cooling facilities provided by this plant.

7. *Payments to producers.* The "market-wide" type of pool with base-rating plan should be established in these orders for the purpose of distributing among producers returns from the sale of their milk. Under this plan all producers receive the same uniform price for their milk (or when bases are applicable and uniform price for base milk and a uniform price for milk in excess of base) irrespective of the utilization made by such milk by individual handlers.

The alternative to the market-wide pool is the individual-handler pool. Under this latter system producers delivering to each handler receive a uniform price based on each handler's utilization of milk. Because different handlers utilize different proportions of their milk as Class I and Class II, the uniform prices of individual handlers would vary one from the other. The order has been written to permit a cooperative association to become a handler when necessary to market the surplus milk of its members. Under these circumstances an individual-handler pool would result in an unequal sharing of the market among producers and would not be conducive to orderly marketing. It is concluded, therefore, that market-wide pools are necessary to distribute the returns from the sale of milk equally among producers and to create orderly marketing of producer milk.

In the computation of the value of producer milk, provision should be made for the inclusion of the value of milk classified in excess of reported receipts from producers, other handlers, and other sources. This provision is necessary to account for differences between the reported and actual weights and tests of milk received from producers.

The butterfat differential to be used in making payments to producers should be fixed at one-tenth of the price of Grade A (92-score) butter on the Chicago market multiplied by 1.2. This differential is the same as that established under many other marketing orders. The producer butterfat differential merely affects the proration of returns among producers, and it in no way affects handlers' costs for milk.

The distribution among producers of the returns from the sales of milk should be made through the medium of a base-rating plan. Improvement in the seasonal pattern of production has resulted from the base features of present buying plans in these markets. The proposals for base-rating plans are supported by both producers and handlers in each market. Under the plans as hereinafter provided new bases would be established each year on the basis of total deliveries made by each producer during the short production months of October through January. The bases so established would be used in making payments to producers during the months of greatest production, i. e., April through June.

Producers proposed that the bases so established should be used in making payments to producers during the months of February through September. It does not appear necessary that bases be used for so many months for effective results from the plan. Restricting payments on the base to the months definitely associated with flush production will provide greater flexibility, and will provide individual producers better opportunity to make adjustments in their production plans. It also permits new producers to enter the market to meet

prospective needs without unduly affecting the returns of producers with established bases.

A uniform price for base milk during these months would be computed which would reflect the value of milk for the market as a whole after the prior assignment of deliveries of milk in excess of base to the lowest available use class. The price of base milk would thus be enhanced above the average for the market and the uniform price for excess milk would be below the average. The lower price applicable to milk in excess of base deliveries tends to limit the deliveries of such milk during the months of surplus production. Conversely, the value of a large base gives impetus to the delivery of milk in the season of short production. The influences of these two forces tends to cause a more even seasonal pattern of milk deliveries than if payments were made during all months of the year on a straight uniform price basis.

It is necessary to provide certain rules in connection with the establishment and transfer of bases to provide reasonable administrative workability of the plan. In order to accomplish this purpose and preserve the effectiveness of the plan no provisions should be made for the transfer of partial bases. However, transfer of the entire base of an individual producer to members of his family in case of death, retirement, or entry into military service is permitted. Provision is also made for transfer of the entire base to one of the joint holders in the case of the termination of joint landlord-tenant relationships. These rules should assure the workability of the plan and at the same time place no undue hardship upon any producer since the established bases are effective in determining producer payments in only three of the twelve months of each year.

Although uniform prices are computed once a month, provision should be made to pay producers on a semimonthly basis. The majority of producers on these markets have customarily been paid twice a month and it is concluded that this practice should be continued. The advance payment to be made on or before the last day of the delivery period and covering receipts of producer milk during the first 15 days of the delivery period should be at not less than the Class II price for the preceding delivery period. Payment at this rate will largely eliminate the possibility of handlers making overpayments to producers who may leave the market before the end of the delivery period. Final payment for milk received during each delivery period should be made on or before the 16th day after the end of the delivery period.

In the case of a qualified cooperative association, which so requests, the handler should make the advance and final payments sufficiently in advance of the date for payment to other producers to enable the cooperative association to pay its members at that date. The dates which have been provided for these various payments are so spaced that ample time is provided the handlers and the market administrator for the filing of reports, the computation of the various prices and the writing and mailing of checks.

8. Certain other provisions should be adopted to enable proper and efficient administration of the orders.

(a) *Administrative assessment.* Each handler should be required to pay to the market administrator, as his pro rata share of the cost of administration of the order, 4 cents per hundredweight, or such lesser sum as the Secretary may from time to time prescribe, on all receipts at his pool plant within the delivery period of (1) milk from producers (including such handler's own production) and (2) other source milk which is classified as Class I.

The market administrator in each market must have sufficient funds to enable him to administer properly the terms of the order and the act provides that the administration of the order be financed through assessment against handlers. In view of the anticipated volumes of milk on which the rate would apply it is concluded that a maximum rate of 4 cents per hundredweight is necessary at this time to guarantee sufficient administrative funds. In the event at a later date a lesser amount proves to be sufficient for proper administration, provision is made to enable the Secretary to reduce the assessment accordingly.

(b) *Deduction for marketing services.* Provision should be made for the dissemination of market information to producers and for the verification of weights and for the sampling and testing of milk received from producers for whom such services are not being rendered by a qualified cooperative association. This provision, including the assessing of producers in payment thereof, is specifically authorized by the act. Five cents per hundredweight or such lesser rate as the Secretary may determine should be deducted by handlers from the payment to producers and turned over to the market administrator to finance such services. This rate was proposed by producer groups on the basis of experience with check sampling, weighing, and testing programs in other marketing areas. In the event any qualified cooperative association is determined to be performing such services for any producer, handlers should pay to the cooperative association such deductions as are authorized by such producer in lieu of the payment to the market administrator.

(c) *Other administrative provisions.* The other provisions of the order are of a general administrative nature, are incidental to the other provisions of the orders, and are necessary for the proper and efficient administration of the respective orders. They provide for the selection of the market administrator, define his powers and duties, prescribe the information to be reported by handlers each month and the length of time that records must be retained. A plan for liquidation of each order in the event of its suspension or termination should also be provided.

Producer-handlers should be exempt from the regulatory provisions of the order except that they should be required to file reports as requested by the market administrator. Since a producer-handler may change his status from time to time it is necessary that the market administrator have authority to require such reports as will enable him to verify the current status of a producer-handler and to supplement other market information. In order that cooperative associations may be in position to allocate milk more equitably among handlers in times of shortage and thus insure each handler a more equitable supply of milk, the market administrator should furnish such an association each month a report of the utilization of its milk by each handler who received milk from its members. Since this report would include only milk received from the association and would not reveal the handler's total operations, confidential information would not be disclosed.

An approved plant which is subject to the regulatory provisions of another milk marketing agreement or order issued pursuant to the act and which the Secretary determines disposes of a greater volume of its Class I milk in such other marketing area than in this marketing area should be partially exempt from the provisions of these orders. It would be impractical to attempt to regulate a handler under two separate orders with respect to the same milk. Accordingly, it should be provided in each order that if an approved plant disposes of a greater volume of its Class I milk in a marketing area, regulated by another Federal milk marketing order, than is disposed of in the marketing area here defined such plant shall be exempt from the pricing, payment, administrative assessment, and marketing service provisions of whichever of these orders is involved. Such a handler, however, should make reports with respect to receipts and utilization as the market administrator may require, to insure equity between handlers, such a handler should not be permitted to purchase milk for sale as Class I milk in either area at less than the price paid by regulated handlers of the area in which the milk is sold. Therefore, a handler exempt under these provisions is required to make such payments as will equalize his cost with other handlers.

Each order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all orders in operation on July 30, 1947, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444), covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

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

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and

other economic conditions which affect market supply of and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed orders 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. Within the period reserved, exceptions to certain of the findings, conclusions and actions recommended by the Assistant Administrator were filed on behalf of interested parties. In arriving at the findings, conclusions and regulatory provisions of this decision each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions and actions decided upon herein are at variance with any of the exceptions pertaining thereto such exceptions are denied for the reasons set forth in the findings and conclusions relating to the issue to which the exception refers.

Rulings contained in the recommended decision upon proposed findings and conclusions submitted and upon motions filed by interested persons are confirmed except as modified by the findings, conclusions and rulings set forth herein. To the extent that findings and conclusions proposed by interested persons and not ruled upon in the recommended decision are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

Motions to reopen the hearing to permit the introduction of evidence upon the findings of the recommended decision and the terms of the order recommended therein with respect to pricing formulas, the supply and demand adjustment of Class I prices, and the extent of the marketing area are denied on the basis that (1) full opportunity was provided at the hearing for all interested parties to be heard on all issues and to present facts pertinent to the decision of these issues, and (2) these findings and provisions are based upon substantial evidence in the record. Further, with respect to the supply-demand adjustment of Class I prices, this provision is by its own terms inoperative for a considerable period of time after the effective date of any order, so that further consideration may if necessary be given through amendment proceedings when further data are available as a result of the operation of the order itself.

The procedure followed in this proceeding, including the hearing, the filing of briefs, and the issuance of a recommended decision with opportunity for the filing of written exceptions thereto leaves no useful purpose to be served by reply briefs or oral argument on the recommended order and exceptions thereto. Full opportunity has been provided for interested parties to present their views and arguments. Accordingly, motions to file reply briefs and to have oral arguments are denied.

Marketing agreements and orders. Annexed hereto and made a part hereof are four documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the North Texas Marketing Area," "Order Regulating the Handling of Milk in the North Texas Marketing Area," "Marketing Agreement Regulating the Handling of Milk in the Wichita Falls, Texas, Marketing Area" and "Order Regulating the Handling of Milk in the Wichita Falls, Texas, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreements are identical with those contained in the respective attached orders, which will be published with this decision.

This decision filed at Washington, D. C., this 17th day of July 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

Order[1] Regulating the Handling of Milk in the North Texas, Marketing Area

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

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

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of

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

the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the said order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

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

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

(5) It is hereby found that the necessary expenses of the market administrator for maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts within the month of: (i) Other source milk which is classified as Class I milk, and (ii) milk from producers including such handler's own production.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the North Texas marketing area shall be in conformity to and in compliance with the terms and conditions of this order as set forth below:

DEFINITIONS

§ 943.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 943.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States as is authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

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

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

§ 943.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

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

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

§ 943.6 *North Texas marketing area.* "North Texas marketing area," hereinafter called the marketing area, means all territory, including all municipal corporations, Federal military reservations, facilities and installations and State institutions, within the counties of Cooke, Collin, Dallas, Delta, Denton, Ellis, Fannin, Grayson, Hopkins, Hunt, Johnson, Kaufman, Lamar, Parker, Rockwall, and Tarrant, all in the State of Texas.

§ 943.7 *Approved plant.* "Approved plant" means:

(a) A milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream labeled Grade "A" is disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores); or,

(b) A milk plant approved by and under the routine inspection of the appropriate health authority of any municipal corporation in the marketing area which serves as a receiving station for a plant described in paragraph (a) of this section by receiving, weighing and commingling producer milk.

§ 943.8 *Unapproved plant.* "Unapproved plant" means any milk plant which is not an approved plant.

§ 943.9 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of an approved plant; or

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 943.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received directly from the farm at an approved plant: *Provided,* That if ungraded milk is regularly received at the premises of such approved plant with the approval of the applicable health authority having jurisdiction, only those persons whose milk is received at such approved plant who are producing milk under a dairy farm permit or rating issued by such health authority for the production of milk to be disposed of for consumption as Grade A milk shall be producers: *And provided further,* That if the applicable health authority shall notify the operator of an approved plant and the market administrator in writing that a person whose milk has been received at such approved plant is no longer qualified to have his milk received at such plant such person shall not be a producer on the basis of receipt of milk at such plant from the effective date of such notice until the effective date of a written notice from such health authority to the market administrator that such person is again qualified to have his milk received at such plant. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. "Producer" shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this subpart pursuant to § 943.61.

§ 943.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 943.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 943.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 943.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of each producer's daily average base computed pursuant to § 943.80 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 943.15 *Excess milk.* "Excess milk" means milk received by a handler during any of the months of April through June which is in excess of base milk received from each producer during such month, and it shall include all milk received from producers for whom no daily average base can be computed pursuant to § 943.80.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

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

enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 943.97 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 943.96) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 943.30 to 943.32, inclusive;

(2) Maintained adequate records and facilities pursuant to § 943.33; or

(3) Made payments pursuant to §§ 943.90 to 943.95, inclusive.

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

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

(1) On or before the 5th day of each month the minimum price for Class I milk, pursuant to § 943.51 (a) and the Class I butterfat differential pursuant to § 943.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 943.51 (b) and the Class II butterfat differential pursuant to § 943.52 (b), both for the preceding month; and,

(2) On or before the 12th day of each month, the uniform prices computed pursuant to § 943.72 or § 943.73, as applicable, and the butterfat differential computed pursuant to § 943.91, both applicable to milk delivered during the preceding month; and

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

(l) Furnish to a cooperative association for its members the data furnished pursuant to § 943.31 (a).

REPORTS, RECORDS AND FACILITIES

§ 943.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 943.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month, which shall show:

(a) The total pounds and the average butterfat test of milk received from each producer and cooperative association, the number of days, if less than the entire month, for which milk was received from such producer, and, for the months of April through June, such producer's deliveries of base milk and excess milk;

(b) The amount of payment to each producer and cooperative association; and,

(c) The nature and amount of any deductions or charges involved in such payments.

§ 943.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted for his account directly from producers' farms to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 943.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

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

(c) Payments to producers and cooperative associations; and,

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 943.34 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 943.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 943.30 shall be classified by the market administrator pursuant to the provisions of §§ 943.41 to 943.46, inclusive.

§ 943.41 *Classes of utilization.* Subject to the conditions set forth in §§ 943.43 and 943.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, cream, cultured sour cream, any mixture (except eggnog and bulk ice cream and frozen dairy product mixes) of cream and milk or skim milk, (2) used to produce concentrated (including frozen) milk, flavored milk, or flavored milk drinks disposed of for fluid consumption neither sterilized nor in hermetically sealed cans, and (3) all other skim milk and butterfat not specifically accounted for as Class II milk;

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section;

(2) Disposed of for livestock feed;

(3) In shrinkage up to 2 percent of receipts from producers;

(4) In inventory variations of milk, skim milk, cream, or any product specified in paragraph (a) of this section.

§ 943.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in receipts from producers and of other source milk.

§ 943.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

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

§ 943.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler (except a producer-handler), unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided,* That if either or both handlers have received other source milk the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk, if transferred or diverted to a producer-handler in the form of milk, skim milk, or cream.

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk from an approved plant to an unapproved plant more than 200 miles distant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk, if transferred in the form of cream under Grade A certification from an approved plant to an unapproved plant located more than 200 miles distant and as Class II milk if so transferred without Grade A certification.

(e) As Class I milk if transferred or diverted in the form of milk, skim milk or cream from an approved plant to an unapproved plant located not more than 200 miles distant by shortest highway distance as determined by the market administrator, unless:

(1) The handler claims classification as Class II milk on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the unapproved plant and the handler on or before the 7th day after the end of the month within which such transfer occurred; and

(2) The operator of the unapproved plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if the Class I utilization of skim milk and butterfat in such plant exceeds receipts at such plant of skim milk and butterfat, respectively, in milk direct from dairy farmers who the market administrator determines constitutes the regular source of supply for fluid usage of such unapproved plant in markets supplied by it, an amount of skim milk and butterfat equal to such excess shall be classified as Class I milk.

§ 943.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 943.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 943.45, the market administrator shall determine the classification of milk received from producers as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 943.41 (b) (3).

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classifiation as determined pursuant to § 943.44 (a);

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

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

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

(c) Determine the weighted average butterfat content of Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 943.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) 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 market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Oxfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, W.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Company, Manitowoc, Wis.
White House Milk Company, West Bend, Wis.

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

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) 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 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, multiply by 8.5, and then multiply by 0.96.

(c) The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 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

Carnation Co., Sulphur Springs, Tex.
The Borden Co., Mount Pleasant, Tex.
Lamar Creamery, Paris, Tex.
Fairmont Foods Co., Wichita Falls, Tex.

§ 943.51 *Class prices.* Subject to the provisions of § 943.52, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus $2.00, subject to the following:

(1) For each month after September 1952, such price shall be increased 2.5 cents for each full percentage point that the total milk received from producers by all handlers during the second and third preceding months is a smaller percentage of the total Class I milk disposed of by all handlers (exclusive of producer-handlers and handlers partially exempt from this subpart pursuant to § 943.61),

during such 2-month period than the minimum percentage listed herein opposite such 2-month period, and such price shall be decreased 2.5 cents for each full percentage point that such percentage during such 2-month period is a greater percentage than the maximum percentage listed herein opposite such 2-month period:

2-month period	Percentages		Month to which adjustment applies
	Minimum	Maximum	
July and August	110	127	October.
August and September	110	127	November.
September and October	105	120	December.
October and November	110	115	January.
November and December	100	115	February.
December and January	100	115	March.
January and February	100	115	April.
February and March	105	120	May.
March and April	115	132	June.
April and May	120	140	July.
May and June	125	150	August.
June and July	120	140	September.

(2) Except for adjustments pursuant to subparagraph (1) of this paragraph, such price for each of the months of October, November and December shall not be less than that for the preceding month, and such price for each of the months of April, May and June shall not be more than that for the preceding month.

(b) *Class II milk.* The higher of the prices computed pursuant to § 943.50 (b) or (c) for the current month.

§ 943.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 943.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 943.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent, an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the appropriate month by the applicable factor listed below and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price for the current month by 1.15.

APPLICATION OF PROVISIONS

§ 943.60 *Producer-handlers.* Sections 943.40 through 943.46, 943.50 through 943.52, 943.70 through 943.73, 943.80 through 943.81, and 943.90 through 943.97 shall not apply to a producer-handler.

§ 943.61 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to the total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified in Class I milk under this subpart is less than the price provided by this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this subpart and its value as determined pursuant to the other order to which he is subject. Such payments shall be made on or before the 13th day of the following month.

DETERMINATION OF UNIFORM PRICE

§ 943.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices and adding together the resulting amounts: *Provided,* That if the handler had overage of either skim milk or butterfat, there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 943.46 by the applicable class prices.

§ 943.71 *Computation of aggregate value used to determine uniform price(s).* For each month the market administrator shall compute as follows an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 4.0 percent butterfat content received from the producers:

(a) Combine into one total the values computed pursuant to § 943.70 for all handlers who made the reports prescribed in § 943.30 and who made the payments pursuant to §§ 943.90 and 943.93 for the preceding month.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund, less the total amount of the contingent obligations to handlers pursuant to § 943.94.

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent or add if such average butterfat content is less than 4.0 percent an amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 943.91 and multiplying the resulting figure by the total hundredweight of such milk:

§ 943.72 *Computation of uniform price.* For each of the months of July through March, the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers at an approved plant as follows:

(a) Divide the aggregate value computed pursuant to § 943.71 by the total hundredweight of milk included in such computation; and

(b) Subtract not less than 4 cents nor more than 5 cents.

§ 943.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, received from producers at an approved plant as follows:

(a) Compute the total value on a 4.0 percent butterfat basis of excess milk included in the computations pursuant to § 943.71 by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers;

(c) Subtract the value of excess milk obtained in paragraph (a) of this section from the aggregate value computed pursuant to § 943.71 and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations;

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

DETERMINATION OF BASE

§ 943.80 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 943.81:

(a) Divide the total pounds of such milk received by a handler(s) from such producer during the months of October through January immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period.

§ 943.81 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred only by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the

person named in such notice only as follows:

(i) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(ii) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

PAYMENTS

§ 943.90 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to §§ 943.72 and 943.73, adjusted by the butterfat differential computed pursuant to § 943.91, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 943.94, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received during the first 15 days of such month, at not less than the Class II price of the preceding month.

(c) On or before the 13th and 23rd days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 943.31.

§ 943.91 *Producer-butterfat differential.* In making payments pursuant to § 943.90, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average as computed by the market administrator 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 at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 943.92 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 943.61 (b), 943.93 and 943.95, and out of which he shall make all payments to handlers pursuant to §§ 943.94 and 943.95.

§ 943.93 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 943.70 is greater than the amount required to be paid producers by such handler pursuant to § 943.90.

§ 943.94 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 943.70 is less than the amount required to be paid producers by such handler pursuant to § 943.90: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market adminstrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 943.95 *Adjustment of accounts.* Whenever verification by the market administrator of any handler's reports, books, records, accounts or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 943.96 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 943.90, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

§ 943.97 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 943.98 *Termination of obligation.* The provisions of this section shall apply to any obligation under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraph (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and,

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section,

a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8 (c) (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 943.100 *Effective time.* The provisions of this subpart or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 943.101.

§ 943.101 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 943.102 *Actions after suspension or termination.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 943.103 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such litigation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 943.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

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

Order [1] Regulating the Handling of Milk in the Wichita Falls, Texas, Marketing Area

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

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AUTHORITY: §§ 945.0 to 945.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

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

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

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

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

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

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts within the month of: (i) Other source milk which is classified as Class I milk, and (ii) milk from producers including such handler's own production.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Wichita Falls, Texas, marketing area shall be in conformity to and in compliance with the terms and conditions of this order as set forth below:

DEFINITIONS

§ 945.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 945.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States as is authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

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

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

§ 945.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

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

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

§ 945.6 *Wichita Falls, Texas, marketing area.* "Wichita Falls, Texas, marketing area," hereinafter called the marketing area, means all territory, including all municipal corporations, Federal military reservations, facilities and installations, and State institutions, within Wichita County, Texas.

§ 945.7 *Approved plant.* "Approved plant" means:

(a) A milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream labeled Grade "A" is disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores); or,

(b) A milk plant approved by and under the routine inspection of the appropriate health authority of any municipal corporation in the marketing area which serves as a receiving station for a plant specified in paragraph (a) of this section by receiving, weighing and commingling producer milk.

§ 945.8 *Unapproved plant.* "Unapproved plant" means any milk plant which is not an approved plant.

§ 945.9 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of an approved plant; or

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 945.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received at an approved plant: *Provided,* That if ungraded milk is regularly received at the premises of such approved plant with the approval of the applicable health authority having jurisdiction, only those persons whose milk is received at such approved plant who are producing milk under a dairy farm permit or rating issued by such health authority for the production of milk to be disposed of for consumption as Grade A milk shall be producers: *And provided further,* That if the applicable health authority shall notify the operator of an approved plant and the market administrator in writing that a person whose milk has been received at such approved plant is no longer qualified to have his milk received at such plant, such person shall not be a producer on the basis of receipts of milk at such plant from the effective date of a written notice from such health authority to the market administrator that such person is again qualified to have his milk received at such plant. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. "Producer" shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this subpart pursuant to § 945.61.

§ 945.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 945.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 945.13 *Producer - handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 945.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of each producer's daily average base computed pursuant to § 945.80 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 945.15 *Excess milk.* "Excess milk" means producer milk received by a handler during any of the months of April through June which is in excess of base milk received from each producer during such month, and shall include all milk received from producers for whom no daily average base can be computed pursuant to § 945.80.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 945.98 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 945.97) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 945.30 to 945.32, inclusive;

(2) Maintained adequate records and facilities pursuant to § 945.33; or

(3) Make payments pursuant to §§ 945.90 to 945.96, inclusive;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

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

(1) On or before the 5th day of each month the minimum price for Class I milk, pursuant to § 945.51 (a) and the Class I butterfat differential pursuant to § 945.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 945.51 (b) and the Class II butterfat differential pursuant to § 945.52 (b), both for the preceding month; and,

(2) On or before the 12th day of each month, the uniform prices computed pursuant to § 945.72 or § 945.73, as applicable, and the butterfat differential computed pursuant to § 945.91, both applicable to milk delivered during the preceding month;

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

(l) Furnish to a cooperative association for its members the data furnished pursuant to § 945.31 (a).

REPORTS, RECORDS AND FACILITIES

§ 945.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area; and,

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 945.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month, which shall show:

(a) The total pounds and the average butterfat test of milk received from each producer and cooperative association, the number of days, if less than the entire month, for which milk was received from such producer, and, for the months of April through June, such producer's deliveries of base milk and excess milk;

(b) The amount of payment to each producer and cooperative association; and,

(c) The nature and amount of any deductions or charges involved in such payments.

§ 945.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted for his account directly from producers' farms to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 945.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

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

(c) Payments to producers and cooperative associations; and,

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 945.34 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 945.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 945.30 shall be classified by the market administrator pursuant to the provisions of §§ 945.41 to 945.46, inclusive.

§ 945.41 *Classes of utilization.* Subject to the conditions set forth in §§ 945.43 and 945.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, cream, cultured sour cream, any mixture (except eggnog and bulk ice cream and frozen dairy product mixes) of cream and milk or skim milk, (2) used to produce concentrated (including frozen) milk, flavored milk, or flavored milk drinks disposed of for fluid consumption neither sterilized nor in hermetically sealed cans, and (3) all other skim milk and butterfat not specifically accounted for as Class II milk;

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section;

(2) Disposed of for livestock feed;

(3) In shrinkage up to 2 percent of receipts from producers;

(4) In inventory variations of milk, skim milk, cream, or any product specified in paragraph (a) of this section.

§ 945.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in receipts from producers and of other source milk.

§ 945.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

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

§ 945.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler (except a producer-handler), unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers

on or before the 7th day after the end of the month within which such transaction occurred: *Provided,* That if either or both handlers have received other source milk the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk, if transferred or diverted to a producer-handler in the form of milk, skim milk, or cream.

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk from an approved plant to an unapproved plant more than 200 miles distant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk, if transferred in the form of cream under Grade A certification from an approved plant to an unapproved plant more than 200 miles distant and as Class II milk if so transferred without Grade A certification.

(e) As Class I milk if transferred or diverted in the form of milk, skim milk or cream from an approved plant to an unapproved plant not more than 200 miles distant by shortest highway distance as determined by the market administrator, unless:

(1) The handler claims classification as Class II milk on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the unapproved plant and the handler on or before the 7th day after the end of the month within which such transfer occurred; and

(2) The operator of the unapproved plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if the Class I utilization of skim milk and butterfat in such plant exceeds receipts at such plant of skim milk and butterfat, respectively, in milk direct from dairy farmers who the market administrator determines constitutes the regular source of supply for fluid usage of such unapproved plant in markets supplied by it, an amount of skim milk and butterfat equal to such excess shall be classified as Class I milk.

§ 945.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 945.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 945.45, the market administrator shall determine the classification of milk received from producers as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 945.41 (b) (3).

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classification as determined pursuant to § 945.44 (a);

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

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

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

(c) Determine the weighted average butterfat content of Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 945.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a), (b) and (c) 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 market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, 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.

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

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) 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 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, multiply by 8.5, and then multiply by 0.96.

(c) The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or the Department:

Present Operator and Location

Carnation Co., Sulphur Springs, Tex.
The Borden Co., Mount Pleasant, Tex.
Lamar Creamery, Paris, Tex.
Fairmont Foods Co., Wichita Falls, Tex.

§ 945.51 *Class prices.* Subject to the provisions of § 945.52, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus $2.00, subject to the following:

(1) For each month after September 1952, such price shall be increased 2.5 cents for each full percentage point that the total milk received from producers by all handlers during the second and third preceding months is a smaller percentage of the total Class I milk disposed of by all handlers (exclusive of producer-handlers and handlers partially exempt from this subpart pursuant to § 945.61) during such 2-month period than the minimum percentage listed in this subparagraph opposite such 2-month period, and such price shall be decreased 2.5 cents for each full percentage point that such percentage during such 2-month period is a greater percentage than the maximum percentage listed in this subparagraph opposite such 2-month period:

2-month period	Percentages		Month to which adjustment applies
	Minimum	Maximum	
July and August	110	127	October.
August and September	110	127	November.
September and October	105	120	December.
October and November	100	115	January.
November and December	100	115	February.
December and January	100	115	March.
January and February	100	115	April.
February and March	105	120	May.
March and April	115	132	June.
April and May	120	140	July.
May and June	125	150	August.
June and July	120	140	September.

(2) Except for adjustments pursuant to subparagraph (1) of this paragraph, such price for each of the months of October, November and December shall not be less than that for the preceding month, and such price for each of the months of April, May, and June shall not be more than that for the preceding month.

(b) *Class II milk.* The higher of the prices computed pursuant to § 945.50 (b) or (c) for the current month.

§ 945.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 945.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 945.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent, an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the appropriate month by the applicable factor listed below and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price for the current month by 1.15.

APPLICATION OF PROVISIONS

§ 945.60 *Producer-handlers.* Sections 945.40 through 945.46, 945.50 through 945.52, 945.70 through 945.73, 945.80, 945.81, and 945.90 through 945.98, shall not apply to a producer-handler.

§ 945.61 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to the total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required by pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified in Class I milk under this subpart is less than the price provided by this subpart, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject. Such payments shall be made on or before the 12th day of the following month.

DETERMINATION OF UNIFORM PRICE

§ 945.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices and adding together the resulting amounts: *Provided*, That if the handler had overage of either skim milk or butterfat, there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 945.46 by the applicable class prices.

§ 945.71 *Computation of aggregate value used to determine uniform price(s).* For each month the market administrator shall compute as follows an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 4.0 percent butterfat content received from producers:

(a) Combine into one total the values computed pursuant to § 945.70 for all handlers who made the reports prescribed in § 945.30 and who made the payments pursuant to §§ 945.90 and 945.93 for the preceding month.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund, less the total amount of the contingent obligations to handlers pursuant to § 945.94.

