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FEDERAL REGISTER

VOLUME 27 NUMBER 89

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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3472

UNITED STATES DEPARTMENT OF LABOR FIFTIETH ANNIVERSARY YEAR

By the President of the United States of America
A Proclamation

WHEREAS March 4, 1963, marks the fiftieth anniversary of the establishment of the United States Department of Labor, "to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment"; and

WHEREAS the success of our economy and the well-being of our Nation are dependent upon the skills, energies, talents, and security of the individual American wage earner; and

WHEREAS the Department has striven faithfully over the years to shape sound policies for meeting the Nation's manpower needs and for developing and utilizing the potentials of all our labor force in productive and satisfying employment; and

WHEREAS the Department has judiciously used the instruments of law and custom to safeguard individual workers' rights, to protect and improve the Nation's labor standards, to provide free and equal opportunity for all Americans, and to fight the economic hazards of industrial life; and

WHEREAS the Department, as a guardian of the public interest, has proven its dedication to sound labor-management relations, has clearly recognized its responsibility to assist the business and industrial community to achieve economic growth and stability, and has, for a half a century, kept the Nation abreast of vital changes in our dynamic economy; and

WHEREAS the Department has accepted a crucial and responsible role in cultivating understanding among labor organizations throughout the world and in fostering free labor institutions in other nations:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, do hereby designate the year 1963 as United States Department of Labor Fiftieth Anniversary Year, and I hereby establish a committee to be known as the President's Committee for the Department of Labor Fiftieth Anniversary Year. The Committee shall be composed of the following:

1. The President of the United States as Honorary Chairman;

2. The Vice President of the United States and the Speaker of the House of