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent or add if such average butterfat content is less than 4.0 percent an amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 945.91 and multiplying the resulting figure by the total hundredweight of such milk.

§ 945.72 *Computation of uniform price.* For each of the months of July through March, the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers at an approved plant as follows: (a) Divide the aggregate value computed pursuant to § 945.71 by the total hundredweight of milk included in such computation; and (b) Subtract not less than 4 cents nor more than 5 cents.

§ 945.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, received from producers at an approved plant as follows:

(a) Compute the total value on a 4.0 percent butterfat basis of excess milk included in the computations pursuant to § 945.71 by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers;

(c) Subtract the value of excess milk obtained in paragraph (a) of this section from the aggregate value computed pursuant to § 945.71 and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations;

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

DETERMINATION OF BASE

§ 945.80 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 945.81:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of October through January immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period.

§ 945.81 *Base rules.* (a) A base shall apply to deliveries milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred only by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

PAYMENTS

§ 945.90 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to §§ 945.72 and 945.73, adjusted by the butterfat differential computed pursuant to §945.91, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 945.94, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payments from the market administrator; he shall, however, complete such

payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received during the first 15 days of such month, at not less than the Class II price for the preceding month.

(c) On or before the 13th and 23rd days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 945.31.

§ 945.91 *Producer-butterfat differential.* In making payments pursuant to § 945.90, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average as computed by the market administrator 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 at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 945.92 *Location adjustment to producers.* In making payments pursuant to § 945.90 (a) to producers whose milk is received at the cooling plant located at Windthorst, Texas, currently operated by the Wichita Falls Area Milk Producers Association, Inc., the handler may deduct not to exceed 25 cents per hundredweight of milk. Such deductions shall not affect the computation of amounts to be paid by the handler or the market administrator pursuant to §§ 945.94 and 945.95.

§ 945.93 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 945.61 (b), 945.94 and 945.96, and out of which he shall make all payments to handlers pursuant to §§ 945.95 and 945.96.

§ 945.94 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 945.70 is greater than the amount required to be paid producers by such handler pursuant to § 945.90.

§ 945.95 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 945.70 is less than the amount required to be paid producers by such handler pursuant to § 945.90: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 945.96 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or,

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which error occurred.

§ 945.97 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 945.90, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

§ 945.98 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 945.99 *Termination of obligation.* The provisions of this section shall apply to any obligation under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and,

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records, required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 945.100 *Effective time.* The provisions of this subpart or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 945.101.

§ 945.101 *Suspension or termination.* The secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 945.102 *Actions after suspension or termination.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 945.103 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such litigation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 945.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

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

Order of the Secretary Directing That Referendum Be Conducted Among Producers Supplying Milk to North Texas Marketing Area; Determination of Representative Period; and Designation of Agent to Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the North Texas marketing area) who, during the month of April 1951, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of such order, which is filed simultaneously herewith.

The month of April 1951 is hereby determined to be the representative period for the conduct of such referendum.

Hobart E. Crone is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for conducting of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this referendum is issued.

Order of the Secretary Directing That Referendum Be Conducted Among Producers Supplying Milk to Wichita Falls, Texas, Marketing Area; Determination of Representative Period; and Designation of Agent To Conduct Such Referendum

Pursuant to section 8c (19 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the Wichita Falls, Texas, marketing area) who, during the month of April 1951, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of such order, which is filed simultaneously herewith.

The month of April 1951 is hereby determined to be the representative period for the conduct of such referendum.

Hobart E. Crone is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for conducting of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this referendum order is issued.

[F. R. Doc. 51-8417; Filed, July 19, 1951; 9:03 a. m.]

[7 CFR Part 958]

IRISH POTATOES GROWN IN COLORADO

NOTICE OF PROPOSED BUDGET AND RATE OF ASSESSMENT

Notice is hereby given that the Secretary of Agriculture is considering the approval of the budget and rate of assessment hereinafter set forth, which were recommended by the administrative committee for Area No. 1, established pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, issued under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 15 days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

§ 958.208 *Budget of expenses and rate of assessment.* (a) The expenses necessary to be incurred by the administrative committee for Area No. 1, established pursuant to Marketing Agreement No. 97 and Order No. 58, to enable such committee to carry out its functions pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1952, will amount to $1,350.00.

(b) The rate of assessment to be paid by each handler who first ships potatoes shall be one-half of one cent ($0.005) per hundredweight, of potatoes handled by him as the first handler thereof during said fiscal year; and

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958).

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

Done at Washington, D. C., this 16th day of July 1951.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-8321, Filed, July 19, 1951; 8:49 a. m.]

[7 CFR Part 996]

[Docket No. AO-203-A2]

MILK IN THE SPRINGFIELD, MASSACHUSETTS MARKETING AREA

RECOMMENDED DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO ORDER, AS AMENDED, REGULATING THE HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Springfield, Massachusetts on April 9, 1951, upon a proposed marketing agreement and proposed amendments to the order, as amended, regulating the handling of milk in the Springfield, Massachusetts, marketing area. Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this decision in

the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

The material issues entered on the record of the hearing were whether:

(1) The definition for outside milk should be revised.

(2) The language of the order should be revised to provide for the same treatment of Lowell-Lawrence pool milk as is accorded Worcester pool milk received at a Springfield regulated plant.

(3) The provisions dealing with pool plant qualifications should be revised.

(4) The assignment provisions should be revised to provide for the assignment of out-of-area Class I sales made from a handlers' country plant to receipts of producer milk at such plant, to change the assignment sequence with reference to receipts of skim milk and to provide an assignment for milk not otherwise covered.

(5) Any changes made in the basis of determining the Class II price and the butterfat differential under the Boston order should be incorporated in the Springfield order.

(6) Required payments on outside milk should be eliminated under certain circumstances.

(7) A method for computing a composite wage index for use in the Class I formula should be provided.

(8) The operator of a milk plant should be made the responsible handler with respect to payment, reporting, and other obligations imposed by the order for all milk and milk products received at such plant.

(9) Producer milk under the Boston, Lowell-Lawrence, or Worcester orders diverted to a Springfield pool plant should be excluded as producer milk under the Springfield order.

(10) The definition of buyer-handler should be amended to require the disposition of more than 10 percent of such a handler's total receipts of fluid milk products other than cream as Class I milk in the marketing area.

(11) The requirement that milk moved by buyer-handlers to other plants be classified as Class I should be revised.

(12) There should be excluded from the current pool computation milk of any nonpool handler in noncompliance with reference to the payment or reporting provision.

(13) Credits should be granted a handler for payments made to the Boston pool in the computation of such handler's pool obligation.

(14) Certain other nonsubstantive changes should be made to delete obsolete language and to make the language of the Springfield order consistent with that of other market orders.

Findings and conclusions. From the evidence introduced at the hearing and the record thereof with respect to the afore-mentioned issues it is hereby found and concluded that:

(1) The proposal to include as outside milk all receipts from New York order pool plants which are classified as other than I-A or I-B under the New York order should be adopted. Under the present provisions of the order receipts from New York order pool plants are specifically excluded from the outside milk definition and it is therefore possible for Springfield handlers to utilize New York Class I-C or Class III milk without being subject to the equalization payment on milk. The order presently prevents the replacement of local producer milk by New York Class I-C or Class III milk in the plant of a Springfield pool handler since it is specifically provided that such receipts shall be assigned to Class II. However, milk moving from a New York order pool plant to the nonpool plant of a Springfield producer-handler, or a buyer-handler, located outside of the marketing area would be Class I-C under the New York order and would not be subject to the equalization payment to the Springfield pool. Likewise a similar movement of concentrated milk, buttermilk, milk drinks and any other item classified as Class III under the New York order can be utilized by a producer-handler or buyer-handler without payment to the Springfield pool. In order to maintain a Class I price on all milk disposed of in Springfield, New York milk classified as other than I-A or I-B under the New York order should be considered outside milk.

The outside milk definition should further be revised to except receipts from producer-handlers and buyer-handlers under the Boston, Lowell-Lawrence and Worcester orders. Such receipts, except the own farm production of producer-handlers are now considered outside milk. Under the assignment provision receipts of outside milk are assigned after receipts from New York, Boston, and Worcester pool handlers, receipts from other Springfield handlers and direct producer receipts. Accordingly buyer-handlers and producer-handlers from other New England Federal markets are at a disadvantage, as compared to pool handlers in such markets, in furnishing milk to Springfield handlers. Since the Boston, Lowell-Lawrence and Worcester orders provide that a buyer-handler or producer-handler pay the outside milk assessment on all receipts of outside milk in excess of his Class II disposition there is no possibility of such an individual in one of these markets obtaining milk for Class I disposition in the Springfield market at a lower cost than pool handlers. Under these circumstances receipts from such handlers should be accorded the same treatment as receipts from pool handlers operating in the same market.

(2) The present order provisions should be revised to provide the same treatment for milk moved from Lowell-Lawrence pool plants as is accorded milk moved from Worcester pool plants to a Springfield regulated plant. At the time the Springfield order became effective the Lowell-Lawrence market was operating under an individual handler pool. With a market-wide pool in Lowell-Lawrence the incentive to transfer excess milk from Lowell-Lawrence to Springfield has been reduced. The Lowell-Lawrence order provides that receipts of fluid milk products, other than cream, from regulated plants under the Springfield and Worcester orders be assigned to Class I unless Class II is agreed upon in writing to the market administrator and an equivalent disposition in Class II actually occurred at the receiving plant. The same type of reciprocal arrangement should be provided in order so that the treatment of milk under the three secondary markets is consistent.

(3) The provisions dealing with qualifications for pool plants should be amended to specificially exclude from pool plant status during the months of March through September any of a handler's plants which were nonpool receiving plants during any of the preceding months of October through February. Under the present order provisions it is possible that a handler's city plant located outside of the marketing area could be a nonpool plant during the months of October through February and then because of increased Class I disposition from such plant within the marketing area during the months of March through September qualify as a pool plant during such months. At the same time dairy farmers delivering to such plant would not qualify as producers since they would have delivered to a nonpool plant during the October-February period. Under such circumstances the handler would be under substantial obligation to the pool since he would be charged the use value of all of the milk in his plant and credited with payment for such milk at the Class II price. Such a situation could raise complications in the administration of the order and result in serious financial loss to the handler involved. As an unregulated plant the pool obligation would be limited to payment of the difference between the Class I and Class II price on only that volume of milk disposed of as Class I milk direct to consumers within the marketing area. The adoption of the proposed language protects unregulated dealers from unreasonable obligation to the pool while at the same time assuring producers reasonable protection from sales of unregulated milk and provides uniform treatment of such milk under both the Springfield and Lowell-Lawrence orders.

The proposal to amend the country pool plant qualification provisions to lower the percentage of total milk receipts required to be disposed of in the marketing area should be adopted. The order presently provides that a country plant dispose of 50 percent of its total receipts of fluid milk products, other than cream, as Class I milk directly to consumers in the marketing area, or as milk to city plants under the Springfield or Worcester orders at which more than 50 percent of the total receipts of fluid milk products, other than cream, is disposed of as Class I milk. It was proposed that the shipping requirement be lowered from 50 percent to 30 percent. At the present time the Brattleboro, Vermont plant of H. P. Hood & Sons is the only country plant associated with the Springfield market and little, if any, milk is disposed of in the Worcester market. Therefore, the opportunity to use shipments to Worcester to meet the qualifying percentage has little significance and should be deleted. Proponents contend that it is becoming increasingly difficult to maintain pool status for this plant under the present 50 percent shipping requirement. They further contend that

in order to retain pool plant status for this plant in recent months they have been forced to release a number of direct shippers at their city plant. A country receiving plant which functions as a reserve plant for the market, should not be forced to ship milk to the city when such milk is not actually needed there to meet market requirements. On the other hand, a plant with only casual association with the market should not be accorded continuing pooling privileges. The record evidence tends to support proponents in their position that the Springfield market has first call on the milk at the Brattleboro plant and that such milk moves to the city whenever it is needed. Lowering the shipping requirement from 50 percent to 30 percent will simplify the qualification of the Brattleboro plant and at the same time protect the pool from new plants interested in the advantage of pooling without taking on the responsibility of supplying the local market. If, at any time, it becomes evident that the Brattleboro plant is not fulfilling its responsibility to the Springfield market by making its entire supply of milk available as needed, consideration should be given to more stringent pool plant qualifications.

(4) The present assignment provisions of the order should be amended to provide for the assignment of out of area Class I sales made from a handler's country plant to receipts of producer milk at such plant and the sequence of assignment should be revised in other respects. Under the present order provisions a handler's Class I sales are assigned to producer receipts at his city plant ahead of the assignment of receipts at his country plant. It is possible under this procedure that a handler operating both a country and a city plant may have a portion of his milk disposed of from his country plant as out of area Class I sales charged to him at the country plant price and the balance of such sales charged at the city plant price. This situation would arise only when the volume of milk at the city plant exceeds the Class I demand for such milk. At such time the balance of the city plant supply, in excess of Class I requirements, plus the volume of producer receipts held at the country plant ordinarily would be utilized as Class II unless an out of area Class I market is found for such milk. The assignment of such sales from the country plant to receipts at such plant maintains the relationship between milk prices at the two plants as established by the order since the difference in price is based on the cost of movement to Springfield.

The present allocation provisions should be revised to provide for the assignment of receipts of skim milk from all regulated plants after receipts of producer milk and outside milk at a handler's plant. Under the present assignment procedure receipts of skim milk from the regulated city plants of other handlers take precedence over producer receipts, receipts of outside milk, and receipts of milk from the country pool plants of other handlers. This assignment sequence creates confusion between handlers in the pricing of skim milk and necessitates numerous price adjustments, since skim milk is a Class II product and is usually transferred for Class II use. Changing this sequence in no way affects the total value of the pool but merely transfers the Class I accounting in the pool from one city plant handler to another.

It is possible that a handler may have milk in his plant from sources other than those specifically referred to in the present assignment provisions. This might take the form of unidentified milk, reconstituted milk, or milk in inventory. The inclusion of a catch-all assignment provision should be adopted to assure the assignment of all milk and milk products in the handler's plant.

The assignment of fluid milk products, other than cream, received from a Worcester pool plant should be allowed on an agreement basis between the Worcester and Springfield handlers without regard to outside milk receipts. The present provisions provide that assignment by agreement to Class II be limited to that remaining Class II utilization in the Springfield handler's plant after deduction of its receipts of outside milk. Permitting the assignment as Class II, up to the total volume of Class II use in the Springfield plant, will allow the two handlers involved to determine by agreement which producers will get credit for the Class I sales and will not affect the over-all costs of the milk involved. Since producers supplying both markets are located in the same general supply area, the producers are in position to shift from one market to the other if handlers were to agree upon a utilization which would maintain one market price to producers substantially higher than the other.

(5) The proposal to make such changes in the Class II pricing provisions as are necessary to maintain the present relationship to the Boston Class II price should be adopted. The present basis of Class II pricing was established so that the Springfield Class II price would move with the price of milk for similar use in the Boston market. For the same reasons that the present relationship was established, it is essential that any changes made in the Boston Class II pricing be reflected in the Springfield Class II pricing. Similarly, the method of determining the butterfat differential in the Springfield market has been the same as that used in other Federal orders effective in the New England region. Accordingly, in the computation of the butterfat differential the weight of a can of 40 percent cream should be considered 33 pounds, rather than the 33.48 pounds presently used. Certain producer interests proposed that in the computation of the butterfat differential the 1.5 cents transportation allowance be deleted. They contend that the factor represents a freight adjustment and since in the Springfield market the bulk of the milk is received at the city plants, no allowance is justified. However, there is also a substantial portion of the total producer milk received at country plants. There appear to be certain advantages to maintaining one butterfat differential for all locations but whether it should be determined with or without the 1.5-cent factor is not clear from this record.

The evidence, in the record, on this point is not conclusive. Accordingly, no further change can be considered on the basis of this record.

(6) No change should be made in the present order provisions with reference to the equalization payments required on outside milk. Proponents proposed that the order be amended to provide that the outside milk payment be invalidated during any period in which an emergency is declared under the Boston order. In this connection it does not necessarily follow that an emergency will exist in the secondary markets at any time that there is an emergency in the Boston market. If a provision of the nature proposed were desirable, it should take the form of an independent determination with specific reference to the Springfield market.

(7) The order should provide for the computation of a composite wage rate index which would be similar to the farm-wage rate index which has been utilized in the calculation of the Class I formula price since the adoption of that formula April 1, 1948. The United States Department of Agriculture is no longer collecting information from which the monthly composite wage rates were computed and that series has been discontinued. Therefore, it is necessary to compute an equivalent composite farm wage rate. Farm wage rates are recorded quarterly by the United States Department of Agriculture as rates per month with board and room, per month with house, per week with board and room, per week without room or board, and per day without board or room. These rates should be expressed as a simple average monthly composite rate by converting the weekly rates to a monthly equivalent by multiplying by 4.33 weeks and by converting the daily rate to a monthly basis by using 26 working days per month. The simple average monthly composite farm wage rates for each of the four states used in the Class I formula should be combined according to the rate expressed in the order. In order to express the rate as an index on the same basis as that used in converting the previously published monthly composite farm wage rate to an index number for computation of the formula price, it is necessary to divide the milkshed average composite wage rate figure by 0.6394. This factor is determined from the average relationship of the milkshed average wage rate figure derived from the currently published data to this series which was previously published and used in the computation of the formula price.

(8) The proposal to amend the order to provide that the operator of a milk plant be the responsible handler with respect to payment, reporting, and other obligations under the order for all milk and milk products received at such plant should be adopted. The operator of a plant is the only person who can reasonably be held responsible for the weighing and testing of producers' milk. He has control of the receiving function and logically should be responsible for maintaining proper records of such receipts

and for proving the utilization thereof. Since payments to producers are made on the basis of weights and tests of the receiving plant, as verified by the market administrator, the operator of such plant should be held responsible for paying producers and for other obligations imposed by the order upon a handler. Milk temporarily diverted from the pool plant of a handler for the account of such handler should be considered as having been received at the pool plant since producers of such milk would ordinarily be regular suppliers of the market and as such should be assured the market blend price for their milk. However, in accounting for such milk the records of the handler actually receiving the milk would be relied upon to prove receipts and tests even though the handler who diverted such milk to a nonpool plant would be responsible for making such records available.

It was proposed that bulk milk of dairy farmers which is received at a pool plant for processing and for which an equivalent volume of milk is returned to the dairy farmer be considered exempt milk. There was no objection to the exemption of such milk from the market pool. The number of persons and the quantity of milk involved in this type of transaction is small and apparently does not adversely affect the stability of the market. It is concluded, therefore, that such milk of a dairy farmer which is delivered to a pool handler for processing and for which an equivalent volume of bottled milk is returned should be considered exempt milk and not included in the pool. In cases where the volume of milk received from a dairy farmer is in excess of the volume of bottled milk returned, such excess milk disposed of to the pool handler should be considered as producer milk.

Under the present order provisions a handler under certain conditions is permitted to process and bottle milk for another handler without regarding such milk as outside milk or involving the other handler in the market pool because of the processing transaction. This principle should be continued as it applies to handlers or dealers who operate plant facilities and actually receive at such plant the milk which is transferred to the plant of a handler for processing and bottling and for which an equivalent volume of milk is actually returned. The verification of the receipts and disposition necessary to substantiate the exempt status of such milk involve the same type of audit of handlers' records as in the case of producer milk, and it is therefore concluded that such milk should be subject to the administration assessment and bear its proportionate share of administrative costs.

(9) The proposal to amend the producer definition to provide that a dairy farmer who is a producer under the Boston, Lowell-Lawrence, or Worcester orders shall not be a producer under the Springfield order with regard to any of his Boston, Lowell-Lawrence, or Worcester pool milk diverted to a Springfield pool plant should be adopted. Under the present order provisions such diversions could result in a dairy farmer being considered a producer both at the plant from which his milk is diverted and at the Springfield pool plant. Such a situation could involve unreasonable financial costs to the handler if he were required to pool the milk under both pools. The adoption of the proposal will facilitate the disposition of surplus milk by enabling more efficient handling in movements between markets and at the same time provide Springfield producers the same protection they enjoy under the present order provisions.

(10) The proposal to amend the definition of a buyer-handler to require the disposition of more than 10 percent of the total receipts of fluid milk products, other than cream, as Class I milk in the marketing area should be adopted. Handlers who have only a casual association with the market, that is do less than 10 percent of their Class I business in the marketing area, should not acquire buyer-handler status. A buyer-handler, as a regulated handler, must have sufficient pool milk to cover all of his Class I sales, both within and without the marketing area, or pay the outside milk payment on whatever Class I utilization is in excess of his supply of pool milk. An unregulated handler, on the other hand, need have pool milk to cover, or pay the outside milk payment on, only that volume of Class I milk disposed of within the marketing area.

Under this provision all sales by a pool handler to an individual doing less than 10 percent of his Class I business in the area will be Class I up to the extent of such use by such unregulated handler.

The order presently provides that any city plant meeting the basic qualifications for pooling shall be a pool plant in only those months in which at least 10 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk in the marketing area. Since different treatment is prescribed for pool and nonpool handlers, it is essential that a handler be in a position to determine readily his status as a pool handler. In this connection the final classification of milk transferred between handlers is dependent on the actual utilization and source of all receipts in the transferee plant. Accordingly, in order to simplify the determination of a handler's pool status it should be provided that for such purpose the transfers of fluid milk products, other than cream, to a regulated city plant be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from such other plant.

(11) The proposal to revise the present order provisions which provide that milk moved by buyer-handlers to other plants be classified as Class I should not be adopted. Buyer-handlers get no milk direct from producers but purchase all of their requirements for fluid products from other handlers. Accordingly, they are in a position to maintain a day-to-day balance between their requirements and procurement. The present order provisions do not limit purchases for Class II use in the buyer-handler's plant but merely restrict the transfer of milk to a third plant for other than Class I use. Class II milk is defined and priced for the purpose of removing necessary excesses from the market. It appears that buyer-handlers do not need to purchase Class II milk in excess of their own use. To encourage a buyer-handler to buy long and permit free transfer to nonpool plants for Class II use could adversely affect producers by resulting in a lower classification for such milk than might otherwise be available through other outlets.

(12) The proposal to exclude from each current pool computation milk of any nonpool handler who is not in compliance with the reporting and payment provisions for any prior month should be adopted. The order presently has such a provision with reference to a pool handler in noncompliance. However, under the present order provision a nonpool handler in violation, because of nonreporting or nonpayment of assessments due, continues to be carried in the current pool computations. Under such arrangement it is possible that such indebtedness to the pool could actually reach the point of threatening the solvency of the pool. Exclusion of the milk of such nonpool handlers from the current pool computation assures the solvency of the settlement fund and at the same time does not relieve such nonpool handler of any of his obligations or responsibilities under the order.

(13) The proposal to amend the provisions dealing with the the computation of the value of milk utilized by a handler to credit any amount that such handler is required to pay to the Boston pool for milk disposed of in the Boston marketing area should not be adopted. This proposal was made on the premise that the Boston marketing area would be expanded to include specified military installations. Springfield handlers do not make direct distribution of milk in the present Boston marketing area. Therefore, there is nothing to be gained by the adoption of this proposal.

(14) The other proposals considered at the hearing involve nonsubstantive changes which would merely delete obsolete language or clarify the language of the present provisions. There was no opposition testimony and it is accordingly concluded that they should be adopted.

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

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

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) 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 such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of interested parties. Every point covered in the briefs was carefully considered, along with the evidence in the record in making the findings and reaching the conclusions hereinafter set forth. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein, the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and order. The following proposed amended order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed amendments to the marketing agreement are not included because the regulatory provisions thereof would be the same as those contained in the proposed amendments to the order:

DEFINITIONS

§ 996.1 *General definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

(b) "Springfield, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns: Agawam, Chicopee, Easthampton, East Longmeadow, Holyoke, Longmeadow, Ludlow, Northampton, South Hadley, Springfield, Westfield, West Springfield, Wilbraham.

(c) "Order", used with the name of a marketing area other than the Springfield, Massachusetts, marketing area, means the order issued by the Secretary regulating the handling of milk in the other marketing area.

(d) "Month" means a calendar month.

§ 996.2 *Definitions of persons.* (a) "Person" means any individual, partnership, corporation, association, or any other business unit.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who delivers bulk milk of his own production to a plant.

(d) "Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received nonpool milk on more than 3 days in any one of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February.

(e) "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, except a dairy farmer for other markets and a dairy farmer with respect to exempt milk delivered. The term shall also include a dairy farmer who ordinarily delivers to a handler's pool plant, but whose milk is diverted to another plant, if the handler, in filing his monthly report pursuant to § 996.30, reports the milk as receipts from a producer at such pool plant and as moved to the other plant.

The term shall not apply to a dairy farmer who is a producer under the Boston, Lowell-Lawrence, or Worcester orders, with respect to milk diverted from the plant subject to the other order to which the dairy farmer ordinarily delivers.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Handler" means any person who operates a pool plant, or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area, during the month.

(h) "Pool handler" means any handler who operates a pool plant.

(i) "Producer-handler" means any person who is both a handler and a dairy farmer, and who receives no milk other than exempt milk from other dairy farmers except producer-handlers.

(j) "Buyer-handler" means any handler who operates a bottling of processing plant from which more than 10 percent of his total receipts of fluid milk products, other than cream, are disposed of by him as Class I milk in the marketing area, and whose entire supply of fluid milk products is received from other handlers.

(k) "Dealer" means any person who operates a plant at which he engages in the business of distributing fluid milk products, or manufacturing milk products, whether or not he disposes of any fluid milk products in the marketing area.

(l) "Consumer" means any person to whom fluid milk products are disposed of, except a dealer. The term "consumer" includes, but is not limited to, stores, restaurants, hotels, bakeries, hospitals and other institutions, candy manufacturers, soup manufacturers, livestock farmers, and similar persons who are not necessarily the ultimate users. The term also includes any dealer in his capacity as the operator of any of these establishments, and in connection with any other use or disposition of fluid milk products not directly related to his operations as a dealer.

§ 996.3 *Definitions of plants.* (a) "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products.

(b) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(c) "Pool plant" means any receiving plant which, in a given month, meets the conditions and requirements set forth in §§ 996.20, 996.21, and 996.22, for being considered a pool plant in that month.

(d) "Regulated plant" means any pool plant; any pool handler's plant which is located in the marketing area and from which Class I milk is disposed of in the marketing area; any plant operated by a handler in his capacity as a buyer-handler or producer-handler; and any city plant operated by an association of producers.

(e) "City plant" means any plant which is located within 10 miles of the marketing area.

(f) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

§ 996.4 *Definitions of milk and milk products.* (a) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(b) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing or is separated from it by centrifugal force, in all forms including sweet, sour, frozen, and aerated cream, and milk and cream mixtures.

(c) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(d) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, buttermilk and concentrated milk, either individually or collectively.

(e) "Pool milk" means milk, including milk products derived therefrom, which a handler has received as milk from producers.

(f) "Outside milk" means:

(1) All milk received from dairy farmers for other markets.

(2) All fluid milk products other than cream received at a regulated plant from an unregulated plant up to the total quantity of nonpool milk received at the unregulated plant, except exempt milk, receipts from New York order pool plants which are assigned to Class I pursuant to § 996.27, and receipts from Boston Lowell-Lawrence, and Worcester regulated plants.

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a regulated plant under the Worcester order without its intermediate movement to another plant.

(g) "Concentrated milk" means any unsterilized liquid milk product, other than those products commonly known as evaporated milk and sweetened condensed milk, which is obtained by the evaporation of water from milk, and milk to which any other milk product may be added in the process of manufacture. For purposes of this subpart the weight of the fluid milk products used to produce the concentrated milk shall be used rather than the actual weight of the concentrated milk.

(h) "Exempt milk" means bulk milk which is received at a plant for processing and bottling from another plant or from the dairy farmer who produced it, and for which an equivalent quantity of packaged milk is returned during the same month. This definition shall not include milk transferred between two pool plants.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend to the Secretary amendments to it.

§ 996.12 *Duties.* The market administrator, in addition to the duties described in other sections of this subpart, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 996.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(c) Keep such books and records as will clearly reflect the transactions provided for in this subpart and surrender the same to his successor, or to such other person as the Secretary may designate;

(d) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this subpart;

(e) Promptly verify the information contained in the reports submitted by handlers; and

(f) Give each of the producers delivering to a plant as reported by the handler prompt written notice of their actual or potential loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION OF MILK AND MILK PRODUCTS

§ 996.15 *Classes of utilization.* All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 996.16, 996.17 and 996.18, the classes of utilization shall be as follows:

(a) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all fluid milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as or in milk; and other than as or in concentrated milk for fluid consumption, flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(2) As plant shrinkage, not in excess of 2 percent of the volume handled.

§ 996.16 *Interplant movements of fluid milk products other than cream.* Fluid milk products, except cream, moved to another plant from a pool plant or from the city plant of an association of producers shall be classified as follows:

(a) If moved to another pool plant, they shall be classified in the class to which they are assigned at the plant of receipt pursuant to §§ 996.25 and 996.26.

(b) If moved to a buyer-handler's plant, they shall be classified as Class I milk, unless Class II utilization is established.

(c) If moved to a producer-handler's plant, or to any unregulated plant, except a plant subject to the New York, Boston, Lowell-Lawrence, or Worcester orders, they shall be classified as Class I milk up to the total quantity of the same form of fluid milk products utilized as Class I milk at the plant to which they were moved.

(d) If moved to a plant subject to the New York, Boston, Lowell-Lawrence, or Worcester orders, they shall be classified in the same class to which the receipt is assigned under such order, except that if moved to a plant subject to the New York order they shall be classified as Class I milk if classified in Classes I–A, I–B, or I–C under the New York order, and shall be classified as Class II milk if classified in any class other than I–A, I–B, or I–C under the New York order.

(e) If moved to a regulated plant of a nonpool handler, except the city plant of an association of producers, or to any unregulated plant except a plant subject to the New York, Boston, Lowell-Lawrence or Worcester orders, they shall be classified as Class I milk if retransferred to either of these types of regulated or unregulated plants.

§ 996.17 *Interplant movements of cream, and of milk products other than fluid milk products.* Cream and milk products other than fluid milk products moved from the regulated plant of a pool handler to another plant shall be classified as Class II milk.

§ 996.18 *Responsibility of handlers in establishing the classification of milk.* (a) In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove that such milk should not be classified as Class I milk.

(b) In establishing the classification of any pool milk received in the form of cream or milk products other than fluid milk products, or any nonpool milk or milk products received by a handler, the burden rests upon the receiving handler to account for such milk and milk products and to prove that such milk and milk products should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 996.20 *Basic requirements for pool plant status.* Each receiving plant shall be a pool plant during each month in which it meets the applicable requirements contained in §§ 996.21 and 996.22, together with the following basic requirements:

(a) A majority of the dairy farmers delivering milk to the plant hold certificates of registration issued pursuant to chapter 94, sections 16C and 16G of the Massachusetts General Laws.

(b) The handler operating the plant holds a license which has been issued by the milk inspector of a city or town in the marketing area, pursuant to chapter 94, section 40, of the Massachusetts General Laws, or a majority of the dairy farmers delivering milk to the plant are approved by such an inspector as sources of supply for sale in his municipality.

(c) The plant is operated neither as the plant of a producer-handler, nor as a pool plant, pursuant to the provisions of the Boston, Lowell-Lawrence, New York, or Worcester orders.

(d) Each of a handler's plants which is a nonpool receiving plant during any of the months of October through February shall not be a pool plant in any of the following months of March through September in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, unless its operation during October through February was in the handler's capacity as a producer-handler.

§ 996.21 *City pool plants.* Each city receiving plant shall be a pool plant in each month in which at least 10 percent of its total receipts of fluid milk products other than cream is disposed of in the marketing area as Class I milk, or in which it is operated by an association of producers. In determining whether a city plant has disposed of the required 10 percent of its receipts as Class I milk in the marketing area, the total quantity of fluid milk products, other than cream, moved from that plant to another city

plant which is a regulated plant shall be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from the other plant.

§ 996.22 *Country pool plants.* (a) Each country receiving plant shall be a pool plant in any month in which more than 50 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk directly to consumers in the marketing area or is shipped as milk to city plants at which more than 50 percent of the total receipts of fluid milk products, other than cream, is disposed of as Class I milk.

(b) Any country plant which is a pool plant continuously in each of the months from October through February shall be a pool plant continuously for the following months of March through September, regardless of the quantity then disposed of in the marketing area, if the handler's written request for pool plant status for such seven months' period is received by the market administrator before March 1 of that year. Changes in the identity of the handler operating the plant shall not affect the application of this paragraph.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 996.25 *Assignment of pool handlers' receipts to Class I milk.* For the purpose of computing the net quantity of each pool handler's Class I milk for which a value is to be computed pursuant to § 996.50, his receipts of milk and milk products shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk.

(b) Receipts from regulated plants under other Federal orders, which are assigned to Class I milk pursuant to § 996.27.

(c) Receipts of fluid milk products, other than cream and skim milk, from the regulated city plants of other handlers.

(d) Receipts of milk from producers at a handler's country plant equal to the volume of fluid milk products disposed of directly from the country plant as Class I milk outside the marketing area without being received at a city plant.

(e) Receipts of milk directly from producers at the handler's city plant.

(f) Receipts of outside milk at the handler's city plant.

(g) Receipts of fluid milk products, other than cream and skim milk, from the country pool plants of other handlers, in the order of the nearness of the plants to Springfield.

(h) Receipts of milk from producers at the handler's country plants not previously assigned pursuant to paragraph (d) of this section in the order of the nearness of the plants to Springfield.

(i) Receipts of outside milk at the handler's country plants, in the order of the nearness of the plants to Springfield.

(j) Receipts of skim milk from regulated city plants and then from regulated country plants.

(k) All other receipts or available quantities of fluid milk products, from whatever source derived.

§ 996.26 *Assignment of pool handlers' receipts to Class II milk.* Each pool handler's receipts of milk and milk products which are not assigned to Class I milk pursuant to § 996.25 shall be assigned to Class II milk.

§ 996.27 *Receipts from plants subject to the New York, Boston, Lowell-Lawrence of Worcester orders.* (a) Receipts of fluid milk products, from plants subject to the Boston order shall be assigned to the class in which they are classified under such order.

(b) Receipts of fluid milk products, other than cream, from plants subject to the New York order and which are classified in Classes I-A or I-B under such order shall be assigned to Class I.

(c) Receipts of fluid milk products, other than cream, from regulated plants under the Lowell-Lawrence or Worcester orders shall be assigned to Class I milk, unless the operators of the shipping plant and of the receiving plant file a joint written request to the market administrator for assignment to Class II milk of the fluid milk products so received. In such event, the fluid milk products shall be assigned to Class II milk up to the total Class II uses of fluid milk products other than cream at the receiving plant.

REPORTS OF HANDLERS

§ 996.30 *Monthly reports of pool handlers.* On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler assigned to classes pursuant to §§ 996.25 through 996.27.

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 996.15 through § 996.18.

§ 996.31 *Reports of nonpool handlers.* Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 996.32 *Reports regarding individual producers.* (a) Within 20 days after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 996.33 *Reports of payments to producers.* Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 996.34 *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 996.35 *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this subpart or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this subpart;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

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

give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

MINIMUM CLASS PRICES

§ 996.40 *Class I price at city plants.* The Class I price per hundredweight at city plants shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest reported figures available on the next succeeding workday shall be used.

(a) Divide by .98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(b) Divide by 3 the sum of the three latest monthly indexes of department store sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935-39 as the base period and divide the result so obtained by 1.26.

(c) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(1) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed, as reported by the United States Department of Agriculture, divide by 0.5044, and multiply by 0.6.

(2) Compute the simple average of monthly equivalent farm wage rates for each of the states named below by converting the rates reported by the United States Department of Agriculture to monthly equivalents as follows: rate per month with board, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and per day without board or room, 26. Next compute a weighted monthly wage rate by combining the average wage rates for the respective states with the weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly wage rate by .6394 and multiply by 0.4.

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to the preceding paragraphs of this section. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(e) Subject to the succeeding paragraphs of this section the Class I price per hundredweight at city plants shall be as shown in the following table:

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan.-Feb.-Mar.-July-Aug.-Sept.	Apr.-May-June	Oct.-Nov.-Dec.
50-56	$2.21	$1.77	$2.65
57-63	2.43	1.99	2.87
64-70	2.65	2.21	3.09
71-77	2.87	2.43	3.31
78-84	3.09	2.65	3.53
85-90	3.31	2.87	3.75
91-97	3.53	3.09	3.97
98-104	3.75	3.31	4.19
105-111	3.97	3.53	4.41
112-118	4.19	3.75	4.63
119-125	4.41	3.97	4.85
126-132	4.63	4.19	5.07
133-139	4.85	4.41	5.29
140-146	5.07	4.63	5.51
147-152	5.29	4.85	5.73
153-159	5.51	5.07	5.95
160-166	5.73	5.29	6.17
167-173	5.95	5.51	6.39
174-180	6.17	5.73	6.61
181-187	6.39	5.95	6.83
188-194	6.61	6.17	7.05

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(f) The Class I price shall be 44 cents more than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(g) The Class I price shall be 44 cents less than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(h) Notwithstanding provisions of the preceding paragraphs of this section, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

(i) The Class I price determined under the preceding paragraphs of this section shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201-210 miles, inclusive, as published in the New England Joint Tariff No. 6 and supplements thereto or revisions thereof. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

§ 996.41 *Class II price at city plants.* The Class II price per hundredweight at city plants shall be determined for each month pursuant to this section.

(a) Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month, multiply by .98, and multiply the result by 3.7. If the cream price described above is not reported as indicated an equivalent determined as follows shall be used in lieu of such cream price: Compute the simple average of the difference between the cream price reported for the latest three months and the average price for Grade A (92-score) butter at wholesale in the Chicago market as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption; in carlots, f. o. b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month.

Month:	Amount (cents)
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) The amount set forth in the table in paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacturing purposes, f. o. b. plants, United States, for the 12 months ending with the preceding month.

(2) Adjust the Class II prices under the Boston order for milk received at plants in the 201-210-mile zone for the preceding 12 months to the average butterfat tests for which the prices described in subparagraph (1) of this paragraph are reported by applying the butterfat differential pursuant to the Boston order

and compute a simple average of such adjusted prices.

(3) Determine the amount, computed to the nearest ½ cent, by which the average determined pursuant to (1) exceeds the average computed pursuant to subparagraph (2) of this paragraph: *Provided*, That this provision shall not be applicable for the first time until the plus amount determined hereby for the previous month exceeds 5 cents.

§ 996.42 *Country plant price differentials.* In the case of receipts at country plants, the prices determined pursuant to §§ 996.40 and 996.41 shall be subject to differentials based upon the zone location of the plant at which the Class I milk or Class II milk was received. The zone location of each plant shall be based on the distance ascertained by the market administrator as the shortest distance from the plant to the City Hall in Springfield, Massachusetts, over highways on which the highway departments of the governing States permit milk tank trucks to move or on the railway mileage distance to Springfield from the nearest railway shipping point for such plant, whichever is shorter. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to § 996.43.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A	B	C
Zone (miles)	Class I price differentials (cents per cwt.)	Class II price differentials (cents per cwt.)
Less than 40½	(1)	(1)
41-50	−41.5	−2.0
51-60	−42.5	−3.0
61-70	−43.0	−3.0
71-80	−44.5	−3.0
81-90	−45.0	−3.0
91-100	−45.5	−3.0
101-110	−45.5	−4.5
111-120	−47.0	−4.5
121-130	−47.0	−4.5
131-140	−48.0	−4.5
141-150	−50.5	−4.5
151-160	−52.0	−6.0
161-170	−52.0	−6.0
171-180	−54.5	−6.0
181-190	−54.5	−6.0
191-200	−56.0	−6.0
201-210	−56.0	−7.0
211-220	−60.0	−7.0
221-230	−60.5	−7.0
231-240	−61.5	−7.0
241-250	−61.5	−7.0
251-260	−62.5	−8.0
261-270	−63.0	−8.0
271-280	−63.5	−8.0
281-290	−64.5	−8.0
291 and over	−65.5	−8.0

[1] No differential.

§ 996.43 *Automatic changes in zone price differentials.* In case the rail tariff for the transportation of milk in 40-quart cans in carlots of 200 or more cans or for the transportation of cream in 40-quart cans in carlots of 100-199 cans, as published in New England Joint Tariff M No. 6 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in § 996.42 shall be correspondingly increased or decreased in the manner and to the extent provided in this section. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. If such rail tariff on milk is changed, the differentials set forth in Column B of the table shall be adjusted to the extent of any such change. If such rail tariff on cream is changed, the differentials set forth in Column C of the table shall be adjusted to the extent of any such change divided by 9.05. Adjustments shall be made to the nearest one-half cent per hundredweight.

§ 996.44 *Use of equivalent prices in formulas.* If for any reason a price, index, or wage rate specified by this order for use in computing class prices and for other purposes is not reported or published in the manner described by this order, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 996.45 *Announcement of class prices.* The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

MINIMUM BLENDED PRICES TO PRODUCERS

§ 996.50 *Computation of net value of milk used by each pool handler.* For each month, the market administrator shall compute the net value of milk which is sold, distributed, or used by each pool handler, in the following manner:

(a) From the handler's total Class I milk, subtract all receipts which have been assigned to Class I milk pursuant to § 996.25 (a), (b), (c), (g), and (j);

(b) From the handler's total Class II milk, subtract all receipts which have been assigned to Class II milk pursuant to § 996.26, except receipts of milk from producers;

(c) Multiply the remaining quantities of Class I milk and Class II milk by the prices applicable pursuant to §§ 996.40, 996.41 and 996.42.

(d) Add together the resulting value of each class;

(e) Add the total amount of the payment required from the pool handler pursuant to § 996.66; and

(f) Subtract the value obtained by multiplying the quantities assigned to Class I milk pursuant to § 996.25 (f), (i), and (k) by the price applicable pursuant to §§ 996.41 and 996.42.

§ 996.51 *Computation of the basic blended price.* The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk, computed pursuant to § 996.50 and payments required pursuant to §§ 996.65 and 996.66, for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 996.61 (b) and 996.65 and 996.66, for milk received during each month since the effective date of the most recent amendment to this subpart;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 996.61, 996.62, 996.65, 996.66 and 996.67;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 996.64;

(d) Divide by the total quantity of producer milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 996.61 and 996.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants shall be known as the basic blended price.

§ 996.52 *Announcement of blended prices.* On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the country plant price differentials pursuant to § 996.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this subpart.

PAYMENTS FOR MILK

§ 996.60 *Advance payments.* On or before the 10th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month. The provisions of this section shall not apply to any handler who, on or before the 17th day after the end of the month, makes final payment as required by § 996.61 (a).

§ 996.61 *Final payments.* Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 996.50 as follows:

(a) On or before the 25th day after the end of each month to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 996.63 and 996.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to, on or before the 23d day after the end of each month, or receiving from the market administrator, on or before the 25th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price ad-

justed by the plant and farm location differentials provided in § 996.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 996.50, as shown in a statement rendered by the market administrator on or before the 20th day after the end of such month.

§ 996.62 *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to §§ 996.61 (b), 996.65 or 996.66 the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is payable by the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 996.61 (a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 996.63 *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows:

Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, subtract 1.5 cents, and divide the result by 10.

If the cream price described above is not reported as indicated an equivalent determined as follows shall be used in lieu of such cream price:

Compute the simple average of the difference between the cream price reported for the latest three months and the average price for Grade A (92-score) butter at wholesale in the Chicago market as reported for the same months by the United States Department of Agriculture, times 1.22 and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22.

§ 996.64 *Location differentials.* The payments to be made to producers by handlers pursuant to § 996.61 (a) shall be subject to the Class I price differentials pursuant to § 996.42, and to further differentials as follows:

(a With respect to milk delivered by a producer whose farm is located in any of the following cities or towns, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered in which event there shall be added an amount which will give as a result such price: Massachusetts: Becket, Florida, Hinsdale, Otis, Peru, Sandisfield, Savoy, Washington, and Windsor. New Hampshire: Chesterfield, and Westmoreland. Vermont: Brattleboro, Dover, Dummarston, Marlboro, Newfane, Putney, and Wilmington.

(b) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, or Worcester Counties in Massachusetts or in any of the following cities or towns, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price: Connecticut: Ellington, Enfield, Granby, Somers, and Suffield. New Hampshire: Hinsdale and Winchester. Vermont: Guilford, Halifax, Readsboro, Vernon, and Whitingham.

§ 996.65 *Payments on outside milk.* Within 23 days after the end of each month handlers shall make payments to producers, through the market administrator, as follows:

(a) Each buyer-handler or producer-handler whose receipts of outside milk are in excess of his total use of Class II milk after deducting receipts of cream, shall make payment on such excess quantity at the difference between the Class I and Class II prices pursuant to §§ 996.40, 996.41, and 996.42 effective for the location or freight mileage zone of the plant at which the handler received the outside milk.

(b) Each handler who operates an unregulated plant from which outside milk is disposed of to consumers in the marketing area without intermediate movement to another plant shall make payment on the quantity so disposed of. The payment shall be at the difference between the Class I and Class II prices pursuant to §§ 996.40, 996.41, and 996.42, effective for the location or freight mileage zone of the handler's plant.

§ 996.66 *Payments on Class I receipts from other Federal order plants.* Within 23 days after the end of each month, each pool handler, buyer-handler, or producer-handler who received Class I milk from a New York, Boston, Lowell-Lawrence, or Worcester order regulated plant during the month shall make such payment to producers, through the market administrator, as results from the following computation:

(a) Adjust the price pursuant to §§ 996.40 and 996.42 effective for the location or freight mileage zone of the plant from which the Class I milk was received by the butterfat differential calculated pursuant to § 996.63.

(b) Adjust the zone Class I price applicable under the other Federal order (Class I-A or I-B in the case of a New York order plant) by the butterfat differential applicable under that order.

(c) If the adjusted Class I price calculated under paragraph (a) of this section exceeds the corresponding price calculated under paragraph (b) of this section, multiply the quantity of Class I receipts from the other Federal order plant by the difference in price.

§ 996.67 *Adjustment of overdue accounts.* Any balance due pursuant to §§ 996.61, 996.62, 996.65, and 996.66 to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent, effective the 11th day of such month.

§ 996.68 *Statements to producers.* In making the payments to producers prescribed by § 996.61 (a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 996.61 (a).

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 996.70 and 996.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 996.70 *Marketing service deduction; nonmembers of a Producers' Cooperative Association.* In making payments to producers pursuant to § 996.61 (a) each handler shall, with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 996.71, deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, and shall on or before the 25th day after the end of each month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

§ 996.71 *Marketing service deductions with respect to members of a Producers' Cooperative Association.* In the case of producers who are members of an association of producers which is actually performing the services set forth in

§ 996.70, each handler shall, in lieu of the deductions specified in § 996.70, make such deductions from payments made pursuant to § 996.61 (a) as may be authorized by such producers and pay, on or before the 25th day after the end of each month, such deduction to such associations.

ADMINISTRATION EXPENSE

§ 996.72 *Expense of administration.* Within 23 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this order, based on the handler's receipts of fluid milk products, other than cream, during the month. The payment shall be at the rate of 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on the handler's receipts of milk from producers, including receipts from his own production, receipts of exempt milk, and his receipts of outside milk, except receipts of outside milk from other Federal order plants; and at the rate by which the rate applicable to milk received from producers exceeds the rate of assessment applicable under the other Federal order, on his receipts from other Federal order plants.

OBLIGATIONS

§ 996.73 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatitves all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 996.80 *Effective time.* The provisions of this subpart, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 996.81.

§ 996.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This subpart shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

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

§ 996.83 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 996.84 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

Issued at Washington, D. C., this 13th day of July 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51-8323; Filed, July 19, 1951; 8:50 a. m.]

[7 CFR Part 999]

[Docket No. AO-204-A2]

HANDLING OF MILK IN WORCESTER, MASS., MARKETING AREA

RECOMMENDED DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Worcester, Massachusetts, on April 10, 1951, upon a proposed marketing agreement and proposed amendments to the order, as amended, regulating the handling of milk in the Worcester, Massachusetts, marketing area. Interested parties may file written exceptions to the recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

The material issues entered on the record of the hearing were whether:

(1) The marketing area should be extended or reduced.

(2) The definition for outside milk should be revised.

(3) The language of the order should be revised to provide for the same treatment of Lowell-Lawrence pool milk as is accorded Springfield pool milk received at a Worcester regulated plant.

(4) The provisions dealing with pool plant qualifications should be revised.

(5) The assignment provisions should be revised to provide for the assignment of out-of-area Class I sales made from a handlers' country plant to receipts of producer milk at such plant, to change the assignment sequence with reference to receipts on skim milk and to provide an assignment for milk not otherwise covered.

(6) Any changes made in the basis of determining the Class II price and the butterfat differential under the Boston order should be incorporated in the Worcester order.

(7) Required payments on outside milk should be eliminated under certain circumstances.

(8) A method for computing a composite wage index for use in the Class I formula should be provided.

(9) The operator of a milk plant should be made the responsible handler with respect to payment, reporting, and other obligations imposed by the order for all milk and milk products received at such plant.

(10) Producer milk under the Boston, Lowell-Lawrence, or Springfield orders diverted to a Worcester pool plant should be excluded as producer milk under the Worcester order.

(11) The definition of buyer-handler should be amended to require the disposition of more than 10 percent of such a handlers total receipts of fluid milk products other than cream as Class I milk in the marketing area.

(12) The requirement that milk moved by buyer-handlers to other plants be classified as Class I should be revised.

(13) There should be excluded from the current pool computation milk of any nonpool handler in noncompliance with reference to the payment or reporting provisions.

(14) Credits should be granted a handler for payments made to the Boston pool in the computation of such handlers' pool obligation.

(15) Certain other nonsubstantive changes should be made to delete obsolete language and to make the language of the Worcester order consistent with that of other market orders.

Findings and conclusions. From the evidence introduced at the hearing and the record thereof with respect to the aforementioned issues it is hereby found and concluded that:

1. The present limits of the marketing area should be revised to exclude the town of Northbridge, Massachusetts. The area as presently defined includes fourteen Massachusetts cities and towns which, except for the town of Northbridge, form a compact, concentrated distribution area served primarily by handlers who do the main portion of their business in the city of Worcester.

The town of Northbridge is primarily served by local producer-handlers doing the bulk of their business in a very small area. Historically there has been a very close association between local distributors and producers in the towns of Northbridge and Uxbridge which is not a part of the marketing area. Prior to the adoption of the Worcester order these local distributors customarily solved their supply and demand problems among themselves. The inclusion of Northbridge in the marketing area has served to disrupt these local relationships of long standing. Northbridge producer-distributors are no longer in a position to call on their neighbors in Uxbridge for supplemental supplies as needed unless they make the equalization payment as required on all outside milk disposed of as Class I. Accordingly, Uxbridge producer-dealers have lost their customary outlet for excess milk.

The present limits of the marketing area were established on the basis of information presented on the record of the promulgation hearing which information purported to show that Worcester handlers did a substantial business in the town of Northbridge. It now appears that certain Worcester handlers do have routes extending into Northbridge, but their distribution in the town represents only a very small portion of their total fluid distribution and only a minor part of the total fluid distribution of all handlers in Northbridge. Exclusion of the town as a part of the marketing area will not change the status of a single Worcester pool handler and accordingly will have little, if any, effect on producers delivering to such handlers.

The record fails to support the extension of the marketing area to include the towns of Marlboro and Northboro, Massachusetts.

2. The proposal to include as outside milk all receipts from New York order pool plants which are classified as other than I-A or I-B under the New York order should be adopted. Under the present provisions of the order receipts from New York order pool plants are specifically excluded from the outside milk definition and it is therefore possible for Worcester handlers to utilize New York Class I-C or Class III milk without being subject to the equalization payment on milk. The order presently prevents the replacement of local producer milk by New York Class I-C or Class III milk in the plant of a Worcester pool handler since it is specifically provided that such receipts shall be assigned to Class II. However, milk moving from a New York order pool plant to the nonpool plant of a Worcester producer-handler or a buyer-handler, located outside of the marketing area would be Class I-C under the New York order and would not be subject to the equalization payment to the Worcester pool. In order to maintain a Class I price on all milk disposed of in Worcester, New York milk classified as other than I-A or I-B under the New York order should be considered outside milk.

The outside milk definition should further be revised to except receipts from producer-handlers and buyer-handlers under the Boston, Lowell-Lawrence and Springfield orders. Such receipts, except the own farm production of producer-handlers, are now considered outside milk. Under the assignment provision receipts of outside milk are assigned after receipts from New York, Boston, and Worcester pool handlers, receipts from other Worcester handlers and direct producer receipts. Accordingly, buyer-handlers and producer-handlers from other New England Federal markets are at a disadvantage, as compared to pool handlers in such markets, in furnishing milk to Springfield handlers.

3. The present order provisions should be revised to provide the same treatment for milk moved from Lowell-Lawrence pool plants as is accorded milk moved from Springfield pool plants to a Worcester regulated plant. With a marketwide pool in Lowell-Lawrence the incentive to transfer excess milk from Lowell-Lawrence to Worcester has been reduced. The Lowell-Lawrence order provides that receipts of fluid milk products, other than cream, from regulated plants under the Springfield and Worcester orders be assigned to Class I unless Class II is agreed upon in writing to the market administrator and an equivalent disposition in Class II actually occurred at the receiving plant. The same type of reciprocal arrangement should be provided in the Worcester order so that the treatment of milk under the three secondary markets is consistent.

4. The provisions dealing with qualifications for pool plants should be amended to specifically exclude from pool plant status during the months of March through September any of a handler's plants which were nonpool receiving plants during any of the preceding months of October through February. Under the present order provisions it is possible that a handler's city plant located outside of the marketing area could be a nonpool plant during the months of October through February and then because of increased Class I disposition from such plant within the marketing area during the months of March through September qualify as a pool plant during such months. At the same time dairy farmers delivering to such plant would not qualify as producers since they would have delivered to a nonpool plant during the October-February period. Under such circumstances the handler would be under substantial obligation to the pool since he would be charged the use value of all of the milk in his plant and credited with payment for such milk at the Class II price. Such a situation could raise complications in the administration of the order and result in serious financial loss to the handler involved. As an unregulated plant the pool obligation would be limited to payment of the difference between the Class I and Class II price on only that volume of milk disposed of as Class I milk direct to consumers within the marketing area. The adoption of the proposed language protects unregulated dealers from unreasonable obligation to the pool while at the same time assuring producers reasonable protection from sales of unregulated milk and provides uniform treatment of such milk under both the Springfield and Lowell-Lawrence orders.

The proposal to amend the country pool plant qualification provisions to lower the percentage of total milk receipts required to be disposed of in the marketing area should not be adopted. The order presently provides that a country plant dispose of 50 percent of its total receipts of fluid milk products, other than cream, as Class I milk directly to consumers in the marketing area, or as milk to city plants under the Springfield or Worcester orders at which more than 50 percent of the total receipts of fluid milk products, other than cream, is disposed of as Class I milk. It was proposed that the shipping requirement be lowered from 50 percent to 30 percent. At the present time there is no country plant which relies on shipments to both Springfield and Worcester to qualify as a Worcester pool plant. Therefore, the opportunity to use shipments to Spring-

field to meet the qualifying percentage has little significance and should be deleted. There is no evidence that plants now acting or needed as reserve plants for the Worcester market cannot qualify under the present shipping requirement.

(5) The present assignment provisions of the order should be amended to provide for the assignment of out of area Class I sales made from a handler's country plant to receipts of producer milk at such plant and the sequence of assignment should be revised in other respects. Under the present order provisions a handler's Class I sales are assigned to producer receipts at his city plant ahead of the assignment of receipts at his country plant. It is possible under this procedure that a handler operating both a country and a city plant may have a portion of his milk disposed of from his country plant as out of area Class I sales charged to him at the country plant price and the balance of such sales charged at the city plant price. This situation would arise only when the volume of milk at the city plant exceeds the Class I demand for such milk. At such time the balance of the city plant supply, in excess of Class I requirements, plus the volume of producer receipts held at the country plant ordinarily would be utilized as Class II unless an out of area Class I market is found for such milk. The assignment of such sales from the country plant to receipts at such plant maintains the relationship between milk prices at the two plants as established by the order since the difference in price is based on the cost of movement to Worcester.

The present allocation provisions should be revised to provide for the assignment to Class I utilization of receipts of skim milk from all regulated plants after receipts of producer milk and outside milk at a handler's plant. Under the present assignment procedure receipts of skim milk from the regulated city plants of other handlers take precedence over producer receipts, receipts of outside milk, and receipts of milk from the country pool plants of other handlers. This assignment sequence creates confusion between handlers in the pricing of skim milk and necessitates numerous price adjustments, since skim milk is a Class II product and is usually transferred for Class II use. Changing this sequence in no way affects the total value of the pool but merely transfers the Class I accounting in the pool from one city plant handler to another.

It is possible that a handler may have milk in his plant from sources other than those specifically referred to in the present assignment provisions. This might take the form of unidentified milk, reconstituted milk, or milk in inventory. The inclusion of a catch-all assignment provision should be adopted to assure the assignment of all milk and milk products in the handler's plant.

The assignment of fluid milk products, other than cream, received from a Springfield pool plant should be allowed on an agreement basis between the Worcester and Springfield handlers without regard to outside milk receipts. The present provisions provide that assignment by agreement to Class II be limited to that remaining Class II utilization in the Worcester handler's plant after deduction of its receipts of outside milk. Permitting the assignment as Class II, up to the total volume of Class II use in the Worcester plant, will allow the two handlers involved to determine by agreement which producers will get credit for the Class I sales and will not affect the over-all costs of the milk involved. Since producers supplying both markets are located in the same general supply area, the producers are in position to shift from one market to the other if handlers were to agree upon a utilization which would maintain one market price to producers substantially higher than the other.

(6) The proposal to make such changes in the Class II pricing provisions as are necessary to maintain the present relationship to the Boston Class II price should be adopted. The present basis of Class II pricing was established so that the Worcester Class II price would move with the price of milk for similar use in the Boston market. For the same reasons that the present relationship was established, it is essential that any changes made in the Boston Class II pricing be reflected in the Worcester Class II pricing. Similarly, the method of determining the butterfat differential in the Worcester market has been the same as that used in other Federal orders effective in the New England region. Accordingly, in the computation of the butterfat differential the weight of a can of 40 percent cream should be considered 33 pounds, rather than the 33.48 pounds presently used.

Certain producer interests proposed that in the computation of the butterfat differential the 1.5 cents factor be deleted. They contend that the factor represents a freight adjustment and since in the Worcester market the bulk of the milk is received at the city plants, no allowance is justified. The evidence in the record on this point is not conclusive. Accordingly, no further change can be considered on the basis of this record.

(7) No change should be made in the present order provisions with reference to the equalization payments required on outside milk. Proponents asked that the order be amended to provide that the outside milk payment be invalidated during any period in which an emergency is declared under the Boston order. In this connection it does not necessarily follow that an emergency will exist in the secondary markets at any time that there is an emergency in the Boston market. If a provision of the nature proposed were desirable, it should take the form of an independent determination with specific reference to the Worcester market.

(8) The order should provide for the computation of a composite wage rate index which would be similar to the farm-wage rate index which has been utilized in the calculation of the Class I formula price since the adoption of that formula April 1, 1948. The United States Department of Agriculture is no longer collecting information from which the monthly composite wage rates were computed and that series has been discontinued. Therefore, it is necessary to compute an equivalent composite farm wage rate. Farm wage rates are recorded quarterly by the United States Department of Agriculture as rates per month with board and room, per month with house, per week with board and room, per week without room or board, and per day without board or room. These rates should be expressed as a simple average monthly composite rate by converting the weekly rates to a monthly equivalent by multiplying by 4.33 weeks and by converting the daily rate to a monthly basis by using 26 working days per month. The simple average monthly composite farm wage rates for each of the four states used in the Class I formula should be combined according to the rate expressed in the order. In order to express the rate as an index on the same basis as that used in converting the previously published monthly composite farm wage rate to an index number for computation of the formula price, it is necessary to divide the milkshed average composite wage rate figure by 0.6394. This factor is determined from the average relationship of the milkshed average wage rate figure derived from the currently published data to this series which was previously published and used in the computation of the formula price.

(9) The proposal to amend the order to provide that the operator of a milk plant be the responsible handler with respect to payment, reporting, and other obligations under the order for all milk and milk products received at such plant should be adopted. The operator of a plant is the only person who can reasonably be held responsible for the weighing and testing of producers' milk. He has control of the receiving function and logically should be responsible for maintaining proper records of such receipts and for proving the utilization thereof. Since payments to producers are made on the basis of weights and tests of the receiving plant, as verified by the market administrator, the operator of such plant should be held responsible for paying producers and for other obligations imposed by the order upon a handler. Milk temporarily diverted from the pool plant of a handler for the account of such handler should be considered as having been received at the pool plant since producers of such milk would ordinarily be regular suppliers of the market and as such should be assured the market blend price for their milk. However, in accounting for such milk the records of the handler actually receiving the milk would be relied upon to prove receipts and tests even though the handler who diverted such milk to a nonpool plant would be responsible for making such records available.

It was proposed that bulk milk of dairy farmers which is received at a pool plant for processing and for which an equivalent volume of milk is returned to the dairy farmer be considered exempt milk. There was no objection to the exemption of such milk from the market pool. The number of persons and the quantity of milk involved in this type of transaction is small and apparently does not adversely affect the stability of the market. It is concluded,

therefore, that such milk of a dairy farmer which is delivered to a pool handler for processing and for which an equivalent volume of bottled milk is returned should be considered exempt milk and not included in the pool. In cases where the volume of milk received from a dairy farmer is in excess of the volume of bottled milk returned, such excess milk disposed of to the pool handler should be considered as producer milk.

Under the present order provisions a handler under certain conditions is permitted to process and bottle milk for another handler without regarding such milk as outside milk or involving the other handler in the market pool because of the processing transaction. This principle should be continued as it applies to handlers or dealers who operate plant facilities and actually receive at such plant the milk which is transferred to the plant of a handler for processing and bottling and for which an equivalent volume of milk is actually returned.

The verification of the receipts and disposition necessary to substantiate the exempt status of such milk involve the same type of audit of handlers' records as in the case of producer milk, and it is therefore concluded that such milk should be subject to the administration assessment and bear its proportionate share of administrative costs.

(10) The proposal to amend the producer definition to provide that a dairy farmer who is a producer under the Boston, Lowell-Lawrence, or Springfield orders shall not be a producer under the Worcester order with regard to any of his Boston, Lowell-Lawrence, or Springfield pool milk diverted to a Worcester pool plant should be adopted. Under the present order provisions such diversions could result in a dairy farmer being considered a producer both at the plant from which his milk is diverted and at the Worcester pool plant. Such a situation could involve unreasonable financial costs to the handler if he were required to pool the milk under both pools. The adoption of the proposal will facilitate the disposition of surplus milk by enabling more efficient handling in movements between markets and at the same time provide Worcester producers the same protection they enjoy under the present order provisions.

(11) The proposal to amend the definition of a buyer-handler to require the disposition of more than 10 percent of the total receipts of fluid milk products, other than cream, as Class I milk in the marketing area should be adopted. Handlers who have only a casual association with the market, that is do less than 10 percent of their Class I business in the marketing area, should not acquire buyer-handler status. A buyer-handler, as a regulated handler, must have sufficient pool milk to cover all of his Class I sales, both within and without the marketing area, or pay the outside milk payment on whatever Class I utilization is in excess of his supply of pool milk. An unregulated handler, on the other hand, need have pool milk to cover, or pay the outside milk payment on, only that volume of Class I milk disposed of within the marketing area.

Under this provision all sales by a pool handler to an individual doing less than 10 percent of his Class I business in the area will be Class I up to the extent of such use by such unregulated handler.

The order presently provides that any city plant meeting the basic qualifications for pooling shall be a pool plant in only those months in which at least 10 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk in the marketing area. Since different treatment is prescribed for pool and nonpool handlers, it is essential that a handler be in a position to determine readily his status as a pool handler. In this connection the final classification of milk transferred between handlers is dependent on the actual utilization and source of all receipts in the transferee plant. Accordingly, in order to simplify the determination of a handler's pool status it should be provided that for such purpose the transfers of fluid milk products, other than cream, to a regulated city plant be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from such other plant.

12. The proposal to revise the present order provisions which provide that milk moved by buyer-handlers to other plants be classified as Class I should not be adopted. Buyer-handlers get no milk direct from producers but purchase all of their requirements for fluid products from other handlers. Accordingly, they are in a position to maintain a day-to-day balance between their requirements and procurement. The present order provisions do not limit purchases for Class II use in the buyer-handler's plant but merely require that any transfer of milk to a third plant be Class I. Class II milk is defined and priced for the purpose of removing necessary excesses from the market. It appears that buyer-handlers do not need to purchase Class II milk in excess of their own use. To encourage a buyer-handler to buy long and permit free transfer to nonpool plants for Class II use could adversely affect producers by resulting in a lower classification for such milk than might otherwise be available through other outlets.

13. The proposal to exclude from each current pool computation milk of any nonpool handler who is not in compliance with the reporting and payment provisions for any prior month should be adopted. The order presently has such a provision with reference to a pool handler in noncompliance. However, under the present order provision a nonpool handler in violation, because of nonreporting or nonpayment of assessments due, continues to be carried in the current pool computations. Under such arrangement it is possible that such indebtedness to the pool could actually reach the point of threatening the solvency of the pool. Exclusion of the milk of such nonpool handlers from the current pool computation assures the solvency of the settlement fund and at the same time does not relieve such nonpool handler of any of his obligations or responsibilities under the order.

14. The proposal to amend the provisions dealing with the computation of the value of milk utilized by a handler to credit any amount that such handler is required to pay to the Boston pool for milk disposed of in the Boston marketing arm should not be adopted. This proposal was made on the premise that the Boston marketing area would be expanded to include specified military installations. Since the proposed expansion of the Boston marketing area has not been recommended this proposal should not be considered further.

15. The other proposals considered at the hearing involves nonsubstantive changes which would merely delete obsolete language or clarify the language of the present provisions. There was no opposition testimony and it is accordingly concluded that they should be adopted.

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

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

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) 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 such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of interested parties. Every point covered in the briefs was carefully considered, along with the evidence in the record in making the findings and reaching the conclusions hereinafter set forth. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and order. The following proposed amended order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed amendments to the marketing agreement are not included because the regulatory provisions thereof would be the same as those contained in the proposed amendments to the order.

DEFINITIONS

§ 999.1 *General definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Worcester, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns: Auburn, Boylston, Clinton, Grafton, Holden, Leicester, Millbury, Paxton, Rutland, Shrewsbury, Spencer, West Boylston, Worcester.

(c) "Order", used with the name of a marketing area other than the Worcester, Massachusetts, marketing area, means the order issued by the Secretary regulating the handling of milk in the other marketing area.

(d) "Month" means a calendar month.

§ 999.2 *Definitions of persons.* (a) "Person" means any individual, partnership, corporation, association, or any other business unit.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who delivers bulk milk of his own production to a plant.

(d) "Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during the months of March through September from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received nonpool milk on more than 3 days in any one of the preceding months of October through February, except that the term shall not include any person who was a producer-handler during any of the preceding months of October through February.

(e) "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, except a dairy farmer for other markets and a dairy farmer with respect to exempt milk delivered. The term shall also include a dairy farmer who ordinarily delivers to a handler's pool plant, but whose milk is diverted to another plant, if the handler, in filing his monthly report pursuant to § 999.30, reports the milk as receipts from a producer at such pool plant and as moved to the other plant.

The term shall not apply to a dairy farmer who is a producer under the Boston, Lowell-Lawrence, or Springfield orders, with respect to milk diverted from the plant subject to the other order to which the dairy farmer ordinarily delivers.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Handler" means any person who operates a pool plant, or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area during the month.

(h) "Pool handler" means any handler who operates a pool plant.

(i) "Producer-handler" means any person who is both a handler and a dairy farmer, and who receives no milk other than exempt milk from other dairy farmers except producer-handlers.

(j) "Buyer-handler" means any handler who operates a bottling or processing plant from which more than 10 percent of his total receipts of fluid milk products, other than cream, are disposed of by him as Class I milk in the marketing area, and whose entire supply of fluid milk products is received from other handlers.

(k) "Dealer" means any person who operates a plant at which he engages in the business of distributing fluid milk products, or manufacturing milk products, whether or not he disposes of any fluid milk products in the marketing area.

(l) "Consumer" means any person to whom fluid milk products are disposed of, except a dealer. The term "consumer" includes, but is not limited to, stores, restaurants, hotels, bakeries, hospitals and other institutions, candy manufacturers, soup manufacturers, livestock farmers, and similar persons who are not necessarily the ultimate users. The term also includes any dealer in his capacity as the operator of any of these establishments, and in connection with any other use or disposition of fluid milk products not directly related to his operations as a dealer.

§ 999.3 *Definitions of plants* (a) "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products.

(b) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(c) "Pool plant" means any receiving plant which, in a given month, meets the conditions and requirements set forth in §§ 999.20, 999.21, and 999.22 for being considered a pool plant in that month.

(d) "Regulated plant" means any pool plant; any pool handler's plant which is located in the marketing area and from which Class I milk is disposed of in the marketing area; any plant operated by a handler in his capacity as a buyer-handler or producer-handler; and any city plant operated by an association of producers.

(e) "City plant" means any plant which is located within 10 miles of the marketing area.

(f) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

§ 999.4 *Definitions of milk and milk products.* (a) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(b) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing or is separated from it by centrifugal force, in all forms including sweet, sour, frozen, and aerated cream, and milk and cream mixtures.

(c) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(d) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(e) "Pool milk" means milk, including milk products derived therefrom, which a handler has received as milk from producers.

(f) "Outside milk" means:

(1) All milk received from dairy farmers for other markets.

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant up to the total quantity of nonpool milk received at the unregulated plant, except exempt milk, receipts from New York order pool plants which are assigned to Class I pursuant to § 999.27, and receipts from Boston, Lowell-Lawrence, and Springfield regulated plants.

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a Boston or Springfield pool plant without its intermediate movement to another plant.

(g) "Concentrated milk" means any unsterilized liquid milk product, other than those products commonly known as evaporated milk and sweetened condensed milk, which is obtained by the evaporation of water from milk, and milk to which any other milk product may be added in the process of manufacture. For purposes of this subpart the weight of the fluid milk products used to produce the concentrated milk shall be used rather than the actual weight of the concentrated milk.

(h) "Exempt milk" means bulk milk which is received at a plant for processing and bottling directly from another plant, or from the dairy farmer who produced it, and for which an equivalent quantity of packaged milk is returned during the same month. This definition shall not include milk transferred between two pool plants.

MARKET ADMINISTRATOR

§ 999.10 *Designation.* The agency for the administration of this subpart shall be a market administrator who shall be

a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

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

(a) To administer its terms and provisions;

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

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend to the Secretary amendments to it.

§ 999.12 *Duties.* The market administrator, in addition to the duties described in other sections of this subpart, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 999.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(c) Keep such books and records as will clearly reflect the transactions provided for in this order and surrender the same to his successor, or to such other person as the Secretary may designate;

(d) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this order;

(e) Promptly verify the information contained in the reports submitted by handlers; and

(f) Give each of the producers delivering to a plant as reported by the handler prompt written notice of their actual or potential loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION OF MILK AND MILK PRODUCTS

§ 999.15 *Classes of utilization.* All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 999.16, 999.17, and 999.18, the classes of utilization shall be as follows:

(a) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all fluid milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as or in milk; and other than as or in concentrated milk for fluid consumption, flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(2) As plant shrinkage, not in excess of 2 percent of the volume handled.

§ 999.16 *Interplant movements of fluid milk products other than cream.* Fluid milk products, except cream, moved to another plant from a pool plant or from the city plant of an association of producers shall be classified as follows:

(a) If moved to another pool plant, they shall be classified in the class to which they are assigned at the plant of receipt pursuant to §§ 999.25 and 999.26.

(b) If moved to a buyer-handler's plant, they shall be classified as Class I milk, unless Class II utilization is established.

(c) If moved to a producer-handler's plant, or to any unregulated plant, except a plant subject to the New York, Boston, Lowell-Lawrence, or Springfield orders, they shall be classified as Class I milk up to the total quantity of the same form of fluid milk products utilized as Class I milk at the plant to which they were moved.

(d) If moved to a plant subject to the New York, Boston, Lowell-Lawrence, or Springfield orders, they shall be classified in the same class to which the receipt is assigned under such order, except that if moved to a plant subject to the New York order they shall be classsified as Class I milk if classified in Classes I-A, I-B, or I-C under the New York order, and shall be classified as Class II milk if classified in any class other than I-A, I-B, or I-C under the New York order.

(e) If moved to a regulated plant of a nonpool handler, except the city plant of an association of producers, or to any unregulated plant except a plant subject to the New York, Boston, Lowell-Lawrence, or Springfield orders, they shall be classified as Class I milk if retransferred to either of these types of regulated or unregulated plants.

§ 999.17 *Interplant movements of cream, and of milk products other than fluid milk products.* Cream and milk products other than fluid milk products moved from the regulated plant of a pool handler to another plant shall be classified as Class II milk.

§ 999.18 *Responsibility of handlers in establishing the classification of milk.* (a) In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove that such milk should not be classified as Class I milk.

(b) In establishing the classification of any pool milk received in the form of cream or milk products other than fluid milk products, or any nonpool milk or milk products received by a handler, the burden rests upon the receiving handler to account for such milk and milk products and to prove that such milk and milk products should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 999.20 *Basic requirements for pool plant status.* Each receiving plant shall be a pool plant during each month in which it meets the applicable requirements contained in §§ 999.21 or 999.22, together with the following basic requirements:

(a) A majority of the dairy farmers delivering milk to the plant hold certificates of registration issued pursuant to Chapter 94, Sections 16C and 16G, of the Massachusetts General Laws.

(b) The handler operating the plant holds a license which has been issued by the milk inspector of a city or town in the marketing area, pursuant to Chapter 94, Section 40, of the Massachusetts General Laws, or a majority of the dairy farmers delivering milk to the plant are approved by such an inspector as sources of supply for sale in his municipality.

(c) The plant is operated neither as the plant of a producer-handler nor as a pool plant pursuant to the provisions of the Boston, Lowell-Lawrence, New York or Springfield orders.

(d) Each of a handler's plants which is a nonpool receiving plant during any of the months of October through February shall not be a pool plant in any of the following months of March through September in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, unless its operation during October through February was in the handler's capacity as a producer-handler.

§ 999.21 *City pool plants.* Each city receiving plant shall be a pool plant in each month in which at least 10 percent of its total receipts of fluid milk products other than cream is disposed of in the marketing area as Class I milk, or in which it is operated by an association of producers. In determining whether a city plant has disposed of the required 10 percent of its receipts as Class I milk in the marketing area, the total quantity of fluid milk products, other than cream, moved from that plant to another city plant which is a regulated plant shall be considered as a disposition of Class I milk in the marketing area up to the quantity of Class I milk disposed of in the marketing area from the other plant.

§ 999.22 *Country pool plants.* (a) Each country receiving plant shall be a pool plant in any month in which more than 50 percent of its total receipts of fluid milk products, other than cream, is disposed of as Class I milk directly to consumers in the marketing area or is shipped as milk to city plants at which more than 50 percent of the total receipts of fluid milk products, other than cream, is disposed of as Class I milk.

(b) Any country plant which is a pool plant continuously in each of the months from October through February shall be a pool plant continuously for the following months of March through September, regardless of the quantity then disposed of in the marketing area, if the handler's written request for pool plant status for such seven months' period is received by the market administrator before March 1 of that year. Changes in the identity of the handler operating the plant shall not affect the application of this paragraph.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 999.25 *Assignment of pool handlers' receipts to Class I milk.* For the purpose of computing the net quantity of each pool handler's Class I milk for which a value is to be computed pursuant to § 999.50, his receipts of milk and milk

products shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk.

(b) Receipts from regulated plants under other Federal orders, which are assigned to Class I milk pursuant to § 999.27.

(c) Receipts of fluid milk products, other than cream and skim milk, from the regulated city plants of other handlers.

(d) Receipts of milk from producers at a handler's country plant equal to the volume of fluid milk products disposed of directly from the country plant as Class I milk outside the marketing area without being received at a city plant.

(e) Receipts of milk directly from producers at the handler's city plant.

(f) Receipts of outside milk at the handler's city plant.

(g) Receipts of fluid milk products, other than cream and skim milk, from the country pool plants of other handlers, in the order of the nearness of the plants to Worcester.

(h) Receipts of milk from producers at the handler's country plants not previously assigned pursuant to paragraph (d) of this section, in the order of the nearness of the plants to Worcester.

(i) Receipts of outside milk at the handler's country plants, in the order of the nearness of the plants to Worcester.

(j) Receipts of skim milk from regulated city plants and then from regulated country plants.

(k) All other receipts or available quantities of fluid milk products, from whatever source derived.

§ 999.26 *Assignment of pool handlers' receipts to Class II milk.* Each pool handler's receipts of milk and milk products which are not assigned to Class I milk pursuant to § 999.25 shall be assigned to Class II milk.

§ 999.27 *Receipts from plants subject to the New York, Boston, Lowell-Lawrence, or Springfield orders.* (a) Receipts of fluid milk products from plants subject to the Boston order shall be assigned to the class in which they are classified under such order.

(b) Receipts of fluid milk products, other than cream, from plants subject to the New York order and which are classified in Classes I-A or I-B under such order shall be assigned to Class I.

(c) Receipts of fluid milk products, other than cream, from regulated plants under the Lowell-Lawrence or Springfield orders shall be assigned to Class I milk, unless the operators of the shipping plant and of the receiving plant file a joint written request to the market administrator for assignment to Class II milk of the fluid milk products so received. In such event, the fluid milk products shall be assigned to Class II milk up to the total Class II uses of fluid milk products, other than cream, at the receiving plant.

REPORTS OF HANDLERS

§ 999.30 *Monthly reports of pool handlers.* On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler assigned to classes pursuant to §§ 999.25 through 999.27;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 999.15 through 999.18.

§ 999.31 *Reports of nonpool handlers.* Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 999.32 *Reports regarding individual producers.* (a) Within 20 days after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 999.33 *Reports of payments to producers.* Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 999.34 *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 999.35 *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this subpart or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this subpart;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 999.36 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under Section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

MINIMUM CLASS PRICES

§ 999.40 *Class I price at city plants.* The Class I price per hundredweight at city plants shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest reported figures available on the next succeeding workday shall be used.

(a) Divide by .98 the monthly wholesale price index for all commodities as reported by the Buerau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(b) Divide by 3 the sum of the three latest monthly indexes of department store sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935-39 as the base period and divide the result so obtained by 1.26.

(c) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(1) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the

Boston milkshed, as reported by the United States Department of Agriculture, divide by 0.5044, and multiply by 0.6.

(2) Compute the simple average of monthly equivalent farm wage rates for each of the States named below by converting the rates reported by the United States Department of Agriculture to monthly equivalents as follows: rate per month with board, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and rate per day without board or room, 26. Next compute a weighted monthly wage rate by combining the average wage rates for the respective States with the weights: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77. Divide the weighted average monthly wage rate by .6394 and multiply by 0.4.

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to the preceding paragraphs of this section. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(e) Subject to the succeeding paragraphs of this section the Class I price per hundredweight at city plants shall be as shown in the following table:

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan.-Feb.-Mar.-July-Aug.-Sept.	Apr.-May-June	Oct.-Nov.-Dec.
50-56	$2.21	$1.77	$2.65
57-63	2.43	1.99	2.87
64-70	2.65	2.21	3.09
71-77	2.87	2.43	3.31
78-84	3.09	2.65	3.53
85-90	3.31	2.87	3.75
91-97	3.53	3.09	3.97
98-104	3.75	3.31	4.19
105-111	3.97	3.53	4.41
112-118	4.19	3.75	4.63
119-125	4.41	3.97	4.85
126-132	4.63	4.19	5.07
133-139	4.85	4.41	5.29
140-146	5.07	4.63	5.51
147-152	5.29	4.85	5.73
153-159	5.51	5.07	5.95
160-166	5.73	5.29	6.17
167-173	5.95	5.51	6.39
174-180	6.17	5.73	6.61
181-187	6.39	5.95	6.83
188-194	6.61	6.17	7.05

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(f) The Class I price shall be 44 cents more than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(g) The Class I price shall be 44 cents less than the price prescribed in paragraph (e) of this section if, under the provisions of the Boston order, more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this paragraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(h) Notwithstanding provisions of the preceding paragraphs of this section, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

(i) The Class I price determined under the preceding paragraphs of this section shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201–210 miles, inclusive, as published in the New England Joint Tariff M No. 6 and supplements thereto or revisions thereof. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

§ 999.41 *Class II price at city plants.* The Class II price per hundredweight at city plants shall be determined for each month pursuant to this section:

(a) Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month, multiply by 0.98, and multiply the result by 3.7. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price:

Compute the simple average of the difference between the cream price reported for the latest three months and the average price for Grade A (92-score) butter at wholesale in the Chicago market as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above multiplied by 33 and 1.22 for the current pricing month.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk solids for human consumption, in carlots, f. o. b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) The amount set forth in the table in paragraph (c) of this section shall be reduced by any plus amount determined as follows:

(1) Compute the simple average of the prices reported by the United States Department of Agriculture for milk for manufacting purposes, f. o. b. plants, United States, for the 12 months ending with the preceding month.

(2) Adjust the Class II prices under the Boston order for milk received at plants in the 201–210-mile zone for the preceding 12 months to the average butterfat tests for which the prices described in subparagraph (1) of this paragraph are reported by applying the butterfat differential pursuant to the Boston order and compute a simple average of such adjusted prices.

(3) Determine the amount, computed to the nearest one-half cent, by which the average determined pursuant to subparagraph (1) of this paragraph exceeds the average computed pursuant to subparagraph (2) of this paragraph: *Provided*, That this provision shall not be applicable for the first time until the plus amount determined hereby for the previous month exceeds 5 cents.

§ 999.42 *Country plant price differentials.* In the case of receipts at country plants, the prices determined pursuant to §§ 999.40 and 999.41 shall be subject to differentials based upon the zone location of the plant at which the Class I milk or Class II milk was received. The zone location of each plant shall be based on the distance ascertained by the market administrator as the shortest distance from the plant to the City Hall in Worcester, Massachusetts, over highways on which the highway departments of the governing States permit milk tank trucks to move, or on the railway mileage distance to Worcester from the nearest railway shipping point for such plant, whichever is shorter. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to § 999.43.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A Zone (miles)	B Class I price differentials (cents per cwt.)	C Class II price differentials (cents per cwt.)
Less than 40½	(1)	(1)
41-50	−41.5	−2.0
51-60	−42.5	−3.0
61-70	−43.0	−3.0
71-80	−44.5	−3.0
81-90	−45.0	−3.0
91-100	−45.5	−3.0
101-110	−45.5	−4.5
111-120	−47.0	−4.5
121-130	−47.0	−4.5
131-140	−48.0	−4.5
141-150	−50.5	−4.5
151-160	−52.0	−6.0
161-170	−52.0	−6.0
171-180	−54.5	−6.0
181-190	−54.5	−6.0
191-200	−56.0	−6.0
201-210	−56.0	−7.0
211-220	−60.0	−7.0
221-230	−60.5	−7.0
231-240	−61.5	−7.0
241-250	−61.5	−7.0
251-260	−62.5	−8.0
261-270	−63.0	−8.0
271-280	−63.5	−8.0
281-290	−64.5	−8.0
291 and over	−65.5	−8.0

[1] No differential.

§ 999.43 *Automatic changes in zone price differentials.* In case the rail tariff for the transportation of milk in 40-quart cans in carlots of 200 or more cans or for the transportation of cream in 40-quart cans in carlots of 100-199 cans, as published in New England Joint Tariff M No. 6 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in § 999.42 shall be correspondingly increased or decreased in the manner and to the extent provided in this section. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. If such rail tariff on milk is changed, the differentials set forth in Column B of the table shall be adjusted to the extent of any such change. If such rail tariff on cream is changed, the differentials set forth in Column C of the table shall be adjusted to the extent of any such change divided by 9.05. Adjustments shall be made to the nearest one-half cent per hundredweight.

§ 999.44 *Use of equivalent prices in formulas.* If for any reason a price, index, or wage rate specified by this subpart for use in computing class prices and for other purposes is not reported or published in the manner described by this subpart, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 999.45 *Announcement of class prices.* The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding workday.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

MINIMUM BLENDED PRICES TO PRODUCERS

§ 999.50 *Computation of net value of milk used by each pool handler.* For each month, the market administrator shall compute the net value of milk which is sold, distributed, or used by each pool handler, in the following manner:

(a) From the handler's total Class I milk, subtract all receipts which have been assigned to Class I milk pursuant to § 999.25 (a), (b), (c), (g), and (j);

(b) From the handler's total Class II milk, subtract all receipts which have been assigned to Class II milk pursuant to § 999.26, except receipts of milk from producers;

(c) Multiply the remaining quantities of Class I milk and Class II milk by the prices applicable pursuant to §§ 999.40, 999.41, and 999.42.

(d) Add together the resulting value of each class;

(e) Add the total amount of the payment required from the pool handler pursuant to § 999.66; and

(f) Subtract the value obtained by multiplying the quantities assigned to Class I milk pursuant to § 999.25 (f), (i), and (k) by the price applicable pursuant to §§ 999.41 and 999.42.

§ 999.51 *Computation of the basic blended price.* The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk, computed pursuant to § 999.50 and payments required pursuant to §§ 999.65 and 999.66 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to § 999.61 (b) and §§ 999.65 and 999.66 for milk received during each month since the effective date of the most recent amendment to this subpart.

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 999.61, 999.62, 999.65, 999.66, and 999.67.

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 999.64;

(d) Divide by the total quantity of producer milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in § 999.61 and 999.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants, shall be known as the basic blended price.

§ 999.52 *Announcement of blended prices.* On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the country plant price differentials pursuant to § 999.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this subpart.

PAYMENTS FOR MILK

§ 999.60 *Advance payments.* On or before the 10th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month. The provisions of this section shall not apply to any handler who, on or before the 17th day after the end of the month, makes final payment as required by § 999.61 (a).

§ 999.61 *Final payments.* Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 999.50 as follows:

(a) On or before the 25th day after the end of each month to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 999.63 and 999.64 for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to, on or before the 23d day after the end of each month, or receiving from the market administrator, on or before the 25th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 999.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 999.50, as shown in a statement rendered by the market administrator on or before the 20th day after the end of such month.

§ 999.62 *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments pursuant to §§ 999.61 (b), 999.65, or 999.66, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is payable by the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 999.61 (a), the handler shall make up such payment to the producer not later than the time of

making final payment for the month in which such error is disclosed.

§ 999.63 *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: Divide by 33 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, subtract 1.5 cents, and divide the result by 10. If the cream price described above is not reported as indicated, an equivalent determined as follows shall be used in lieu of such cream price:

Compute the simple average of the difference between the cream price reported for the latest three months and the average price for Grade A (92-score) butter at wholesale in the Chicago market as reported for the same months by the United States Department of Agriculture, times 1.22, and times 33. Then add to this amount the average of the butter prices described above, for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, multiplied by 33 and 1.22.

§ 999.64 *Location differentials.* The payments to be made to producers by handlers pursuant to paragraph (a) of § 999.61 shall be subject to the Class I price differentials applicable pursuant to § 999.42 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, Worcester, Middlesex, or Norfolk Counties in Massachusetts, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 999.40 and 999.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

§ 999.65 *Payments on outside milk.* Within 23 days after the end of each month handlers shall make payments to producers, through the market administrator, as follows:

(a) Each buyer-handler or producer-handler whose receipts of outside milk are in excess of his total use of Class II milk after deducting receipts of cream shall make payment on such excess quantity at the difference between the Class I and Class II prices pursuant to §§ 999.40, 999.41, and 999.42 effective for the location or freight mileage zone of the plant at which the handler received the outside milk.

(b) Each handler who operates an unregulated plant from which outside milk is disposed of to consumers in the marketing area without intermediate movement to another plant shall make payment on the quantity so disposed of. The payment shall be at the difference between the Class I and Class II prices pursuant to §§ 999.40, 999.41, and 999.42 effective for the location or freight mileage zone of the handler's plant.

§ 999.66 *Payments on Class I receipts from other Federal order plants.* Within 23 days after the end of each month, each pool handler, buyer-handler, or producer-handler who received Class I milk from a New York, Boston, Lowell-Lawrence, or Springfield order regulated plant during the month shall make such payment to producers, through the market administrator, as results from the following computation:

(a) Adjust the price pursuant to §§ 999.40 and 999.42 effective for the location or freight mileage zone of the plant from which the Class I milk was received by the butterfat differential calculated pursuant to § 999.63.

(b) Adjust the zone Class I price applicable under the other Federal order (Class I-A or I-B in the case of a New York order plant) by the butterfat differential applicable under that order.

(c) If the adjusted Class I price calculated under paragraph (a) of this section exceeds the corresponding price calculated under paragraph (b) of this section, multiply the quantity of Class I receipts from the other Federal order plant by the difference in price.

§ 999.67 *Adjustment of overdue accounts.* Any balance due pursuant to §§ 999.61, 999.62, 999.65, and 999.66 to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent, effective on the 11th day of such month.

§ 999.68 *Statements to producers.* In making the payments to producers prescribed by § 999.61 (a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 999.61 (a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 999.70 and 999.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 999.70 *Marketing service deduction; nonmembers of an association of producers.* In making payments to producers pursuant to § 999.61 (a), each handler shall, with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 999.71, deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, and shall on or before the 25th day after the end of each month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

§ 999.71 *Marketing service deductions with respect to members of an association of producers.* In the case of producers who are members of an association of producers which is actually performing the services set forth in § 999.70, each handler shall, in lieu of the deductions specified in § 999.70, make such deductions from payments made pursuant to § 999.61 (a) as may be authorized by such producers and pay, on or before the 25th day after the end of each month, such deduction to such associations.

ADMINISTRATION EXPENSE

§ 999.72 *Expense of administration.* Within 23 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this subpart, based on the handler's receipts of fluid milk products, other than cream, during the month. The payment shall be at the rate of 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on the handler's receipts of milk from producers, including receipts from his own production, receipts of exempt milk, and his receipts of outside milk, except receipts of outside milk from other Federal order plants; and at the rate by which the rate applicable to milk received from producers exceeds the rate of assessment applicable under the other Federal order, on his receipts from other Federal order plants.

OBLIGATIONS

§ 999.73 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable.

Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but

need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 999.80 *Effective time.* The provisions of this subpart, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 999.81.

§ 999.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This subpart shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

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

§ 999.83 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 999.84 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

Issued at Washington, D. C., this 13th day of July 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51-8322; Filed, July 19, 1951; 8:50 a. m.]

FEDERAL SECURITY AGENCY

Food and Drug Administration

[21 CFR Parts 29, 30]

FRUIT PRESERVES, FRUIT JELLIES, AND FRUIT BUTTER; DEFINITIONS AND STANDARDS OF IDENTITY

NOTICE OF PROPOSED RULE MAKING

In the matter of amending the definitions and standards of identity for fruit preserves, fruit jellies, and fruit butters:

It is proposed that, by virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371) and upon the basis of substantial evidence received at the public hearing held pursuant to the notice published in the FEDERAL REGISTER on November 28, 1950 (15 F. R. 8121), and upon consideration of proposed findings of fact filed by interested parties, which are adopted in part and rejected in part as is apparent from the detailed findings made below, the following order be made:

Findings of fact.[1] 1. In 1940, regulations establishing definitions and standards of identity were promulgated for three categories of fruit spreads (5 F. R. 3554). These are preserves, jams (21 CFR 29.0), fruit jelly (21 CFR 29.5), and fruit butter (21 CFR 30.0). In that part of each of these definitions and standards of identity applicable to the saccharine ingredients it is provided that corn sirup may be used in combination with other designated saccharine ingredients, provided the weight of the solids of the corn sirup is not less than one-tenth of the weight of the solids of the combination of saccharine ingredients. For preserves or jams and for fruit jellies it is further provided that the weight of the solids of the corn sirup is not more than one-half the weight of the solids of the combination. The definition and standard of identity for fruit butter, in addition to providing for the use of corn sirup in combination with other saccharine ingredients, provides that corn sirup may be used as the sole saccharine ingredient. Each of the definitions and standards of identity requires that whenever corn sirup is used it shall be named on the label, and if corn sirup is used in combination with other saccharine ingredients they also shall be named on the label. (Ex. 3)

2. Prior to the promulgation in 1940 of the definitions and standards of identity described in finding 1 there was a considerable trade in spreads made with a relatively low proportion of fruit ingredient and a high proportion of corn sirup. These spreads were often called "compound" or "imitation," and were generally regarded as cheap, low-quality products. Sellers and buyers of preserves, jellies, and fruit butters came to associate the presence of corn sirup with such products, giving rise to the belief, now shown to be erroneous, that the presence of corn sirup in any proportion was evidence of inferiority. So preserves, jellies, and fruit butters containing small amounts of corn sirup and labeled as required by the definitions and standards of identity for these foods were confused with products containing enough corn sirup to change their properties substantially. (R. 25-28, 34-35, 37-38, 43, 58-59, 61-63, 66, 68-69, 72, 76, 80-81, 89, 108, 121-122, 127, 145-147, 149-154)

3. Experience of preserve, jelly, and fruit butter manufacturers since the adoption of definitions and standards of identity for these foods has shown that where the proportion of corn sirup (based on its solids content) is not greater than 25 percent by weight of the total saccharine ingredients the sweetness of the preserve, jelly, or fruit butter is not significantly affected, although experienced tasters may detect a slight difference when a somewhat lower proportion of corn sirup is present. (R. 30-36, 41, 60-61, 70-71, 73, 77-79, 90-91, 94, 105-106, 110, 122-126, 134, 147-148, 169-192; Ex. 9)

[1] The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing.

4. From the facts stated in findings 1, 2, and 3 it is reasonable to conclude that the requirements dealing with corn sirup in the definitions and standards of identity for fruit preserves, jams, fruit jellies, and fruit butters should be changed to make corn sirup an optional ingredient in such foods when the proportion of corn sirup (based on its solids content) does not exceed 25 percent of the weight of the combined saccharine ingredients and that no label declaration of corn sirup in such amounts is necessary. (R. 38, 71, 73, 85, 99)

5. The definitions and standards of identity for preserves, jams, fruit jellies, and fruit butters do not define the term "corn sirup." The evidence in this record shows that the corn sirup used in the experimental and commercial production of fruit spreads in compliance with the standards was the clarified, concentrated aqueous solution obtained by incomplete hydrolysis of cornstarch and the solids of the corn sirup contained not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose. A more general term for sirup made by partial hydrolysis of edible starch is "glucose sirup." Glucose sirup which, except for the source of the edible starch used, conforms to the foregoing definition of corn sirup is suitable for use in fruit spreads. Corn sirup which has been dried, and which is sometimes called corn sirup solids, is likewise suitable for use in fruit spreads. Each of the definitions and standards of identity should recognize the use of glucose sirup and corn sirup solids, subject to the same conditions and requirements prescribed for the use of corn sirup. (R. 17, 19, 47, 54-55, 65)

6. The definition and standard of identity for preserves or jams provides that in certain combinations of saccharine ingredients "corn sugar or dextrose" may be used. There are corresponding provisions in the definitions and standards of identity for fruit jellies and fruit butter. Dextrose is made from starch; corn sugar is made from cornstarch. Thus the term "dextrose" encompasses corn sugar. In the fruit-spread trade, terminology has so changed that the designation "dextrose" is now used for the product which formerly was sometimes called "corn sugar." It is reasonable to simplify each of the definitions and standards of identity by deleting the words "corn sugar," wherever used, and with this change there will be no further need for the definitions and standards to include special definitions for corn sugar. (R. 15, 21, 40; Ex. 4-7)

Conclusions. Upon consideration of the whole record and the foregoing findings of fact, it is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the regulations establishing definitions and standards of indentity for preserves, jams, fruit jelly, and fruit butter so that as amended they will be as follows:

PART 29—FRUIT PRESERVES AND JELLIES; DEFINITIONS AND STANDARDS OF IDENTITY

§ 29.0 *Preserves, jams; identity; label statement of optional ingredients.* (a) The preserves or jams for which definitions and standards of identity are prescribed by this section are the viscous or semisolid foods each of which is made from a mixture composed of not less than 45 parts by weight (see paragraph (c) of this section) of one of the fruit ingredients specified in paragraph (b) of this section to each 55 parts by weight (see paragraph (e) (1) of this section) of one of the optional saccharine ingredients specified in paragraph (d) of this section. Such mixture may also contain one or more of the following optional ingredients:

(1) Spice.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combinaton of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit ingredient.

(3) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.

(4) Sodium citrate, sodium potassium tartrate, or any combination of these, in a quantity the proportion of which is not more than 3 ounces avoirdupois to each 100 pounds of the saccharine ingredient used.

(5) Sodium benzoate or benzoic acid or any combination of these, in a quantity reasonably necessary as a preservative.

Such mixture, with or without added water, is concentrated by heat to such point that the soluble-solids content of the finished preserve is not less than 68 percent if the fruit ingredient is specified in Group I of paragraph (b) of this section, and not less than 65 percent if the fruit ingredient is specified in Group II of paragraph (b) of this section. The soluble-solids content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," Seventh Edition, page 322, under "Soluble Solids in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—First Action," except that no correction is made for water-insoluble solids.

(b) The fruit ingredients referred to in paragraph (a) of this section are the following mature, properly prepared fruits which are fresh, frozen and/or canned:

GROUP I

Blackberry (other than dewberry).
Black raspberry.
Blueberry.
Boysenberry.
Cherry.
Crabapple.
Dewberry (other than boysenberry, loganberry, and youngberry).
Elderberry.
Grape.
Grapefruit.
Huckleberry.
Loganberry.
Orange.
Pineapple.
Raspberry, red raspberry.
Rhubarb.
Strawberry.
Tangerine.
Tomato.
Yellow tomato.
Youngberry.

Any combination of two, three, four, or five of such fruits in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

GROUP II

Apricot.
Cranberry.
Damson, damson plum.
Fig.
Gooseberry.
Greengage, greengage plum.
Guava.
Nectarine.
Peach.
Pear.
Plum (other than greengage plum and damson plum).
Quince.
Red currant, currant (other than black currant).

Any combination of two, three, four, or five of such fruits, or one or more of such fruits with one or more of the individual fruits specified in Group I, in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

Any combination of apple and one, two, three, or four of the individual fruits specified in this group or Group I in which the weight of each is not less than one-fifth, and the weight of apple is not more than one-half, of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

In any combination of two, three, four, or five fruits, each such fruit is an optional ingredient. For the purposes of this section, the word "fruit" includes the vegetables specified in this paragraph.

(c) Any requirement of this section with respect to the weight of any fruit, combination of fruits, or fruit ingredient means:

(1) The weight of fruit exclusive of the weight of any sugar, water, or other substance added for any processing or packing or canning, or otherwise added to such fruit:

(2) In the case of fruit prepared by the removal, in whole or in part, of pits, seeds, skins, cores, or other parts, the weight of such fruit, exclusive of the weight of all such substances removed therefrom; and

(3) In the cases of apricots, cherries, grapes, nectarines, peaches, and all varieties of plums, whether or not pits and seeds are removed therefrom, the weight of such fruit, exclusive of the weight of such pits and seeds.

(d) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar.

(2) Invert sugar sirup.

(3) Any combination composed of optional saccharine ingredients (1) and (2).

(4) Any combination composed of dextrose and optional saccharine ingredient (1), (2), or (3).

(5) Any combination of corn sirup, glucose sirup, corn sirup solids, or any two or more of the foregoing with optional saccharine ingredient (1), (2), (3), or (4) in which the weight of the solids of corn sirup or glucose sirup or

both does not exceed one-fourth of the total weight of the solids of the combined saccharine ingredients.

(6) Honey.

(7) Any combination composed of honey and optional saccharine ingredient (1), (2), or (3), in which the weight of the solids of each component except honey is not less than one-tenth of the weight of the solids of such combination and the weight of honey solids is not less than two-fifths of the weight of the solids of such combination.

(e) For the purposes of this section:

(1) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(2) The term "sugar" means refined sugar (sucrose).

(3) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.

(4) The term "corn sirup" means a clarified, concentrated aqueous solution of the products obtained by incomplete hydrolysis of cornstarch. The solids of corn sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose. The term "corn sirup solids" means dried corn sirup. The term "glucose sirup" means a sirup which conforms to the definition in this subparagraph for corn sirup, except that it is made from any edible starch.

(5) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(f) The name of each preserve or jam for which a definition and standard of identity is prescribed by this section is as follows:

(1) If the fruit ingredient is a single fruit, the name is "Preserve" or "Jam," preceded or followed by the name or synonym whereby such fruit is designated in paragraph (b) of this section.

(2) If the fruit ingredient is a combination of two, three, four, or five fruits, the name is "Preserve" or "Jam," preceded or followed by the words "Mixed Fruit" or by the names or synonyms whereby such fruits are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of such fruits in the combination.

(g) (1) When optional ingredient (a) (1) is used, the label shall bear the word "spiced" or the statement "spice added" or "with added spice"; but in lieu of the word "spice" in such statements the common name of the spice may be used.

(2) When optional ingredient (a) (5) is used, the label shall bear the words "sodium benzoate" or "benzoic acid," or "sodium benzoate and benzoic acid," as the case may be, followed by the words "added as preservative."

(3) When optional saccharine ingredient (d) (7) is present, the label shall bear the names of the components of the combination whereby such components are designated in paragraph (d) of this section, in the order of predominance, if any, of the weights of such components in the combination. Such names shall be preceded by the words "prepared with."

(4) When optional saccharine ingredient (d) (6) is used, the label shall bear the statement "prepared with honey."

(5) When the fruit ingredient is a combination of two, three, four, or five fruits and the preserve is designated on its label by the name "Preserve" or "Jam," preceded or followed by the words "Mixed Fruit," the label shall bear the names or synonyms whereby such fruits are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of such fruits in the combination.

(h) Wherever the name specified in paragraph (f) of this section appears on the label of the preserve so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such preserve may so intervene.

§ 29.5 *Fruit jelly; identity; label statement of optional ingredients.* (a) The jellies for which definitions and standards of identity are prescribed by this section are the jelled foods each of which is made from a mixture composed of not less than 45 parts by weight (as determined by the method prescribed in paragraph (b) of this section) of one or any combination of two, three, four, or five of the fruit juice ingredients specified in paragraph (c) of this section to each 55 parts by weight (see paragraph (a) (1) of this section) of one of the optional saccharine ingredients specified in paragraph (d) of this section. Such mixture may also contain one or more of the following optional ingredients:

(1) Spice.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combination of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit juice ingredient.

(3) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit juice ingredient.

(4) Sodium citrate, sodium potassium tartrate, or any combination of these, in a quantity the proportion of which is not more than 3 ounces avoirdupois to each 100 pounds of the saccharine ingredient used.

(5) Sodium benzoate or benzoic acid, or any combination of these, in a quantity reasonably necessary as a preservative.

(6) Mint flavoring and harmless artificial green coloring, in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple, crabapple, pineapple, or two or all of such fruits.

Such mixture is concentrated by heat to such point that the soluble-solids content of the finished jelly is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," Seventh Edition, page 495, under "Solids by Means of Refractometer—Official."

(b) Any requirement of this section with respect to the weight of any fruit juice ingredient, whether concentrated, unconcentrated, or diluted, means the weight determined by the following method: Determine the percent of soluble solids in such fruit juice ingredient by the method for soluble solids referred to in paragraph (a) of this section; multiply the percent so found by the weight of such fruit juice ingredient; divide the result by 100; subtract from the quotient the weight of any added sugar or other added solids; and multiply the remainder by the factor for such fruit juice ingredient prescribed in paragraph (c) of this section. The result is the weight of the fruit juice ingredient.

(c) Each of the fruit juice ingredients referred to in paragraph (a) of this section is the filtered or strained liquid extracted with or without the application of heat and with or without the addition of water, from one of the following mature, properly prepared fruits which are fresh, frozen and/or canned:

Factor referred to in paragraph (b) of this section

Name of fruit:	
Apple	7.5
Apricot	7.0
Blackberry (other than dewberry)	10.0
Black raspberry	9.0
Cherry	7.0
Crabapple	6.5
Cranberry	9.5
Damson, damson plum	7.0
Dewberry (other than boysenberry, loganberry, and youngberry)	10.0
Fig	5.5
Gooseberry	12.0
Grape	7.0
Grapefruit	11.0
Greengage, greengage plum	7.0
Guava	13.0
Loganberry	9.5
Orange	8.0
Peach	8.5
Pineapple	7.0
Plum (other than damson, greengage, and prune)	7.0
Pomegranate	5.5
Quince	7.5
Raspberry, red raspberry	9.5
Red currant, currant (other than black currant)	9.5
Strawberry	12.5
Youngberry	10.0

In any combination of two, three, four, or five of such fruit juice ingredients the weight of each is not less than one-fifth of the weight of the combination. Each such fruit juice ingredient in any such combination is an optional ingredient.

(d) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar.

(2) Invert sugar sirup.

(3) Any combination composed of optional saccharine ingredients (1) and (2).

(4) Any combination composed of dextrose and optional saccharine ingredient (1), (2), or (3).

(5) Any combination of corn sirup, glucose sirup, corn sirup solids, or any two or more of the foregoing with optional saccharine ingredient (1), (2),

(3), or (4) in which the weight of the solids of corn sirup or glucose sirup or both does not exceed one-fourth of the total weight of the solids of the combined saccharine ingredients.

(6) Honey.

(7) Any combination composed of honey and optional saccharine ingredient (1), (2), or (3), in which the weight of the solids of each component except honey is not less than one-tenth of the weight of the solids of such combination and the weight of honey solids is not less than two-fifths of the weight of the solids of such combination.

(e) For the purposes of this section:

(1) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(2) The term "sugar" means refined sugar (sucrose).

(3) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.

(4) The term "corn sirup" means a clarified, concentrated aqueous solution of the products obtained by the incomplete hydrolysis of cornstarch. The solids of corn sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose. The term "corn sirup solids" means dried corn sirup. The term "glucose sirup" means a sirup which conforms to the definition in this subparagraph for corn sirup, except that it is made from any edible starch.

(5) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.

(f) The name of each jelly for which a definition and standard of identity is prescribed by this section is as follows:

(1) In case the jelly is made with a single fruit juice ingredient, the name is "Jelly," preceded or followed by the name or synonym whereby the fruit from which such fruit juice ingredient was extracted is designated in paragraph (c) of this section.

(2) In case the jelly is made with a combination of two, three, four, or five fruit juice ingredients, the name is "Jelly," preceded or followed by the words "Mixed Fruit" or by the names or synonyms whereby the fruits from which the fruit juice ingredients were extracted are designated in paragraph (c) of this section, in the order of predominance, if any, of the weights of such fruit juice ingredients in the combination.

(g) (1) When optional ingredient (a) (1) is used, the label shall bear the word "spiced" or the statement "spice added" or "with added spice"; but in lieu of the word "spice" in such statements the common name of the spice may be used.

(2) When optional ingredient (a) (5) is used, the label shall bear the words "sodium benzoate" or "benzoic acid" or "sodium benzoate and benzoic acid," as the case may be, followed by the words "added as preservative."

(3) When optional ingredient (a) (6) is used, the label shall bear the statement "flavoring and artificial coloring added" or "with added flavoring and artificial coloring." The word "flavoring" in such statement may be preceded by the word "mint."

(4) When optional saccharine ingredient (d) (7) is used, the label shall bear the names of the components of the combination whereby such components are designated in paragraph (d) of this section, in the order of predominance, if any, of the weight of such components in the combination. Such names shall be preceded by the words "prepared with."

(5) When optional saccharine ingredient (d) (6) is used, the label shall bear the statement "prepared with honey."

(6) When a combination of two, three, four, or five fruit juice ingredients is used, and the jelly is designated on its label by the word "Jelly," preceded or followed by the words "Mixed Fruit," the label shall bear the names or synonyms whereby such fruits are designated in paragraph (c) of this section, in the order of the predominance, if any, of the weights of such fruit juice ingredients in the combination.

(h) Wherever the name specified in paragraph (f) of this section appears on the label of the jelly so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such jelly may so intervene.

PART 30—FRUIT BUTTERS; DEFINITIONS AND STANDARDS OF IDENTITY

§ 30.0 *Fruit butter; identity; label statement of optional ingredients.* (a) The fruit butters for which definitions and standards of identity are prescribed by this section are the smooth, semisolid foods each of which is made from a mixture composed of not less than five parts by weight (as determined by the method prescribed in paragraph (b) (1) of this section) of one or any combination of two, three, four, or five of the optional fruit ingredients specified in paragraph (c) of this section to each two parts by weight (see paragraph (e) (1) of this section) of one of the optional saccharine ingredients specified in paragraph (d) of this section, except that the use of such saccharine ingredient is not required when optional ingredient (5) is used. Such mixture may be seasoned with one or more of the following optional ingredients:

(1) Spice.

(2) Flavoring (other than artificial flavoring).

(3) Salt.

(4) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, or any combination of two or more of these.

Such mixture may also contain the optional ingredient:

(5) Fruit juice or diluted fruit juice or concentrated fruit juice; in a quantity not less than one-half the weight of the optional fruit ingredient.

Such mixture is concentrated by heat to such point that the soluble-solids content of the finished fruit butter is not less than 43 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," Seventh Edition, page 322, under "Soluble Solids in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—First Action," except that no correction is made for water-insoluble solids.

(b) (1) Any requirement of this section with respect to the weight of any optional fruit ingredient, whether concentrated, unconcentrated, or diluted, means the weight determined by the following method:

Determine the percent of soluble solids in the optional fruit ingredient by the method prescribed for determining soluble solids in paragraph (a) of this section; multiply the percent so found by the weight of such ingredient; divide the result by 100; subtract from the quotient the weight of any added sugar or any other added solids; and multiply the remainder by the factor for such ingredient prescribed in paragraph (c) of this section. The result is the weight of the optional fruit ingredient.

(2) For the purposes of this section, the weight of fruit juice or diluted fruit juice or concentrated fruit juice (optional ingredient (a) (5)) from a fruit specified in paragraph (c) of this section is the weight of such juice, as determined by the method prescribed in paragraph (b) (1) of this section, except that the percent of soluble solids is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," Seventh Edition, page 495, under "Solids by Means of Refractometer—Official"; the weight of diluted or concentrated juice from any other fruit is the original weight of the juice before it was diluted or concentrated.

(c) Each of the optional fruit ingredients referred to in paragraph (a) of this section is prepared by cooking one of the following fresh, frozen, canned, and/or dried (evaporated) mature fruits, with or without added water, and screening out skins, seeds, pits, and cores:

Name of fruit:	*Factor referred to in paragraph (b) (1) of this section*
Apple	7.5
Apricot	7.0
Grape	7.0
Peach	8.5
Pear	6.5
Plum (other than prune)	7.0
Prune	7.0
Quince	7.5

In any combination of two, three, four, or five fruit ingredients, the weight of each is not less than one-fifth of the weight of the combination.

(d) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar.

(2) Invert sugar sirup.

(3) Brown sugar.
(4) Invert brown sugar sirup.
(5) Honey.
(6) Any combination of two or more of optional saccharine ingredients (1), (2), (3), and (4).
(7) Any combination of dextrose and optional saccharine ingredient (1), (2), (3), (4), or (6).
(8) Any combination of corn sirup, glucose sirup, corn sirup solids, or any two or more of the foregoing with optional saccharine ingredient (1), (2), (3), (4), (6), or (7) in which the weight of the solids of corn sirup or glucose sirup or both does not exceed one-fourth of the total weight of the solids of the combined saccharine ingredients.
(9) Any combination of honey and optional saccharine ingredient (1), (2), (3), (4), (6), or (7), in which the weight of the solids of each component except honey is not less than one-tenth of the weight of the solids of such combination, and the weight of honey solids is not less than two-fifths of the weight of the solids of such combination.
(e) For the purposes of this section:
(1) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.
(2) The term "sugar" means refined sugar (sucrose).
(3) The term "invert sugar sirup" means a sirup made by inverting or partly inverting sugar or partly refined sugar; its ash content is not more than 0.3 percent of its solids content, but if it is made from partly refined sugar, color and flavor other than sweetness are removed.
(4) The term "invert brown sugar sirup" means a sirup made by inverting or partly inverting brown sugar.
(5) The term "corn sirup" means a clarified, concentrated aqueous solution of the products obtained by the incomplete hydrolysis of cornstarch. The solids of corn sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose. The term "corn sirup solids" means dried corn sirup. The term "glucose sirup" means a sirup which conforms to the definition in this subparagraph for corn sirup, except that it is made from any edible starch.
(6) The term "dextrose" means refined anhydrous or hydrated dextrose made from any starch.
(f) The name of each fruit butter for which a definition and standard of identity is prescribed by this section is as follows:
(1) In case the fruit butter is made from a single fruit ingredient, the name is "Butter," preceded by the name whereby such fruit is designated in paragraph (c) of this section.
(2) In case the fruit butter is made from a combination of two, three, four, or five fruit ingredients, the name is "Butter," preceded by the words "Mixed Fruit" or by the names whereby such fruits are designated in paragraph (c) of this section, in the order of predominance, if any, of the weight of such fruit ingredients in the combination.
(g) (1) When optional ingredient (a) (1) of this section is used, the label shall bear the word "spiced" or the statement "spice added" or "with added spice"; but in lieu of the word "spice" in such statements the common name of the spice may be used.
(2) When optional ingredient (a) (2) of this section is used, the label shall bear the statement "flavoring added" or "with added flavoring." The word "flavoring" in such statements may be preceded by the common name of the kind of flavoring used.
(3) When optional ingredient (a) (5) of this section is used, the label shall bear the words "prepared with ________ juice," the blank to be filled in with the name of the fruit from which the juice is obtained; but if apple juice is used, the word "cider" may be used in lieu of "apple juice."
(4) When optional saccharine ingredient (d) (5) of this section is used, the label shall bear the statement "prepared with honey."
(5) When optional saccharine ingredient (d) (9) is used, the label shall bear the names of the components of the combination whereby such components are designated in paragraph (d) of this section, in the order of predominance, if any, of the weights of such components in the combination. Such name shall be preceded by the words "prepared with."
(6) When the optional fruit ingredient is prepared in whole or in part from dried fruit, the label shall bear the words "prepared from" or "prepared in part from," as the case may be, followed by the word "evaporated" or "dried," followed by the name whereby such fruit is designated in paragraph (c) of this section. When two or more such optional fruit ingredients are used, such names, each preceded by the word "evaporated" or "dried," shall appear in the order of predominance, if any, of the weight of such ingredients in the combination.
(7) When a combination of two, three, four, or five optional fruit ingredients is used, and the fruit butter is designated on its label by the name "Mixed Fruit Butter," the label shall bear the names whereby the fruits from which such ingredients are prepared are designated in paragraph (c) of this section, in the order of predominance, if any, of the weights of such ingredients in the combination.
(8) The label statements required by subparagraphs (1) and (2) of this paragraph may be combined, as for example, "cinnamon oil and cloves added." The label statements required by two or more of subparagraphs (3), (4), (5), (6), and (7) of this paragraph may be combined, as for example, "prepared with cider, apples, dried prunes, and honey."
(h) Wherever the name specified in paragraph (f) of this section appears on the label of the fruit butter so conspicuously as to be easily seen under customary conditions of purchase, the words and statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such fruit butter may so intervene.

Any interested person whose appearance was filed at the hearing may, within thirty days from the date of publication of this tentative order in the FEDERAL REGISTER, file with the Hearing Clerk, Federal Security Agency, Room 5440, Federal Security Building, Fourth Street and Independence Avenue SW., Washington, D. C., written exceptions thereto. Exceptions shall point out with particularity the alleged errors in this tentative order and shall contain specific references to the pages of the transcript of the testimony or to the exhibits on which such exceptions are based. Such exceptions may be accompanied by a memorandum or brief in support thereof. Exceptions and accompanying memoranda or briefs shall be submitted in quintuplicate.

Dated: July 13, 1951.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 51-8337; Filed, July 19, 1951; 8:53 a. m.]

NOTICES

FEDERAL TRADE COMMISSION

[Docket No. 5757]

HAIR EXPERTS, INC., ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

In the matter of Hair Experts, Inc., a corporation, and Robert W. Farrell, Harold E. Candler, and Abram Jacobson, individually and as officers of said corporation.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That James A. Purcell, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence in this proceeding begin on Thursday, July 26, 1951, at ten-thirty o'clock in the forenoon of that day (e. s. t.), in Courtroom 859, Post Office Building, Detroit, Michigan.

Issued: July 11, 1951.

By the Commission.

[SEAL] WM. P. GLENDENING,
Acting Secretary.

[F. R. Doc. 51-8363; Filed, July 19, 1951; 8:55 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Ceiling Price Regulation 7, Section 43, Special Order 128]

SLUMBERLAND PRODUCTS CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Slumberland Products Co., 144 Moody Street, Waltham 54, Massachusetts, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of mattresses and box springs manufactured by Slumberland Products Co., 144 Moody Street, Waltham 54, Massachusetts, having the brand name(s) "Ambassador", "Excellency", "Deluxe Excellency" shall be the proposed retail ceiling prices listed by Slumberland Products Co., in its application dated April 4, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Slumberland Products Co. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per ------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8345; Filed, July 17, 1951; 2:56 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 129]

SIMPSON IMPORTS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Simpson Imports, Inc., 9 East Thirty-fifth Street, New York 16, New York (hereafter called wholesaler), has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that

the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of men's trousers and walking shorts sold at wholesale by Simpson Imports, Inc., 9 East Thirty-fifth Street, New York 16, N. Y., having the brand name(s) "DAKS" shall be the proposed retail ceiling prices listed by Simpson Imports, Inc., in its application dated May 17, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the wholesaler after the effective date of this special order.

3. On and after August 16, 1951, Simpson Imports, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the wholesaler's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the wholesaler shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the wholesaler had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The wholesaler shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the wholesaler with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the wholesaler shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the wholesaler had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the wholesaler shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8346; Filed, July 17, 1951; 2:56 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 130]

MAGNAVOX CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, The Magnavox Company, Fort Wayne 4, Indiana, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of television sets and radio-phonographs manufactured by The Magnavox Company, Fort Wayne 4, Indiana, having the brand name(s) "Magnavox" shall be the proposed retail ceiling prices listed by The Magnavox Company in its application dated April 21, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, The Magnavox Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to his special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Prive Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8347; Filed, July 17, 1951; 2:57 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 131]

REEFER-GALLER, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Reefer-Galler, Incorporated, 225 Fifth Avenue, New York, New York (hereafter called manufacturer and/or wholesaler) has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant, has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of moth preventatives manufactured and/or sold at wholesale by Reefer-Galler, Incorporated, 225 Fifth Avenue, New York, New York, having the brand name(s) "No-Moth", "Para-Pure", "Sla" shall be the proposed retail ceiling prices listed by Reefer-Galler, Incorporated, in its application dated April 11, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise price-

able under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer and/or wholesaler after the effective date of this special order.

3. On and after August 16, 1951, Reefer-Galler, Incorporated must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer and/or wholesaler shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer and/or wholesaler had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer and/or wholesaler shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer and/or wholesaler with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer and/or wholesaler shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer and/or wholesaler had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer and/or wholesaler shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8348; Filed, July 17, 1951; 2:57 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 132]

REED & BARTON CORP.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Reed & Barton Corporation, 144 West Britannia Street, Taunton, Mass., has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of plated hollow ware, flatware chests, and sterling and plated flatware manufactured by Reed & Barton Corporation, 144 West Britannia Street, Taunton, Mass., having the brand name(s) "Reed & Barton" shall be the proposed retail ceiling prices listed by Reed & Barton Corporation in its application dated May 4, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. (and supplemented and amended in the manufacturer's applications dated May 10, 1951, and June 8, 1951). A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Reed & Barton Corporation must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form

stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$...... per...... {unit. dozen. etc.} Terms {net. Percent EOM. etc.}	$........

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8349; Filed, July 17, 1951; 2:57 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 133]

SHWAYDER BROS., INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Shwayder Bros., Inc., 1050 South Broadway, Denver 9, Colorado, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of luggage manufactured by Shwayder Bros., Inc., 1050 South Broadway, Denver 9, Colorado, having the brand name(s) "Samsonite Luggage" shall be the proposed retail ceiling prices listed by Shwayder Bros., Inc., in its application dated April 11, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Shwayder Bros., Inc. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $........

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to

the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen etc. Terms {net. percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8350; Filed, July 17, 1951; 2:57 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 134]

DIAMOND FULL FASHIONED HOSIERY CO., INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Diamond Full Fashioned Hosiery Company, Inc., 350 Fifth Avenue, New York 16, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of ladies' nylon hosiery manufactured by Diamond Full Fashioned Hosiery Company, Inc., 350 Fifth Avenue, New York 16, New York, having the brand name(s) "Fruit of the Loom" shall be the proposed retail ceiling prices listed by Diamond Full Fashioned Hosiery Company, Inc., in its application dated April 4, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Diamond Full Fashioned Hosiery Company, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marketing, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by cop-

ies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. Percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8351; Filed, July 17, 1951; 2:58 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 135]

MIRIAM GATES, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Miriam Gates, Incorporated, 64 South Division Street, Buffalo, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of bust pads, surgical pads, and bras manufactured by Miriam Gates, Incorporated, 64 South Division Street, Buffalo, New York, having the brand name(s) "Complements" shall be the proposed retail ceiling prices listed by Miriam Gates, Incorporated, in its application dated April 11, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Miriam Gates, Incorporated, must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon isssuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amend-

ment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8352; Filed, July 17, 1951; 2:58 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 136]

GOLD SEAL IMPORTERS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Gold Seal Importers, Inc., 30 East Thirty-third Street, New York 16, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of ladies' handbags manufactured by Gold Seal Importers, Inc., 30 East Thirty-third Street, New York 16, New York, having the brand name(s) "Bags by Josef" shall be the proposed retail ceiling prices listed by Gold Seal Importers, Inc., in its application dated May 9, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Gold Seal Importers, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. after 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. Percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or

amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8353; Filed, July 17, 1951; 2:58 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 137]

B. V. D. CO., INC.

CEILING PRICES AT RETAIL

Statement of consideration. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, B. V. D. Company, Inc., has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order allows for establishment of a cost bracket to the retailer, which bracket applies to a specific retail price. The costs of the articles purchased by the retailer should, on the average, fall evenly between the polar ends of each cost bracket and will thus maintain the general historical markup pattern. The establishment of such cost brackets permits minor changes in costs without influencing the general level of retail prices of the articles in question.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The following ceiling prices are established for sales after the effective date of this special order by any seller at retail of men's underwear, sport shirts, pajamas, swim trunks, and swim wear distributed by the B. V. D. Company, Inc., 350 Fifth Avenue, New York 1, New York, having the brand name "B. V. D." and described in applicant's application dated March 20, 1951. Sales may, of course, be made at less than these ceiling prices. The applicant's prices listed below carry the following terms: Underwear 2/10 EOM or net 60 days, at the retailer's option; sport shirts and pajamas 3/10 EOM or 2/10 60 days, at the retailer's option; swim trunks and swim wear 3/10 EOM, f. o. b., Baltimore, Maryland.

Applicant's selling price (per dozen)	*Ceiling price at retail (per unit)*
$5.25– $5.50	$0.75
5.51– 5.99	.80
6.00– 6.50	.85
6.51– 7.00	.95
7.01– 7.75	1.00
7.76– 8.25	1.15
8.26– 9.00	1.25
9.01– 9.50	1.35
9.51– 10.00	1.45
10.01– 11.00	1.50
11.01– 12.00	1.65
12.01– 13.00	1.75
13.01– 13.99	1.85
14.00– 15.00	1.95
15.01– 15.49	2.00
15.50– 16.00	2.15
16.01– 16.50	2.25
16.51– 17.00	2.35
17.01– 17.50	2.45
17.51– 18.50	2.50
18.51– 19.50	2.65
19.51– 20.00	2.75
20.01– 20.99	2.85
21.00– 22.00	2.95
22.01– 22.75	3.15
22.76– 24.50	3.25
24.51– 25.50	3.50
25.51– 26.00	3.65
26.01– 27.00	3.75
27.01– 28.00	3.85
28.01– 30.00	3.95
30.01– 32.00	4.25
32.01– 33.00	4.50
33.01– 35.00	4.75
35.01– 36.50	4.95
36.51– 38.00	5.25
38.01– 39.50	5.50
39.51– 41.00	5.75
41.01– 42.50	5.95
42.51– 43.50	6.15
43.51– 45.00	6.25
45.01– 46.50	6.50
46.51– 47.50	6.75
47.51– 49.00	6.95
49.01– 50.50	7.25
50.51– 52.50	7.35
52.51– 54.50	7.50
54.51– 56.00	7.75
56.01– 57.50	7.95
57.51– 59.00	8.25
59.01– 62.00	8.50
62.01– 63.99	8.75
64.00– 66.00	8.95
66.01– 68.50	9.50
68.51– 70.50	9.75
70.51– 72.00	9.95
77.50– 79.50	10.95
84.00– 86.00	11.95
92.00– 93.00	12.95
96.00– 97.00	13.50
106.00–108.00	14.95

2. The retail ceiling price of an article stated in paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation falling within the same bracket of selling prices to the retailer, the same brand or company name and first sold by the applicant after the effective date of this special order.

3. On and after August 16, 1951, B. V. D. Company, Inc., must mark each article listed in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in paragraph 1 or this special order or changes the retail ceiling price of a listed article, B. V. D. Company, Inc., must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marketing, tagging and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the applicant shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the applicant had delivered any article covered in paragraph 1 of this special order. Copies shall be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of the special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of any subsequent amendment to the special order, the applicant shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the seller had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it re-

gardless of whether the seller is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8354; Filed, July 17, 1951; 2:58 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 138]

KING LEATHERS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, King Leathers, Inc., Rice Avenue, Indiana, Pennsylvania, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of billfolds, key cases, wallets, pocket secretaries, card cases manufactured by King Leathers, Inc., Rice Avenue, Indiana, Pennsylvania, having the brand name(s) "King" shall be the proposed retail ceiling prices listed by King Leathers, Inc., in its application dated April 30, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, King Leathers, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent, EOM. etc.	$------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8355; Filed, July 17, 1951; 2:59 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 139]

WARREN LEATHER GOODS CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price

Regulation 7, the applicant named in the accompanying special order, Warren Leather Goods Company, 86 Austin Street, Worcester 2, Massachusetts, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of men's and women's luggage, picnic kits and vacuum bottle cases manufactured by Warren Leather Goods Company, 86 Austin Street, Worcester 2, Massachusetts, having the brand name(s) "Warren" shall be the proposed retail ceiling prices listed by Warren Leather Goods Company in its application dated April 13, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Warren Leather Goods Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

Column 1 Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8356; Filed, July 17, 1951; 2:59 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 140]

BENJAMIN & JOHNES, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Benjamin & Johnes, Inc., 42 Warren Street, Newark 2, New Jersey, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceil-

ing prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of foundation garments manufactured by Benjamin & Johnes, Inc., 42 Warren Street, Newark 2, New Jersey, having the brand name(s) "Bien Jolie" shall be the proposed retail ceiling prices listed by Benjamin & Johnes, Inc. in its application dated May 4, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C.

A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Benjamin & Johnes, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $ --------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit, dozen, etc.} Terms {net, percent EOM, etc.}	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8357; Filed, July 17, 1951; 2:59 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 141]

IROQUOIS CHINA CO.

CEILING PRICES AT RETAIL

Statement of Considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, The Iroquois China Company, 2320 Milton Avenue, Syracuse 9, New York has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling prices established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to Section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of vitrified china dinnerware manufactured by The Iroquois China Company, 2320 Milton Avenue, Syracuse 9, New York, having the brand name "Russel Wright China by Iroquois", shall be the proposed retail ceiling prices listed by The Iroquois China Company in its application dated June 19, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office

of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, The Iroquois China Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by the special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months' period following the effective date of this special order and within 45 days of the expiration of each successive 6 months' period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months' period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8358; Filed, July 17, 1951; 2:59 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 143]

VASSAR CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Vassar Company has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this Special Order is hereby issued.

1. The following ceiling prices are established for sales after the effective date of this special order by any seller at retail of girdles and pantie girdles manufactured by Vassar Company, 2545 Diversey Avenue, Chicago 47, Illinois, having the brand name "Vassarette," and described in the manufacturer's application dated April 17, 1951. Sales may, of course, be made at less than these ceiling prices. The manufacturer's prices listed below carry terms of 2/10 EOM, net 60.

GIRDLES AND PANTIE GIRDLES

Manufacturer's selling price (per dozen)	*Ceiling price at retail (per unit)*
$25.50	$3.95
38.04	5.95
42.00	7.50
46.20	7.95
65.40	10.95
90.00	15.00

2. The retail ceiling price of an article stated in paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Vassar Company must mark each article listed in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in paragraph 1 of this special order or changes the retail ceiling price of a listed article, Vassar Company must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of the special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. Within 15 days after the effective date of any subsequent amendment to the special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the seller had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the seller is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8360; Filed, July 17, 1951; 3:00 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 142]

HAMILTON MANUFACTURING CORP.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Hamilton Manufacturing Corporation, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

It has been the applicant's custom in the past to maintain two selling zones. Zone 1 is that area of the United States consisting of the District of Columbia and all States not included in Zone 2. Zone 2 consists of the States of Arizona, California, Colorado, Florida, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The following ceiling prices are established for sales after the effective date of this special order by any seller at retail of household stools, chairs, utility tables, and carts manufactured by Hamilton Manufacturing Corporation, 1501 Cottage Avenue, Columbus, Indiana, having the brand name "Cosco" and described in the applicant's application dated March 7, 1951. The applicant's prices to all classes of retailers carry terms of 2/10 net 30.

ZONE 1

[That area of the United States consisting of the District of Columbia and all States not included in Zone 2]

Category 716

Style or lot No.	Retail ceiling price (per unit)	Mail order ceiling price (per unit)
2D	$8.95	$8.45
4A	9.95	9.25
5B	10.75	10.05
4C	10.95	10.25
3G	10.95	10.25
8C	11.95	11.25
9F	12.95	11.95
9D	12.95	11.95
8F	13.95	12.95
7B	13.95	12.95
8G	15.95	14.95
4D	16.95	15.95
3F	17.95	16.95

Category 718

Style or lot No.	Retail ceiling price (per unit)	Mail order ceiling price (per unit)
14B	$8.95	$8.45
14A	10.95	10.25
10B	13.95	12.95
10A	18.95	17.75

ZONE 2

[Arizona, California, Colorado, Florida, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah Washington, and Wyoming]

Category 716

Style or lot No.	Retail ceiling price (per unit)	Mail order ceiling price (per unit)
2D	$9.45	$8.95
4A	10.45	9.75
5B	11.45	10.75
4C	11.75	10.95
3G	11.75	10.95
8C	12.95	12.95
9F	13.95	12.95
9D	13.45	12.45
8F	14.95	13.95
7B	14.95	13.95
8G	16.95	15.95
4D	17.95	16.95
3F	18.95	17.95

Category 718

Style or lot No.	Retail ceiling price (per unit)	Mail order ceiling price (per unit)
14B	$9.75	$9.25
14A	11.75	10.95
10B	14.95	13.95
10A	19.95	18.75

2. On and after August 16, 1951, Hamilton Manufacturing Corporation must mark each article listed in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $______

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in paragraph 1 of this special order or changes the retail ceiling price of a listed article, Hamilton Manufacturing Corporation must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

3. Within 15 days after the effective date of this special order, the applicant shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the applicant had delivered any article covered in paragraph 1 of this special order. Copies shall be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of the special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. Within 15 days after the effective date of any subsequent amendment to the special order, the applicant shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, he had delivered any article the sale of which is affected in any manner by the amendment.

Each person selling to retailers the articles covered by this order must send a copy of this order or any subsequent amendments thereto to each of his purchasers on or before the date of the first delivery of any article covered by this special order or any subsequent amendment thereto. The applicant must provide an adequate supply of copies of this order or any subsequent amendments thereto to all of his purchasers selling to retailers to whom he had sold articles covered by this order or any subsequent amendments thereto within sixty days prior to the effective date of the special order or any subsequent amendments thereto.

In all cases, the special order or any subsequent amendments thereto must have annexed thereto a notice listing the articles covered by this special order and any subsequent amendments thereto describing each article by style, model, lot number or other description and listing the corresponding retail ceiling price fixed by this special order or any subsequent amendments thereto for each such article. The notice shall be in substantially the form set forth in paragraph 1 above.

4. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

5. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the seller is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

6. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

7. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8359; Filed, July 17, 1951; 3:00 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 144]

TOWLE MANUFACTURING CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Towle Manufacturing Company, 260 Merrimac Street, Newburyport, Massachusetts, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of sterling silver and flatware manufactured by Towle Manufacturing Company, 260 Merrimac Street, Newburyport, Massachusetts, having the brand name(s) "Towle Sterling" shall be the proposed retail ceiling prices listed by Towle Manufacturing Company, in its application dated April 20, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C., (and supplemented and amended in the manufacturer's application dated June 1, 1951). A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Towle Manufacturing Co. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to

the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8361; Filed, July 17, 1951; 3:00 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 145]

JOSIAH WEDGWOOD & SONS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Josiah Wedgwood & Sons., 24 East Fifty-fourth Street, New York 22, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of china and glassware manufactured by Josiah Wedgwood & Sons, Inc., 24 East Fifty-fourth Street, New York 22, New York, having the brand name(s) "Wedgwood" and "Whitefriars" shall be the proposed retail ceiling prices listed by Josiah Wedgwood & Sons, Inc., in its application dated April 27, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C.

A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Josiah Wedgwood & Sons, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the de-

livery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$----- per----- {unit. dozen. etc. Terms {net. percent EOM. etc.	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8362; Filed, July 17, 1951; 3:00 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 147]

EDITH LANCES CORP.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Edith Lances Corp., 31 East Thirty-first Street, New York, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of women's brassieres manufactured by Edith Lances Corp., 31 East Thirty-first Street, New York, N. Y., having the brand name(s) "Edith Lances" shall be the proposed retail ceiling prices listed by Edith Lances Corp., in its application dated May 8, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Edith Lances Corp. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$----- per----- {unit. dozen. etc. Terms {net. percent EOM. etc.	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the

sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8396; Filed, July 17, 1951; 4:52 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 148]

THE DUBLIFE COLLAR CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, The Dublife Collar Co., 200 Worth Street, New York 13, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of replaceable collars, cuffs, neckbands, pockets, collar stays and waistband pads manufactured by The Dublife Collar Co., 200 Worth Street, New York 13, New York, having the brand name(s) "Dublife" and "Klings" shall be the proposed retail ceiling prices listed by The Dublife Collar Co. in its application dated May 15, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, The Dublife Collar Co. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8397; Filed, July 17, 1951; 4:52 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 149]

MOELLER MANUFACTURING CO., INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Moeller Manufacturing Co., Inc., 2401 Durand Avenue, Racine, Wisconsin; has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of a vacuum bottle stopper manufactured by Moeller Manufacturing Co., Inc., 2401 Durand Avenue, Racine, Wisconsin, having the brand name(s) "Snap-Tite" shall be the proposed retail ceiling prices listed by Moeller Manufacturing Co., Inc., in its application dated May 10, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Moeller Manufacturing Co., Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $........

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$...... per ...... {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$.......

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8398; Filed, July 17, 1951; 4:53 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 150]

LESLIE FAY FASHIONS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Leslie Fay Fashions, Inc., 1400 Broadway, New York 18, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evi-

dence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of misses' dresses manufactured by Leslie Fay Fashions, Inc., 1400 Broadway, New York 18, New York, having the brand name(s) "Leslie Fay" shall be the proposed retail ceiling prices listed by Leslie Fay Fashions, Inc., in its application dated May 7, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Leslie Fay Fashions, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8399; Filed, July 17, 1951; 4:53 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 151]

AMERICAN GIRL SHOE CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, American Girl Shoe Co., 120 Kingston Street, Boston, Massachusetts (hereafter called wholesaler), has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the

provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of women's and misses' shoes sold at wholesale by American Girl Shoe Co., 120 Kingston Street, Boston, Massachusetts, having the brand name(s) "American Girl Shoe" shall be the proposed retail ceiling prices listed by American Girl Shoe Co. in its application dated March 16, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. (and supplemented and amended in the wholesaler's application dated May 8, 1951). A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the wholesaler after the effective date of this special order.

3. On and after August 16, 1951, American Girl Shoe Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the wholesaler's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the wholesaler shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the wholesaler had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The wholesaler shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the wholesaler with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the wholesaler shall send a copy of the amendment to each purchaser to whom within 2 months immediately prior to the effective date of such amendment, the wholesaler had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months' period following the effective date of this special order and within 45 days of the expiration of each successive 6 months' period, the wholesaler shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months' period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8400; Filed, July 17, 1951; 4:54 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 146]

JOSEPH A. KAPLAN & SONS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Joseph A. Kaplan & Sons, Inc., 350 Fifth Avenue, New York 1, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of shower curtains and matching window drapes manufactured by Joseph A. Kaplan & Sons, Inc., 350 Fifth Avenue, New York 1, N. Y., having the brand name(s) "Koroseal" shall be the proposed retail ceiling prices listed by Joseph A. Kaplan & Sons, Inc., in its application dated May 9, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than Sep-

tember 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling price.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Joseph A. Kaplan & Sons, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $........

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$...... per...... {unit. dozen. etc. Terms {net. percent EOM. etc.	$.......

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8401; Filed, July 17, 1951; 4:54 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 152]

LENOX, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Lenox, Incorporated, Trenton 5, New Jersey, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of dinnerware, service plates, hand painted china, and figurines manufactured by Lenox, Incorporated, Trenton 5, New Jersey having the brand name(s) "Lenox" shall be the proposed retail ceiling prices listed by Lenox, Incorporated in its application dated April 19, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Lenox, Incorporated, must mark each article for which a ceiling price has been established in paragraph 1 of this specal order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $........

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$...... per...... {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$........

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8402; Filed, July 17, 1951; 4:54 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 153]

ROSENBLUMS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Rosenblums, Inc., 746 South Los Angeles Street, Los Angeles, California, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to Section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of women's suits, toppers, skirts, and jackets manufactured by Rosenblums, Inc., 746 South Los Angeles Street, Los Angeles, California, having the brand name(s) "Rosenblum" shall be the proposed retail ceiling prices listed by Rosenblums, Inc., in its application dated May 8, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Rosenblums, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $........

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation

which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8403; Filed, July 17, 1951; 4:54 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 154]

KAY DUNHILL, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Kay Dunhill, Inc., Long Branch, New Jersey, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of women's and misses' dresses manufactured by Kay Dunhill, Inc., Long Branch, New Jersey, having the brand name(s) "Kay Dunhill" shall be the proposed retail ceiling prices listed by Kay Dunhill, Inc., in its application dated April 19, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Kay Dunhill, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price

Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8404; Filed, July 17, 1951; 4:55 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 155]

THE SALISBURY CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, The Salisbury Company, 104 Second Avenue SE., Minneapolis 14, Minn., has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of mattresses and box springs manufactured by The Salisbury Company, 104 Second Avenue, SE., Minneapolis 14, Minn., having the brand name(s) "Salisbury" shall be the proposed retail ceiling prices listed by The Salisbury Company in its application dated April 17, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, The Salisbury Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise

subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8405; Filed, July 17, 1951; 4:55 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 156]

THE GOTTFRIED CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, The Gottfried Company, 1778 East Thirtieth Street, Cleveland, Ohio, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of women's and misses' dresses manufactured by The Gottfried Company, 1778 East Thirtieth Street, Cleveland, Ohio, having the brand name(s) "Mynette", "Marie Dressler", and "Maurene" shall be the proposed retail ceiling prices listed by The Gottfried Company in its application dated May 7, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, The Gottfried Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

Column 1 Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8406; Filed, July 17, 1951; 4:55 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 157]

CASTLETON CHINA, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in

the accompanying special order, Castleton China, Inc., 212 Fifth Avenue, New York 10, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to Section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of dinnerware manufactured by Castleton China, Inc., 212 Fifth Avenue, New York 10, New York, having the brand name(s) "Castleton China" shall be the proposed retail ceiling prices listed by Castleton China, Inc., in its application dated April 12, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the FEDERAL REGISTER as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Castleton China, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $ --------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8407; Filed, July 17, 1951; 4:56 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 158]

DULANE, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Dulane, Inc., 8550 West Grant Avenue, River Grove, Illinois, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of automatic electric deep fryers, manufactured by Dulane Inc., 8550 West Grand Avenue, River Grove, Illinois, having the brand name(s) "Fryryte," shall be the proposed retail ceiling prices listed by Dulane, Inc., in its application dated April 27, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Dulane, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc. Terms {net. percent EOM. etc.	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8408; Filed, July 17, 1951; 4:56 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 159]

KENDALL MILLS DIVISION OF THE KENDALL CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Kendall Mills Division of The Kendall Company, Walpole, Massachusetts, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of diapers, nursery pads, nursery fluffs, nursery bibs, nursery cotton (packages) and nursery masks manufactured by Kendall Mills Division of The Kendall Company, Walpole, Massachusetts, having the brand name(s) "Curity" shall be the proposed retail ceiling prices listed by Kendall Mills Division of The Kendall Company in its application dated March 8, 1951, and filed with the Office of Price Stabilization, Washington

25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to his special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Kendall Mills Division of The Kendall Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within 2 months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$------ per------ {unit. dozen. etc.} Terms {net. percent EOM. etc.}	$-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8409; Filed, July 17, 1951; 4:56 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 160]

SCOTT RADIO LABORATORIES, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Scott Radio Laboratories, Inc., 4541 Ravenswood Avenue, Chicago 40, Illinois, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of television receivers manufactured by Scott Radio Laboratories, Inc., 4541 Ravenwood Avenue, Chicago 40, Illinois, having the brand name(s) "Scott", shall be the proposed retail ceiling prices listed by Scott Radio Laboratories, Inc., in its application dated April 24, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Scott Radio Laboratories, Inc., must mark each article for which a ceiling price

has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within 2 months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$...... per...... {unit. dozen. etc. Terms {net. percent EOM. etc.	$.......

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within 2 months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8410; Filed, July 17, 1951; 4:57 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 161]

JACQUES KREISLER MANUFACTURING CORP.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Jacques Kreisler Manufacturing Corporation, 9015 Bergenline Avenue, North Bergen, New Jersey, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of women's and men's leather and metal watch bands, jewelry and pocket knives manufactured by Jacques Kreisler Manufacturing Corporation, 9015 Bergenline Avenue, North Bergen, New Jersey, having the brand name(s) "Jacques Kreisler" and "Kreisler" shall be the proposed retail ceiling prices listed by Jacques Kreisler Manufacturing Corporation in its application dated April 25, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after August 16, 1951, Jacques Kreisler Manufacturing Corporation must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after September 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to September 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the

applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1) Our price to retailers	(Column 2) Retailer's ceilings for articles of cost listed in column 1
$...... per...... {unit. dozen. etc. Terms {net. percent EOM. etc.	$.......

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective July 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 17, 1951.

[F. R. Doc. 51-8411; Filed, July 17, 1951; 4:57 p. m.]

DEPARTMENT OF STATE

Bureau of German Affairs

[Public Notice 99]

I. G. FARBENINDUSTRIE A. G. ET AL.

FINAL APPEAL TO CREDITORS

JUNE 26, 1951.

The following proclamation, issued by the United States High Commissioner for Germany, is deemed to be of interest to certain United States citizens as having legal effect upon them or their property.

Publication of final appeal to the creditors of I. G. Farbenindustrie A. G. (in dissolution) and of the following companies:

Agfa-Photo G. m. b. H. Düsseldorf.
Agfa-Photo G. m. b. H. Frankfurt.
Agfa-Photo G. m. b. H. Hamburg.
Agfa-Photo G. m. b. H. Hannover.
Agfa-Photo G. m. b. H. Köln.
Agfa-Photo G. m. b. H. München.
Agfa-Photo G. m. b. H. Stuttgart.
Aktiengesellschaft für Stickstoffdünger, Knapsack.
Aktiengesellschaft zur gemeinnützigen Beschaffung von Wohnungen, Frankfurt (Main)-Höchst.
Alkali G. m. b. H.
Allgemeine Verwaltungs-Gesellschaft m. b. H.
Alzwerke G. m. b. H.
Anorgana G. m. b. H.
Anorgana Gefolgschaftshilfe G. m. b. H.
Astra Grundstücks A. G.
Bad homburger Heilquellen G. m. b. H.
Badische Saphir-Schleifwerke G. m. b. H.
Carl Bauer & Co. (O. H. G.).
Bayerische Essigessenz-Verkaufastelle Chr. Dederer G. m. b. H.
Bayerische Stickstoffwerke A. G.
Beamtenerholungsheim Saarow G. m. b. H.
Behring-Institut Berlin G. m. b. H.
Behringwerke A. G.
Bielefelder Sackfabrik G. m. b. H.
Bourjau & Co. K. G.
Dr. Heinrich von Brunck Gedächtnisstiftung G. m. b. H.
Carbidkontor G. m. b. H.
Celluloid-Verkaufs-G. m. b. H.
Chemiewerk Homburg A. G.
Chemische Forschungsgesellschaft m. b. H.
Chemische Studiengesellschaft "Uniwapo" G. m. b. H.
Chemische Verwertungsgesellschaft Oberhausen m. b. H.
Chemische Werke Hüls G. m. b. H.
Chlorzink-Produkte G. m. b. H.
Citrovin-Fabrik G. m. b. H.
Clarashall G. m. b. H.
Consortium für elektrochemische Industrie G. m. b. H.
Cuprama Spinnfaser G. m. b. H.
Curta & Co. G. m. b. H.
Deutsch-Koloniale Gerbstoff-Gesellschaft m. b. H.
Deutsche Edelsteingesellschaft vorm. Hermann Wild A. G.
Deutsche Länderbank A. G.
Deutsche Oxhydric G. m. b. H.
Deutsche Sprengchemie G. m. b. H.
Donar G. m. b. H. für Apparatebau.
G. C. Dornheim, A. G.
Drawin G. m. b. H.
Drugofa G. m. b. H.
Duisburger Kupferhütte (A. G.)
Dynamit-Actien-Gesellschaft vorm. Alfred Nobel & Co.
Eckert & Ziegler G. m. b. H.
Elbia G. m. b. H. für chemische Produkte.
Elbia Gefolgschaftsfürsorge G. m. b. H.
Elektrochemische Produkte G. m. b. H.
Elektrochemische Werke Breslau G. m. b. H.
Elektroschmelzwerk Kempten A. G.
Elite Grundstücks G. m. b. H.
Ethyl G. m. b. H.
Faserholz G. m. b. H.
Fassholzfabrik Goldbach G. m. b. H.
Fertilia Chemische Werke A. G.
Fluorit-Werke G. m. b. H.
Fluor-Produkte G. m. b. H.
Flusspatwerke G. m. b. H.
Fluss-und Schwerspatwerke Pforzheim Döppenschmitt & Co. G. m. b. H.
Friedrichsberger Bank e. G. m. b. H.
Fugger Grundstücks—A. G.
Gefolgschaftshilfe der Aktiengesellschaft für Stickstoffdünger G. m. b. H., Knapsack.
Gefolgschaftshilfe der Curta & Co. G. m. b. H. Berlin e. V.
Gefolgschaftshilfe G. m. b. H. der Firma Friedrich Uhde K. G.
Gemeinnützige Baugesellschaft m. b. H.
Gemeinnützige Siedlungsgesellschaft Duisburger Kupferhütte m. b. H.
Gemeinnützige Siedlungsgesellschaft Kalle m. b. H.
Gemeinnützige Wohnungs-Gesellschaft m. b. H. Leverkusen.
Gemeinnütziges Wohnungsunternehmen Chemische Werke Hüls G. m. b. H.
Gemeinnütziges Wohnungsunternehmen der I. G. Farbenindustrie A. G. Frankfurt G. m. b. H.
Gemeinnütziges Wohnungsunternehmen I. G. G. m. b. H. Ludwigshafen.
Gustav Genschow & Co. A. G.
Gesellschaft für Aufbereitung m. b. H.
Gesellschaft für Synthese-Produkte m. b. H.
Gesellschaft m. b. H. sur Verwertung chemischer Erzeugnisse.
Gewerkschaft Auguste Victoria.
Gewerkschaft des Konsolidierten Steinkohlenbergwerkes "Breitenbach."
Gewerkschaft Götzenhain zu Darmstadt.
Gewerkschaft Stein V.
Gewerkschaft Stein VII.
Gewerkschaft Stein IX.
Gewerkschaft Stein X.
"Griesogen" Griesheimer Autogen-Verkaufs—G. m. b. H.
Grundstücks-Verwaltungsgesellschaft "Osten" m. b. H., Berlin.
Guano-Werke A. G.
Handelsgesellschaft Auguste Victoria (O. H. G.).
Handels- und Industrie-Kontor G. m. b. H.
Hölkenseide G. m. b. H. in Liqu.
Hoffmann & Engelmann A. G.
Hoffman & Engelmann Gefolgschaftshilfe G. m. b. H.
Hruby & Co. (O. H. G.).
Hütten-Chemie G. m. b. H.
Igerussko Handelsgesellschaft m. b. H.
I. G.-Gefolgschaftshilfe G. m. b. H. Frankfurt.
Indanthren-Haus Frankfurt G. m. b. H.
Indanthren-Haus Hamburg G. m. b. H.
Indanthren-Haus Köln G. m. b. H.
Indanthren-Haus München G. m. b. H.
Indanthren-Haus Stuttgart G. m. b. H.
Kalle & Co. A. G.
Kalle Gefolgschaftshilfe G. m. b. H.
"Karato" G. m. b. H.
Klüser & Co. K. G.
Köln-Rottwell A. G.
Lagerstein-Verkaufsgesellschaft m. b. H.

Länderbank-Fugger Unterstützungs-Einrichtung G. m. b. H.
Lindener Zündhütchen- und Patronenfabrik A. G.
"Liveg" Lizenz-Verwertungs-G. m. b. H.
Luranil-Baugesellschaft m. b. H.
Magnetophon G. m. b. H.
"Movea" G. m. b. H.
Professor Dr. Paul Müller-Stiftung G. m. b. H.
Niedersachsen Oel Gesellschaft m. b. H.
Palas G. m. b. H. Konzernversicherung.
Pensionskasse der Angestellten der I. G. Farbenindustrie A. G. Frankfurt am Main, Versicherungsverein auf Gegenseitigkeit.
Pensionskasse der Angestellten der I. G. Farbenindustrie A. G. Leverkusen am Rhein, Versicherungsvereia auf Gegenseitigkeit.
Pensionskasse der Angestellten der I. G. Farbenindustrie A. G. Ludwigshafen am Rhein, Versicherungsverein aug Gegenseitigkeit.
Plastro-Gesellschaft m. b. H.
Pulverfabrik Hasloch a. M. G. m. b. H.
"Pyrodur" Vereinigte Härtemaschinen G. m. b. H.
Pyrophor-Metallgesellschaft A. G.
Rheinische Elektrodenfabrik G. m. b. H.
Rheinische Gummi- und Celluloidfabrik A. G.
Rheinisches Spritzgubwerk G. m. b. H.
Rheinisch-Westfälische Sprengstoff A. G.
Rohaisenverkaufsgesellschaft Duisburger Kupferhütte m. b. H.
Sauerstoff-Fabrik Berlin G. m. b. H.
"Schildkröte" Rheinische Dauerwüsche- und Kunststoffwarenfabrik G. m. b. H.
Hermann und Markarethe Schmitz-Stiftung G. m. b. H.
Schwefel G. m. b. H.
Schwefelmatrium G. m. b. H.
Selektor-Bau- und Handelsgresellschaft m. b. H.
"Sextra" Schwefel-Extraktions- und Raffinations- G. m. b. H.
Siedlungsgesellschaft Wasag G. m. b. H.
Sprengstoff Verkaufsgesellschaft m. b. H.
Steedener Kalkwerke G. m. b. H.
Stickstoff-Ost G. m. b. H.
Stickstoff-Syndikat G. m. b. H.
Walter Strehle G. m. b. H.
Studiengesellschaft für Metallgewinnung m. b. H.
Superphosphatfabrik Nordenham A. G.
Terra Grundstücks-G. m. b. H.
Titan-Gesellschaft m. b. H.
Ingenieur-Büro Friedrich Uhde K. G.
"Venditor" Kunstoff-Verkaufs-G. m. b. H.
Vereinigte Sauerstoffwerke G. m. b. H.
Verkaufsgemeinschaft Pyrotechnischer Fabriken G. m. b. H.
Verkaufsgesellschaft für Kunststoff-Erzeugniese m. b. H.
Verkaufsstelle für Oxalsäure und Ameisensäure G. m. b. H.
Versuchswerk für Kautschukverarbeitung G. m. b. H. in Liqu.
Verteilungsstelle fur Chlorkalk (Ges. des Burgerl. Rechts).
Waaren-Commissions-A. G.
Dr. Alexander Wacker Gesellschaft für elektrochemische Industrie G. m. b. H.
Gebr. Wandesleben G. m. b. H.
Wasag-Chemie A. G.
Westfälisch-Anhaltische Sprengstoff A. G. Chemische Fabriken.
Westfälische Leichtmetallwerke G. m. b. H.
Westgas G. m. b. H.
Wolff & Co. K. G. a. A.
Worbla Celluloid-Handels-Gesellschaft m. b. H.
Zellglas-Export Syndikat G. m. b. H.
Ziegelei Graesbeck G. m. b. H.
Zünderwerke Ernst Brün G. m. b. H.

Whereas the Council of the Allied High Commission for Germany has enacted Law No. 35 dated 17th August 1950, providing for the dissolution and the winding-up of the corporate entity of I. G. Farbenindustrie A. G. and the dispersal of its assets in Western Germany, and has appointed the Tripartite I. G. Farben Control Group as the agency to carry out the terms of the Law, all creditors who assert claims not yet satisfied against any of the above companies and whose claims originated prior to 5 July 1945 are hereby required to file their claims with the

Tripartite I. G. Farben Control Group
Secretariat
Registration Office for Creditors' Claims
28 Mainzor Landstrasse,
Frankfurt am Main,
Germany

as follows:

(a) Creditors, having their residence, legal seat or their management, within Western Germany and the Western Sectors of Berlin within three months after the date of this Final Appeal; outside of Western Germany and the Western Sectors of Berlin within six months after the date of this Final Appeal.

(b) The claims should be filed in three copies, separately for each debtor company, and should contain the following statements:

(I) Full name and address of the creditor,
(II) The creditor's present domicile and nationality and his domicile and nationality at the time when his claim came into existence,
(III) Name of the debtor company,
(IV) Amount of the claim as of 5th July 1945,
(V) Brief description of the claim and its origin,
(VI) Reference to records evidencing the claim, and to correspondence, if any, referring to such claim.

Creditors required to file claims according to this Final Appeal are those claimants described in Article 5, Para 4, of the AHC Law No. 35 with the following exceptions:

(a) Shareholders;
(b) Creditors, who have already filed their claims in accordance with the Appeal to creditors dated 1st August 1950, issued by the Tripartite I. G. Farben Control Office;
(c) Creditors, who have claims in respect of unpaid wages, salaries or pensions and who are receiving payments in respect of such current claims from the debtor companies.

Claims not filed within the periods prescribed might be disregarded by the Tripartite I. G. Farben Control Group.

The appeal does not apply to creditors of the companies listed in Part II of the Schedule to the AHC Law No. 35 since the Tripartite I. G. Farben Control Group is not presently dealing wtih claims against the assets of these companies.

Frankfurt on the Main, 1 February 1951.
Tripartite I. G. Farben Control Group, Secretariat.

Publication of this notice is not intended to and does not in any way add to or detract from the presently existing legal force and effect of the matter quoted above.

For the Secretary of State.

GEOFFREY W. LEWIS,
Deputy Director,
Bureau of German Affairs.

[F. R. Doc. 51-8367; Filed, July 19, 1951; 8:56 a. m.]

DEPARTMENT OF AGRICULTURE

Forest Service

CARSON NATIONAL FOREST

REMOVAL OF TRESPASSING HORSES

Whereas a number of horses are trespassing and grazing on the Jicarilla Ranger District of the Carson National Forest, in Rio Arriba County, State of New Mexico; and

Whereas these horses are consuming forage needed for permitted livestock, are causing extra expense to established permittees, and are injuring national-forest lands;

Now, therefore, by virtue of the authority vested in the Secretary of Agriculture by the Act of June 4, 1897 (30 Stat. 35; 16 U. S. C. 551), and the Act of February 1, 1905 (33 Stat. 628, 16 U. S. C. 472), the following order is issued for the occupancy, use, protection, and administration of land in the Jicarilla Ranger District of the Carson National Forest:

Temporary closure from livestock grazing. (a) The Jicarilla Ranger District in the Carson National Forest is hereby closed for the period November 1, 1951 to May 10, 1952, to the grazing of horses, excepting those that are lawfully grazing on or crossing land in such District pursuant to the regulations of the Secretary of Agriculture, or that are used in connection with operations authorized by such regulations, or that are used as riding, pack, or draft animals by persons traveling over such land, which is located in Townships 27, 28, 29, 30, 31, and 32 North, Range 4 West, and parts of Townships 29, 30, 31, and 32, Range 5 West, Rio Arriba County, New Mexico.

(b) Officers of the United States Forest Service are hereby authorized to dispose of, in the most humane manner, all horses found trespassing or grazing in violation of this order.

(c) Public notice of intention to dispose of such horses shall be given by posting notices in public places or advertising in a newspaper of general circulation in the locality in which the Carson National Forest is located.

Done at Washington, D. C., this 16th day of July 1951. Witness my hand and the seal of the Department of Agriculture.

[SEAL] C. J. MCCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-8320; Filed, July 19, 1951; 8:49 a. m.]

Production and Marketing Administration

SAN ANTONIO HORSE AND MULE MARKET

DEPOSTING OF STOCKYARD

It has been ascertained that the San Antonio Horse and Mule Market, San Antonio, Texas, originally posted on October 11, 1937, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it is no longer being conducted or operated as a public livestock market. Therefore, notice is given to the owner of such stockyard and to the public that such stockyard is no longer subject to the provisions of said act.

Notice of public rule making has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and

timely administration of the Packers and Stockyards Act and would, therefore, be impractical. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer being conducted or operated as a public livestock market and is, therefore, no longer a stockyard within the definition contained in said act.

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

(7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 17th day of July 1951.

[SEAL] H. E. REED,
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 51-8414; Filed, July 19, 1951; 9:03 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-962, G-1070, G-1248, G-1290, G-1741]

TENNESSEE GAS TRANSMISSION CO.

ORDER REJECTING FPC GAS TARIFF AND SUSPENDING PROPOSED FPC GAS TARIFF

JULY 12, 1951.

On June 14, 1951, Tennessee Gas Transmission Company (TGT) filed with the Commission FPC Gas Tariff Original Volume No. 1, Rate Schedules G-4, G-5, and S-5, to take effect as of July 15, 1951.[1]

At the same time, TGT filed with the Commission FPC Gas Tariff, First Revised Volume No. 1, superseding Rate Schedules CD-1, CD-2, CD-3, CD-4, and CD-5; Rate Schedules G-1, G-2, G-3, G-4, G-5, and G-6; Rate Schedules R-1, R-2, R-3, and R-4; Rate Schedules S-1 and S-5; Rate Schedules T-1 and T-4. Said First Revised Volume No. 1 included the following rate schedules not previously on file: Rate Schedules E-1, E-2, E-3, E-4, and E-5. Additionally, the rate schedules for firm service provide for an assessment of a penalty for unauthorized over-run, and changes in the form of Service Agreement, and changes in the General Terms and Conditions. Said FPC Gas Tariff, First Revised Volume No. 1, is proposed to take effect as of July 16, 1951.

On December 7, 1948, May 3, 1949, and July 26, 1949, the Commission entered orders issuing certificates of public convenience and necessity at Docket Nos. F-962 and G-1070 authorizing TGT to construct and operate certain natural-gas pipeline facilities, on condition that TGT file satisfactory schedules of rates and charges for the transportation and sale of natural gas therein proposed. Pursuant to such condition TGT tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, proposed rate schedules CD-4, CD-5, T-1, and T-4, and certain service agreements under said Rate Schedules CD-4 and CD-5. By order of September 15, 1950, the Commission, for reasons therein stated, postponed determination of the issue whether said rate filings satisfied the conditions of the orders issuing the certificates hereinbefore mentioned, and permitted Rate Schedules CD-4, CD-5, T-1, and T-4 to take effect on an interim basis, for a period commencing August 1, 1950, and extending to, but not including, December 1, 1951, subject to the conditions therein stated. By the same order, the Commission rejected the proposed service agreements.

By order of February 13, 1951, pursuant to the condition in the orders issuing certificates at Docket Nos. G-962 and G-1070, all as above referred to, the Commission allowed Rate Schedule R-4 to become effective on an interim basis contemporary with the interim period of Rate Schedules CD-4, CD-5, T-1, and T-4, and subject to the same conditions.

On November 4, 1950, the Commission by Opinion No. 202 and order therein, issued to TGT, at Docket Nos. G-1248 and G-1290, certificates of public convenience and necessity on the following terms and conditions, among others:

(1) Tennessee shall submit at least three months prior to the commencement of its operations in the Northern and New York zones, authorized herein, rate schedules and service agreements in a form satisfactory to the Commission for the transportation and sale of natural gas, which shall provide rates for firm service which will produce charges not in excess of those which would result from a demand charge of $3.00 per Mcf per month and a commodity charge of 20.7 cents per Mcf in the New York rate zone and rates for firm service in the Northern zone which will produce charges not in excess of those which would result from a demand charge of $2.40 per Mcf per month and a commodity charge of 15.2 cents per Mcf. Such rate schedules shall include a rate for the sale of seller's option gas to New York State Natural which will provide a reduction equivalent to the reduction herein required in the rate for firm gas in the New York zone. Such rate schedules shall include a transportation rate for service in the Northern zone which will provide a 2-cent reduction in the presently effective interim rate for that service.

TGT's proposed FPC Gas Tariff, Original Volume No. 1, containing Rate Schedules G-4, G-5, and S-5, as filed on June 14, 1951, provides for Rate Schedule G-4 a demand charge of $2.40 per Mcf per month and a commodity charge of 17.2 cents per Mcf; a demand charge of $3.40 per Mcf per month and a commodity charge of 21.2 cents per Mcf for Rate Schedule G-5; and 26.72 cents per Mcf for Rate Schedule S-5. These rates and charges do not conform to the rates and charges set forth in the condition attached to the issuance of the certificates at Docket Nos. G-1248 and G-1290, referred to above.

According to information furnished by TGT, the rates and charges proposed in TGT's FPC Gas Tariff, First Revised Volume No. 1, as filed June 14, 1951, would increase TGT's revenues for the 12 months ending July 31, 1951 from $66,957,864 to $80,889,219; and for the 12 months ending July 31, 1952, the proposed increased rates and charges would increase revenues from $83,264,058 to $99,613,895. The above figures do not take into account the rates and charges fixed by the Commission in its order of November 4, 1950 at Docket Nos. G-1248 and G-1290, so that the increase would be larger if such lower rates and charges were used.

The Commission finds:

(1) TGT's FPC Gas Tariff, Original Volume No. 1, Rate Schedules G-4, G-5, and S-5 proposed to be made effective as of July 15, 1951, do not meet the requirements of the conditions in the orders of the Commission of December 7, 1948, May 3, 1949, and July 26, 1949 at Docket Nos. G-962 and G-1070, and of November 4, 1950 at Docket Nos. G-1248 and G-1290; and such rate schedules should be rejected.

(2) TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules CD-4, CD-5, G-4, G-5, R-4, S-5, T-3, and T-4, proposed to be made effective as of July 16, 1951, do not meet the requirements of the conditions in the orders of the Commission referred to in paragraph (1) above, and such rate schedules should be rejected.

(3) TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules CD-1, CD-2, CD-3, G-1, G-2, G-3, R-1, R-2, R-3, and S-3, including the provisions for assessment of a penalty for unauthorized over-run and changes in the form of Service Agreement and changes in the General Terms and Conditions proposed to be made effective as of July 16, 1951, superseding FPC Gas Tariff, Original Volume No. 1, Rate Schedules CD-1, CD-2, CD-3, G-1, G-2, G-3, G-6, R-1, R-2, R-3, and S-1, may be unjust, unreasonable, unduly discriminatory or preferential, and may place an undue burden upon ultimate consumers of natural gas, so that the Commission should enter upon a hearing, pursuant to section 4 of the Natural Gas Act, concerning the lawfulness of the rates, charges, and classifications, including rules, regulations, and contracts relating thereto, of the rate schedules referred to in this paragraph, and said rate schedules should be suspended pending hearing and decision thereon.

(4) TGT's FPC Gas Tariff, First Revise Volume No. 1, Rate Schedules E-1, E-2, E-3, E-4 and E-5 should be allowed to become effective as of July 16, 1951, as an initial rate filing. No authorization has been granted in any certificate proceeding authorizing such emergency service, unless TGT offers such emergency service pursuant to § 157.14 of the Commission's rules of practice and procedure. Such rates, charges, and classifications may be unjust, unreasonable, unduly discriminatory or preferential, and may place an undue burden on ultimate consumers of natural gas, so that the Commission on its own motion should enter upon a hearing pursuant to the authority contained in section 5 of the Natural Gas Act, concerning the lawfulness of the

[1] On June 26, 1951, TGT filed Original Sheet No. 50, correcting an error in Rate Schedule S-5; and on July 6, 1951, Original Sheet Nos. 13 and 16, First Revised Sheets Nos. 10 and 19, Second Revised Sheets Nos. 4 and 7, modifying the availability of TGT's present Rate Schedules G-1, G-2, G-3, and G-6, and proposed Rate Schedules G-4 and G-5.

rates, charges, and classifications of the rate schedules, including rules, regulations or contracts relating thereto, referred to in this paragraph.

The Commission orders:

(A) TGT's FPC Gas Tariff, Original Volume No. 1, Rate Schedules G-4, G-5 and S-5, submitted for filing on June 14, 1951; and Original Sheet No. 50 filed on June 26, 1951, and Original Sheets Nos. 13 and 16, filed on July 6, 1951, and proposed to become effective on July 15, 1951, be and the same are hereby rejected, and they shall have no force and effect as schedules of rates and charges filed under section 4 of the Natural Gas Act, until further order of the Commission.

(B) TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules CD-4, CD-5, G-4, G-5, R-4, S-5, T-3, and T-4, submitted for filing on June 14, 1951, and proposed to become effective on July 16, 1951, be and the same are hereby rejected, and they shall have no force and effect as schedules of rates and charges filed under section 4 of the Natural Gas Act, until further order of the Commission.

(C) TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules CD-1, CD-2, CD-3, G-1, G-2, G-3, R-1, R-2, R-3, and S-3, including the provisions for assessment of a penalty for unauthorized over-run and changes in the form of Service Agreement and changes in the General Terms and Conditions, submitted for filing on June 14, 1951, and proposed to become effective on July 16, 1951, be and the same are hereby suspended, pursuant to section 4 of the Natural Gas Act, and pending a hearing and decision thereon, their use is deferred until December 16, 1951, and until such further time as such rate schedules may be made effective in the manner prescribed by the Natural Gas Act.

(D) TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules E-1, E-2, E-3, E-4 and E-5 be accepted for filing effective as of July 16, 1951.

(E) TGT's FPC Gas Tariff, Original Volume No. 1, First Revised Sheets Nos. 10 and 19, and Second Revised Sheets Nos. 4 and 7, be accepted for filing, effective as of July 15, 1951.

(F) The acceptance for filing of TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules E-1, E-2, E-3, E-4 and E-5, First Revised Sheets Nos. 10 and 19 and Second Revised Sheets Nos. 4 and 7, shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act; nor shall it be construed as constituting approval by this Commission of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such service or rate provided for in the above-described rate schedules, nor shall this order be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate.

(G) The Commission enter upon a hearing, pursuant to section 5 of the Natural Gas Act, to determine whether TGT's FPC Gas Tariff, First Revised Volume No. 1, Rate Schedules E-1, E-2, E-3, E-4, and E-5, submitted for filing on June 14, 1951, and proposed to become effective on July 16, 1951, is unjust, unreasonable, unduly discriminatory, or preferential, and if after hearing, the Commission shall find such rate schedules, including any rate, charge, classification, rule, regulation, practice, or contract relating thereto is unjust, unreasonable, unduly discriminatory or preferential, it will determine and fix by order or orders the just, reasonable, non-discriminatory, and non-preferential rates, charges, classifications, rules, regulations, practices, and contracts to be filed and thereafter observed and enforced.

(H) Nothing herein shall be construed as limiting the right of the Commission with respect to the extension, cancelation, or other action concerning any rate schedule of TGT now on file with the Commission on an interim base, nor as limiting the right of the Commission to permit any new rate schedule to become effective on an interim basis.

(I) Pursuant to the authority contained in sections 4, 5, and 15 of the Natural Gas Act, a public hearing be held upon a date to be fixed by further order of the Commission concerning the issues and matters set forth in paragraph (C) and (G) hereof.

(J) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Date of issuance: July 13, 1951.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-8313; Filed, July 19, 1951; 8:45 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

DESCRIPTION OF AGENCY AND PROGRAMS AND FINAL DELEGATIONS OF AUTHORITY

OPERATIONS DIVISION

Section II d, *Central Office organization and final delegations of authority to Central Office officials*, is amended as follows:

d. *Operations Division*. The Operations Division is headed by an Assistant Commissioner for Operations who is responsible to the Commissioner for the activities of the Operations Division and of the Field Offices, the headquarters and jurisdictions of which are as follows:

Atlanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia. Public Housing Administration, Glenn Building, 120 Marietta Street NW., Atlanta 3, Ga.

Chicago: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin. Public Housing Administration, 201 North Wells Street, Chicago 6, Ill.

Fort Worth: Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, Texas. Public Housing Administration, 805 Texas and Pacific Passenger Building, Fort Worth 2, Tex.

New York: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, District of Columbia. Public Housing Administration, Empire State Building, 350 Fifth Avenue, New York 1, N. Y.

Puerto Rico: Puerto Rico and the Virgin Islands. Public Housing Administration, P. O. Box 1546, San Juan, P. R.

San Francisco: Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, the Territory of Alaska, the Territory of Hawaii. Public Housing Administration, 1360 Mission Street, San Francisco 3, Calif.

Date approved: July 13, 1951.

[SEAL] JOHN TAYLOR EGAN, *Commissioner.*

[F. R. Doc. 51-8314; Filed, July 19, 1951; 8:46 a. m.]

DESCRIPTION OF AGENCY AND PROGRAM AND FINAL DELEGATION OF AUTHORITY

CENTRAL OFFICE

Section II, *Central Office organization and final delegations of authority to Central Office officials*, is amended as follows:

Subparagraphs 1 through 5, inclusive, of section IId, appearing at 14 F. R. 1624, are hereby amended by substituting for the words "Assistant Commissioner for Field Operations" and "Field Operations Division," wherever they appear, the words "Assistant Commissioner for Operations" and "Operations Division," respectively.

Date approved: July 13, 1951.

[SEAL] JOHN TAYLOR EGAN, *Commissioner.*

[F. R. Doc. 51-8315; Filed, July 19, 1951; 8:48 a. m.]

DESCRIPTION OF AGENCY AND PROGRAM AND FINAL DELEGATIONS OF AUTHORITY

CENTRAL OFFICE

Section II, *Central Office organization and final delegations of authority to Central Office officials*, is amended as follows:

Subparagraph 8 is added to section II j as follows:

8. Effective July 2, 1951, all powers vested as of June 30, 1951, in the Assistant Commissioners for Field Operations are hereby delegated to the Assistant Commissioner for Operations and the Deputy Assistant Commissioner for Operations.

Date approved: July 13, 1951.

[SEAL] JOHN TAYLOR EGAN, *Commissioner.*

[F. R. Doc. 51-8316; Filed, July 19, 1951; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26255]

MIXED CARLOADS MERCHANDISE FROM CHARLOTTE, N. C., AND GREENVILLE, S. C., TO ILLINOIS AND MISSOURI

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to Agent C. A. Spaninger's tariff ICC No. 1073, pursuant to fourth section order No. 16101.

Commodities involved: Merchandise in mixed carloads.

From: Charlotte, N. C., and Greenville, S. C.

To: Chicago and East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief: Circuitous routes. Operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8326; Filed, July 19, 1951; 8:51 a. m.]

[4th Sec. Application 26256]

ALCOHOL AND RELATED ARTICLES FROM ARKANSAS, LOUISIANA, OKLAHOMA, AND TEXAS TO MACON, MO.

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff ICC No. 3721.

Commodities involved: Alcohol and related articles, carloads.

From: Crossett, Ark., Sterlington, La., Tallant, Okla., Bishop, Brownsville, Texas City, and Winnie, Tex., and certain other Texas points.

To: Macon, Mo.

Grounds for relief: Competition with rail carriers. Market competition.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3721, supp. 184.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8327; Filed, July 19, 1951; 8:51 a. m.]

[4th Sec. Application 26257]

BENZOL FROM SOLVAY, N. Y., TO BROWNSVILLE, TEX.

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent for carriers parties to his tariff ICC No. 3715.

Commodities involved: Benzol (benzene), in tankcar loads.

From: Solvay, N. Y.

To: Brownsville, Tex.

Grounds for relief: Competition with rail carriers. Circuitous routes. Market competition.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3715, supp. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8328; Filed, July 19, 1951; 8:51 a. m.]

[4th Sec. Application 26258]

BAGS, NEW OR OLD, FROM LOUISIANA AND TEXAS TO HOLLANDALE, MINN.

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariffs ICC Nos. 3906 and 3967.

Commodities involved: Bags, new or old, burlap, gunny, etc., carloads.

From: Lake Charles and West Lake Charles, La., Houston, Tex., and certain other Texas points.

To: Hollandale, Minn.

Grounds for relief: Circuitous routes. To maintain port relations.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3967, supp. 9; D. Q. Marsh, Agent, ICC No. 3906, supp. 60.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8329; Filed, July 19, 1951; 8:51 a. m.]

[4th Sec. Application 26259]

LESS-THAN-CARLOAD FREIGHT FROM AMARILLO TO EL PASO, TEX.

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. N. Roberts, Alternate Agent, for carriers parties to his tariff ICC No. 743.

Commodities involved: Freight, all kinds, in less-than-carloads.

From: Amarillo, Texas.

To: El Paso, Texas.

Grounds for relief: Competition with rail carriers. Circuitous routes.

Schedules filed containing proposed rates: H. N. Roberts, Alternate Agent, ICC No. 743, supp. 20.

Any interested person desiring the Commission to hold a hearing upon such

application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8330; Filed, July 19, 1951; 8:51 a. m.]

[4th Sec. Application 26260]

HORSES FOR SLAUGHTER FROM SEVERAL STATES TO LOS ANGELES, CALIF.

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for carriers parties to his tariff ICC No. 1534.

Commodities involved: Horses for slaughter, carloads.

From: Arkansas, Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

To: Los Angeles, Calif.

Grounds for relief: Competition with rail carriers. Circuitous routes.

Schedules filed containing proposed rates: L. E. Kipp, Agent, ICC No. 1534, supp. 22.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8331; Filed, July 19, 1951; 8:52 a. m.]

[4th Sec. Application 26261]

HORSES FOR SLAUGHTER FROM ARKANSAS AND MISSOURI TO OGDEN, UTAH

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff ICC No. 3764.

Commodities involved: Horses for slaughter, carloads.

From: Points in Arkansas and Missouri.

To: Ogden, Utah.

Grounds for relief: Competition with rail carriers, to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3764, supp. 35.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8332; Filed, July 19, 1951; 8:52 a. m.]

[4th Sec. Application 26262]

PETROLEUM PRODUCTS FROM POINTS IN TEXAS TO COLORADO, KANSAS, OKLAHOMA, AND TEXAS

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff ICC No. 3494.

Commodities involved: Petroleum products, in carloads.

From: Big Lake, Rankin, Texon, and Witco, Tex.

To: Points in Colorado, Kansas, Oklahoma, and Texas.

Grounds for relief: Competition with rail carriers. Circuitous routes. To maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3494, supp. 223.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8333; Filed, July 19, 1951; 8:52 a. m.]

[4th Sec. Application 26263]

GRAIN FROM ST. LOUIS, MO., TO POINTS IN LOUISIANA

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff ICC No. 3940.

Commodities involved: Grain, grain products, and related articles, carloads.

From: St. Louis, Mo., and East St. Louis, Ill.

To: Points in Louisiana.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3940, supp. 9.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8334; Filed, July 19, 1951; 8:52 a. m.]

[4th Sec. Application 26264]

ETHYLENE GLYCOL FROM PORT NECHES, TEX., TO DAYTON, OHIO

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff ICC No. 3721.

Commodities involved: Ethylene glycol, in tank-car loads.

From: Port Neches, Texas.

To: Dayton, Ohio.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3721, supp. 185.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8335; Filed, July 19, 1951; 8:52 a. m.]

[4th Sec. Application 26265]

PETROLEUM NAPTHA FROM THE SOUTHWEST TO DULUTH, MINN., AND SUPERIOR, WIS.

APPLICATION FOR RELIEF

JULY 17, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff ICC No. 3825.

Commodities involved: Petroleum naptha, in tankcar loads.

From: Points in southwestern territory.

To: Duluth, Minn., and Superior, Wis. (applicable on shipments destined to Canada).

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh, Agent, ICC No. 3825, supp. 106.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8336; Filed, July 19, 1951; 8:53 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 18182]

HELENE LEUTZ

In re: Cash and securities owned by Helene Leutz. File No. F-28-12966.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Helene Leutz whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

(a) The sum of $1,042.20 held by the Clerk of the District Court of Morton County, North Dakota, pursuant to an order of the District Court of Morton County, North Dakota, Sixth Judicial District, in the matter of the dissolution of the Security Company of Hebron, Hebron, North Dakota, together with any accruals thereto;

(b) The sum of $5,175.00 held by The Security Bank of Hebron, Hebron, North Dakota, in an account designated as "Dividend Account Security Company of Hebron representing dividends declared on 45 shares of stock of the Security Company of Hebron, Hebron, North Dakota, evidenced by Certificate No. 17 together with any accruals thereto;

(c) The sum of $3,791.59 held by the Security Bank of Hebron, Hebron, North Dakota, in an account designated as "Security Agency" representing dividends paid by the Security Company Agency, Hebron, North Dakota, for the account of the Estate of Ferdinand Leutz;

(d) Seventy-eight and one-half (78½) shares of stock of Hebron Investment Company, Hebron, North Dakota, evidenced by Stock Certificate No. 14 issued in the name of Ferdinand Leutz Estate, together with all declared and unpaid dividends;

(e) The sum of $1,099.00 held by The Security Bank of Hebron, Hebron, North Dakota, in an account designated "Dividend Account—Hebron Investment Company" representing dividends declared on 78½ shares of stock of Hebron Investment Company, Hebron, North Dakota, evidenced by Certificate No. 14 issued in the name of the Ferdinand Leutz Estate, together with any accruals thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 51-8368; Filed, July 19, 1951; 8:57 a. m.]

[Vesting Order 18183]

TANO AND YAHACHI MATSUMOTO

In re: Rights of Tano Matsumoto and Yahachi Matsumoto under contract of insurance. File No. F-39-4409-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Tano Matsumoto and Yahachi Matsumoto whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 7 661 135 issued by New York Life Insurance Company to Tano Matsumoto together with the right to demand, receive and collect the

same, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by Tano Matsumoto or Yahachi Matsumoto, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8369; Filed, July 19, 1951; 8:57 a. m.]

[Vesting Order 18184]

KOIJIRO AND ICHIJIRO MITANI

In re: Rights of Koijiro Mitani and Ichijiro Mitani under contract of insurance. File No. F-39-4449-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Koijiro Mitani and Ichijiro Mitani whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 8 588 386 issued by New York Life Insurance Company to Koijiro Mitani together with the right to demand, receive and collect the same, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by Koijiro Mitani or Ichijiro Mitani, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8370; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18185]

TAMA SAKAKURA

In re: Rights of Tama Sakakura under contract of insurance. File No. F-39-4492-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Tama Sakakura whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 15 248 223 issued by the New York Life Insurance Company to Tama Sakakura, and any and all other benefits and rights of any kind or character whatsoever under or arising out of said contract of insurance except those of the aforesaid New York Life Insurance Company together with the right to demand, enforce, receive and collect the same is property within the United States, owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by Tama Sakakura, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8371; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18188]

MARIE BRAUER ET AL.

In re: Stock owned by Marie Brauer and others. D-28-10760-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Brauer, whose last known address is 5 Berlinerstrasse, Tegel, Germany, and Martha Drewes and Erika Gaebler, each of whose last known address is 11 Kruellstrasse, Berlin-Treptow, Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the personal representatives, heirs, next of kin, legatees and distributees of Johanna Richter, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the property described as follows: Four hundred (400) shares of $1.00 par value capital stock of Occidental Petroleum Corporation, evidenced by certificates presently in the custody of Otto A. Hoecker, 1808 Russ Building, San Francisco 4, California, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Marie Brauer, Martha Drewes, Erika Gaebler and the personal representatives, heirs, next of kin, legatees and distributees of Johanna Richter, deceased, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraphs 1 and 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8374; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18187]

META ALBERS

In re: Estate of Meta Albers, deceased. D-28-12975-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That John Albers, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Bertha Schwartz, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Henry Albers, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

4. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1, 2 and 3 hereof in and to the estate of Meta Albers, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

5. That such property is in the process of administration by John Albers, 155-03 14th Avenue, Beechurst, Queens County, New York, as administrator, acting under the judicial supervision of the Surrogate's Court of Queens County, New York;

and it is hereby determined:

6. That to the extent that the person identified in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Meta Albers, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8373; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18186]

YOSHIHIRO AND KUMETARO TAMORI

In re: Rights of Yoshihiro Tamori and Kumetaro Tamori under Contract of Insurance. File No. F-39-4532-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Yoshihiro Tamori and Kumetaro Tamori whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 7,775,216 issued by New York Life Insurance Company to Yoshihiro Tamori together with the right to demand, receive and collect the same is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, Yoshihiro Tamori or Kumetaro Tamori, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8372; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18192]

I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT

In re: Debt owing to I. G. Farbenindustrie Aktiengesellschaft. F-28-275-C-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That I. G. Farbenindustrie Aktiengesellschaft, whose last known address is Frankfurt, Germany, is a corporation organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation owing to I. G. Farbenindustrie Aktiengesellschaft by E. I. Du Pont De Nemours & Company, Wilmington, Delaware, arising out of an excess payment for machinery, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8378; Filed, July 19, 1951; 8:59 a. m.]

[Vesting Order 18189]

G. DWARS

In re: Debts owing to G. Dwars. F-28-30495.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That G. Dwars, whose last known address is Manheim, Bezirk Dusseldorf, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of Kuhn, Loeb & Co., 52 William Street, New York 5, New York, arising out of funds allocable to G. Dwars on deposit in a blocked account in the name of N. V. Algemeene Trust Maatschappij, Amsterdam, maintained with the aforesaid company representing income from and accumulations on Twenty (20) shares of common capital stock of Chesapeake & Ohio Railway Company as described in subparagraph 2 (a) of Vesting Order 15698, dated November 15, 1950, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation of J. W. Seligman & Co., 65 Broadway, New York 6, New York, arising out of funds allocable to G. Dwars on deposit in a blocked account for N. V. Amsterdamsch Administratiekantoor Van Amerikaansche Waarden, Amsterdam, maintained with the aforesaid company and representing income from and accumulations on Ten (10) shares of stock of General Motors Corporation evidenced by certificate numbered C440-727 described in subparagraph 2 (b) of Vesting Order 15698, dated November 15, 1950, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same,

c. That certain debt or other obligation of Hallgarten & Co., 44 Wall Street, New York 5, New York, arising out of funds allocable to G. Dwars on deposit in a blocked account in the name of N. V. Maatschappij tot Beheer Van Het Administratiekentoor Van Amerikaansche Fondsen Opgerigt Door Broes & Gosman, Ten Have & Van Essen En Jarman & Zoonen Te Amsterdam, maintained with the aforesaid company and representing income from and accumulations on Thirty (30) shares of common capital stock of Phillips Petroleum Company as described in subparagraph 2 (c) of Vesting Order 15698, dated November 15, 1950, together with any and all accruals to the aforesaid debt or other obligations, and any and all rights to demand, enforce and collect the same,

d. That certain debt or other obligation of The Chase National Bank, Pine Street, New York 15, New York, arising out of funds allocable to G. Dwars on deposit in a blocked account in the name of Broekmans Administratiekantoor, N. V., Amsterdam, maintained with the aforesaid bank and representing income from and accumulations on Fifty (50) shares of capital stock of Kennecott Copper Corporation as described in subparagraph 2 (d) of Vesting Order 15698, dated November 15, 1950, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same, and

e. That certain debt or other obligation of Kidder, Peabody & Co., 17 Wall Street, New York 5, New York, arising out of funds allocable to G. Dwars on deposit in a blocked account in the name of Administratiekantoor van Aandeelen der American Telephone and Telegraph Co., N. V. and representing income from and accumulations on Five (5) shares of capital stock of American Telephone and Telegraph Company as described in subparagraph 2 (e) of Vesting Order 15698, dated November 15, 1950, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, G. Dwars, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8375; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18193]

KONVERSIONSKASSE FUER DEUTSCHE AUSLANDSSCHULDEN

In re: Account and certificates owned by Konversionskasse fuer Deutsche Auslandasschulden, also known as Conversion Office for German Foreign Debts. F-28-7621.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Konversionskasse fuer Deutsche Auslandsschulden, also known as Conversion Office for German Foreign Debts, the last known address of which is Berlin C111, Germany, is a public corporation, organized under the laws of Germany and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Berlin, Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of Howe, Snow & Co., Inc., 44 Wall Street, New York 5, New York, arising out of a coupon deposit account, entitled "City of Frankfort-on-Main, Germany, 25 year sinking fund 6½ percent bonds due May 1, 1953," together with any and all accruals thereto, maintained at the office of the said Howe, Snow & Co., Inc., and any and all rights to demand, enforce and collect the same, and

b. Those certain Reichsmark Certificates of Indebtedness of Konversionskasse fuer Deutsche Auslandsschulden, also known as Conversion Office for German Foreign Debts, in the aggregate amount of approximately RM 12365, presently in the custody of Howe, Snow & Co., Inc., 44 Wall Street, New York 5, New York, said certificates of indebtedness having been offered by the said Conversion Office together with the funds deposited in the account described in subparagraph 2 (a) hereof, and any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Konversionskasse fuer Deutsche Auslandsschulden, also known as Conversion Office for German Foreign Debts, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such a person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8379; Filed, July 19, 1951; 9:00 a. m.]

[Vesting Order 18190]

CERTAIN GERMAN NATIONALS

In re: Debts owing to German nationals whose names are unknown. F-23-1063-A-1, F-28-1063-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the property described in subparagraphs 4 (a) and 4 (b) hereof is being held by the American Express Company, 65 Broadway, New York 6, New York, for the account of the American Express Company, m. b. H., Berlin Office, 73 Unter den Linden, Berlin, Germany;

2. That the property described in subparagraph 4 (c) hereof is being held by the American Express Company, Inc., New York Agency, 65 Broadway, New York 6, New York, for the account of the American Express Company, m. b. H., Berlin Office, 73 Unter den Linden, Berlin, Germany;

3. That although the names of the owners of the property described in subparagraphs 4 (a), 4 (b), and 4 (c) hereof are not available, such persons, who, if individuals, there is reasonable cause to believe are residents of Germany and, if partnerships, corporations, associations, or other organizations, there is reasonable cause to believe are organized under the laws of, or have or, on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in Germany, are nations of a designated enemy country (Germany);

4. That the property described as follows:

a. That certain debt or other obligation of the American Express Company, 65 Broadway, New York 6, New York, arising out of so much of a demand account in the name of the American Express Company, m. b. H., Berlin Office, maintained with the aforesaid American Express Company, New York, as exceeds the sum of $33,115.46, together with any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation of the American Express Company, 65 Broadway, New York, New York, arising out of an account in the name of the American Express Company, m. b. H., Berlin, maintained with the aforesaid American Express Company, New York, together with any and all rights to demand, enforce and collect the same, and

c. That certain debt or other obligation of the American Express Company, Inc., New York Agency, 65 Broadway, New York 6, New York, arising out of an account entitled American Express Company, m. b. H., Berlin Office, maintained with the aforesaid company and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the persons referred to in subparagraph 3 hereof, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

5. That to the extent that the persons referred to in subparagraph 3 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8376; Filed, July 19, 1951; 8:58 a. m.]

[Vesting Order 18196]

MANFRED AND KATHE MITTWOCH

In re: Bank account owned by the personal representatives, heirs, next of kin, legatees and distributees of Manfred Mittwoch, also known as Manfred Siegbert Mittwoch, deceased, and of Kathe Mittwoch, also known as Kaethe Treuherz Mittwoch, deceased. F-28-27432.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Manfred Mittwoch, also known as Manfred Siegbert Mittwoch, deceased and of Mrs. Kathe Mittwoch, also known as Kaethe Treuherz Mittwoch, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation of the Guaranty Trust Company of New York, 140 Broadway, New York 15, New York, arising out of a Deposit Account, entitled Mr. Manfred Mittwoch, Deceased and/or Mrs. Kathe Mittwoch, Deceased, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the personal representatives, heirs, next of kin, legatees and distributees of Manfred Mittwoch, also known as Manfred Siegbert Mittwoch, deceased, and Kathe Mittwoch, also known as Kaethe Treuherz Mittwoch, deceased, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Manfred Mittwoch, also known as Manfred Siegbert Mittwoch, deceased, and of Kathe Mittwoch, also known as Kaethe Treuherz Mittwoch, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8382; Filed, July 19, 1951; 9:01 a. m.]

[Vesting Order 18197]

WILHELMINA MOSER

In re: Stock owned by Wilhelmina Moser. F-28-31523.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelmina Moser, whose last known address is Hettenrodt, bei Idar Oberstein, Rheinland, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: One hundred thirty-two (132) shares of $100.00 par value common capital stock of Cullman Wheel Co., Incorporated, 1344-1354 Altgeld Street, Chicago 14, Illinois, evidenced by certificates numbered 39 for one hundred twenty (120) shares and 52 for twelve (12) shares, registered in the name of and presently in the custody of Otto Cullman, as Trustee, 1344-1354 Altgeld Street, Chicago 14, Illinois, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Wilhelmina

Moser, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8383; Filed, July 19, 1951; 9:01 a. m.]

[Vesting Order 18191]

MARIANNE HAAS ET AL.

In re: Securities owned by Marianne Haas and others.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the individuals whose names are set forth as owners in Exhibits A and B attached hereto and by reference made a part hereof, each of whose last known address is Germany are residents of Germany and nationals of a designated enemy country (Germany);

2. That the enterprises whose names are set forth as owners in Exhibits A and B attached hereto and by reference made a part hereof are corporations, parnerships, associations or other business organizations, organized under the laws of Germany, and which have or, since the effective date of Executive Order 8389, as amended, have had their principal places of business in Germany, and are nationals of a designated enemy country (Germany);

3. That the personal representatives, heirs, next of kin, legatees and distributees of Adolph Convert, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

4. That Cl. Harlacher, Bankgeschaeft, the last known address of which is Frankfurt/Main, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Frankfurt/Main, Germany, and is a national of a designated enemy country (Germany);

5. That Gertrud Kogler, whose last known address is Frankfurt/Main, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

6. That George Schmidt, whose last known address is Frankfurt/Main, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

7. That Friedrich Muehlbauer, also known as Fred Muhlbauer, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

8. That Max Hamers, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

9. That the personal representatives, heirs, next of kin, legatees and distributees of Wilhelm Rohmer, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

10. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, owned by the persons identified therein as owners, presently in the custody of the Attorney General of the United States, together with all declared and unpaid dividends thereon,

b. Those certain bonds described in Exhibit B, owned by the persons identified therein as owners, presently in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

c. One (1) Interest Funding Receipt and coupons of the consolidated mortgage of the Buffalo, New York, and Philadelphia Railway Company, Certificate Number 4313, with substituted cash coupons numbered 9 through 12, due January 1, 1886, through July 1, 1887, and substituted scrip coupons numbered 7 through 12, due January 1, 1885, through July 1, 1887, each of $15.00 face value, owned by Dresdner Bank, which receipt is in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto.

d. Twenty (20) Trustees Certificates of the Atlantic and Pacific Railroad Company, Central Division, Land Grant, Gold Bonds, due November 1, 1901, of $1,000 face value each, bearing the numbers 38 through 50 and 101 through 107, and sixteen (16) of said Trustees Certificates, of $500 face value each, bearing the numbers 9 through 24, owned by Cl. Harlaeher, which certificates are in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

e. One (1) Certificate of Beneficial Interest of the Commercial Savings Bank of Cumberland, Cumberland, Maryland, issued in accordance with the reorganization plan of said bank, dated June 24, 1933, numbered K-273, in the amount of $37.23, owned by Gertrud Kogler, which certificate is in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

f. One (1) voting trust certificate of the Hawley Pulp and Paper Company, numbered PV 01540, owned by George Schmidt, which certificate is in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

g. One (1) temporary certificate for a voting trust certificate representing fifty (50 shares of Grocery Store Products, Inc., numbered TV 03648, of no par value, owned by Friedrich Muehlbauer also known as Fred Muhlbauer, which certificate is in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

h. Six (6) Western New York and Pennsylvania Railway Company general mortgage gold bond coupons, numbered 47 through 52, from each of bonds numbered 5352 and 5353, said coupons being of the aggregate face value of $240, owned by Commerzbank A. G., which coupons are in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

i. One (1) Missouri Pacific Railroad Company Fractional Warrant of $50 face value, evidenced by a certificate numbered F 7914 and one (1) Missouri Pacific Company Subscription Warrant evidenced by a certificate numbered A 1295, owned by Commerzbank A. G., which certificates are in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

j. Eleven (11) Fractional Certificates for general mortgage bonds of the Western New York & Pennsylvania Railway Co., numbered as follows:

Certificate No. 0369, Lit. A representing $500.00, issued July 30, 1895.
Certificate No. 0074, Lit. B representing $10.00, issued August 9, 1895.
Certificate No. 0085, Lit. B representing $20.00, issued August 9, 1895.
Certificate No. 0259, Lit. B representing $40.00, issued August 10, 1895.
Certificate No. 0325, Lit. B representing $10.00, issued August 10, 1895.
Certificate No. 0363, Lit. B representing $35.00, issued August 12, 1895.
Certificate No. 0380, Lit. B representing $195.00, issued August 12, 1895.
Certificate No. 0483, Lit. B representing $10.00, issued August 16, 1895.
Certificate No. 0559, Lit. B representing $15.00, issued August 22, 1895.
Certificate No. 0622, Lit. B representing $50.00, issued August 28, 1895.
Certificate No. 0761, Lit. B representing $35.00, issued January 19, 1897.

owned by Commerzbank, A. G., which certificates are in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

k. One (1) Scrip Certificate numbered 5051 for 2186/4836ths share of no par value stock of Huguenot Depositors Corporation, owned by Volksbank Kandel e. G. m. b. H., which certificate is in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

l. Two (2) certificates of indebtedness issued by the Oregon and California Railroad Company, numbered 12258, Series No. 1 and Series No. 2, representing a debt in the amount of $17.50 each, for unpaid interest of Warrants numbered 7 and 8 of first mortgage bond No. 12258, owned by Dresdner Bank, which certificates are in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

m. One (1) fractional warrant evidenced by a certificate numbered F 6014 of $150 face value for 20-year 5½% convertible gold bonds, Series A of the Missouri Pacific Railroad Company, owned by Dresdner Bank, which certificate is in the custody of the Attorney General of the United States, with any and all rights thereunder and thereto,

n. One (1) Northern Pacific Railway Company coupon numbered 177 of $5.00 face value from bond numbered 15200, due April 1941, owned by Mainzer Volksbank e. G. m. b. H., which coupon is presently in the custoday of the Attorney General of the United States, together with any and all rights thereunder and thereto,

o. One (1) warrant for subscription for three-fourths (¾ths) share of the American Exchange Irving Trust Company, evidenced by certificate numbered F 7946, owned by Frankfurter Bank, which certificate is presently in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

p. One (1) certificate of deposit numbered 2870, for the Belden 6½% first mortgage gold bonds, owned by Max Hamers, which certificate is presently in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

q. Two (2) temporary certificates numbered TC 14496 and TC 354, evidencing one hundred twenty-five (125) shares of no par value common stock of the New York & Foreign Investing Corporation, owned by Dresdner Bank, and presently in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto, and

r. Sixteen (16) certificates of indebtedness of the Western New York and Pennsylvania Railroad Company, of $15.00 face value each, numbered 4166/77 and 4320/23, owned by Commerzbank A. G., which certificates are presently in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

11. That to the extent that the persons referred to in subparagraphs 1, 3 and 9 hereof and the persons named in subparagraphs 2, 4, 5, 6, 7, and 8 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Name of issuer	Class of stock	Par value	Certificate Nos.	Number of shares	Owner
Alliance Oil & Refining Co	Capital	$5.00	3322	3	Marianne Haas.
The American Lithia & Chemical Co.	do	100.00	351	1	Mrs. Marie von Trenkwald.
American Newsvender Corp	do	5.00	1185	50	Marianne Haas.
The Anglo-American Copper Mining Co. of Perry Sound, Ltd.	do	1.00	314	50	Jacob Newman.
Bausch & Lomb Optical Co	Preferred	100.00	P201 PR727	110	August H. Lomb.
Brand's Restaurant Control Corp.	Capital	5.00	1052	20	Nikolaus Goerg.
Central-Illinois Co	do	5.00	1609	127	Estate of Adolph Convert.
Colonial Land Co	do	100.00	392	22	Do.
The Dayton Airplane Engine Co.	do	None	6370/71 6958 9948 9961 13821/25 15320/21 15347	1,300	Nikolaus Goerg.
The Denver & Rio Grande Western R. R. Co.	6 percent preferred cumulative.	100.00	PF3193	2	Wilhelma Petermann.
Lake Superior Mining & Investment Co.	Capital	25.00	46	5	Estate of Wilhelm Rohmer.
Victor Page Motors Corp	do	1.00	5615	200	Marianne Hass.
Montgomery Ward & Co	Common	None	NC0160376	10	Heinz Moser.
The Rock Island Co	do	100.00	B98823/4 B110535 B130977/8	50	Sofie Drissler nee Junker.
Virginia Land Co	do	5.00	1913/17	50	Franzl Wittekind.
Do	Preferred	100.00	1737/41	50	Do.
Baltimore & Ohio R. R. Co	Common	100.00	A52072	5	Volksbank Weilblingen-e. G. m. b. H.
Casco Bay Timber Co	Capital	100.00	9	65	Aschaffenburger Zellstottwerke A. G.
Do	do	100.00	10	65	Do.
The Eastern Exploration Co	do	1.00	193 415/19	1,000	Commerzbank A. G.
Greene Consolidated Gold Co	do	10.00	6050/53 6056 10913/27	2,000	Dresdner Bank.
Wisconsin Gear & Axle Co	do	100.00	1	10	Volksbank Baden-Baden-e. G. m. b. H.
Overseas Realty, Ltd	do	50.00	31	5	Commerzbank A. G.
The Rock Island Co	Common	100.00	B142211 B109186 B148312/17 B113176 B124882 B46353 B46408/11 B92428 B24103/7 B81281/3 B91636/7 B91641/2 B97660 B93428 B132571 B141777/81 B119288 B14280 B44995 B128732/3 B128739 B94050 B94129 B127952/53 B24036 B143845 C47978	615	Do.
Electric Shareholders Corp	$6.00 cumulative convertible preferred.	None	NY/P1634	100	Landgaeflich Hessische Hauptverwaitung Schloss Philipsruhe.
Grigsby-Gruno Co	Common	None	C/0101776/8	27	Do.
New York & Foreign Investing Corp.	do	None	CL5675/9	50	Commerzbank A. G.
Do	do	None	CL4577/9 CL5349/50	50	Dresdner Bank.
Maine Mining & Manufacturing Co.	Capital	1.00	173	100	Bank Cl. Harlacher.
Huguenot Depositors Corp	do	None	1900	11	Volksbank Kandel-e. G. m. b. H.

EXHIBIT B

Description of issue	Face value	Certificate No.	Owner
The Atchison, Topeka & Santa Fe Ry. Co., general mortgage 4 percent 100-year bond, due 1955 with coupons numbered 89 through 100 due April 1940, through October 1945.	$500.00	D33892	Atlantic & Pacific Comite.
Chicago, Milwaukee, St. Paul, Pacific R. R. Co., 5 percent convertible adjustment mortgage bonds, series A, each bond with sheet of 73 coupons numbered 27 through 99, due October 1940 through October 1976.	1,000.00 1,000.00	M27778 M29847	Carl Jungblut.
Merchantile Underwriters Association, Inc., 10-year gold notes, each bond with sheet of 7 coupons numbered 14 through 20, due Feb. 1, 1930, through Feb. 1, 1933, each coupon being of $4 face value.	100.00 100.00 100.00	C2 C9 C10	Marianne Haas.
East Coast Enterprises, Inc., first mortgage gold bond evidenced by certificate of deposit No. 56717, issued by G. L. Miller & Co., Inc.	1,000.00	NYC17010	Nikolas Goerg.

[F. R. Doc. 51-8377; Filed, July 19, 1951; 8:59 a. m.]

[Vesting Order 18194]

LAMBDA, S. A.

In re: Securities owned by and debt owing to Lambda, S. A. F-28-31433.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Veronika Satzger, whose last known address is 8 Buergermeister Haffner Strasse, Kaufbeuren, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the personal representatives, heirs, next of kin, legatees and distributees of Josefa Satzger, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That Lambda, S. A., Luxembourg, a corporation, partnership, association or other business organization, whose principal place of business is located in Luxembourg, and all of the stock of which is, or on or since the effective date of Executive Order 8389, as amended, has been owned by the aforesaid Veronika Satzger and the personal representatives, heirs, next of kin, legatees and distributees of Josefa Satzger, deceased, is a national of a designated enemy country (Germany);

4. That the property described as follows:

a. Fifty (50) shares of common stock of International Nickel Company of Canada, Ltd., Copper Bluff, Ontario, Canada, being a part of those shares evidenced by a certificate numbered NB 478047 for 64 shares, presently in the custody of Hallgarten & Co., 44 Wall Street, New York, New York, in an account for Banque Commerciale, S. A., Luxembourg, together with all declared and unpaid dividends thereon,

b. Forty-five (45) shares of common stock of Kennecott Copper Corporation, 120 Broadway, New York 5, New York, being a part of those shares evidenced by a certificate numbered 0675868 for 54 shares, presently in the custody of Hallgarten & Co., 44 Wall Street, New York, New York, in an account for Banque Commerciale, S. A., Luxembourg, together with all declared and unpaid dividends thereon,

c. Twenty-nine (29) shares of common stock of Socony-Vacuum Oil Co., Inc., 26 Broadway, New York 4, New York, evidenced by a certificate numbered NYC 717387 presently in the custody of Hallgarten & Co., 44 Wall Street, New York, New York, in an account for Banque Commerciale S. A., Luxembourg, together with all declared and unpaid dividends thereon,

d. Sixty-one hundredths (60/100ths) of a share of common stock Socony Vacuum Oil Co., Inc., 26 Broadway, New York 4, New York, evidenced by a scrip certificate numbered SA 29197, presently in the custody of Hallgarten & Co., 44 Wall Street, New York, New York, in an account for Banque Commerciale, S. A., Luxembourg, together with all declared and unpaid dividends thereon, and

e. That certain debt or other obligation of Hallgarten & Co., 44 Wall Street, New York, representing funds allocable to Lambda, S. A. on deposit in a blocked account for Banque Commerciale, S. A., Luxembourg, maintained with the aforesaid Hallgarten & Co., and constituting income from and accumulations on the aforesaid securities, together with any and all accruals to the aforesaid debt or other obligations and all rights to demand, enforce and collect the same.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Lambda, S. A., Luxembourg, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

5. That Lambda, S. A., Luxembourg, is controlled by, or acting for or on behalf of a designated enemy country (Germany) or persons within such country and is a national of a designated enemy country (Germany);

6. That to the extent that the persons named in subparagraphs 1 and 3 hereof and that the personal representatives, heirs, next of kin, legatees and distributees of Josefa Satzger, deceased, referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8380; Filed, July 19, 1951; 9:00 a. m.]

ANTOINE AND ANDRE FAURE

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 located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Antoine Faure, Firminy, France, Claim No. 31749; Andre Faure, Firminy, France, Claim No. 31750; property described in Vesting Order No. 667 (8 F. R. 4995, April 17, 1943) relating to United States Letters Patent No. 1,944,972, an undivided one-half thereof to each claimant. Property described in Vesting Order No. 1028 (8 F. R. 4205, April 2, 1943) relating to Patent Application Serial No. 319,098 (now Patent No. 2,330,819) and Patent Application Serial No. 462,078 (now Patent No. 2,413,701), an undivided one-half thereof to each claimant.

Executed at Washington, D. C., on July 16, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-8387; Filed, July 19, 1951; 9:02 a. m.]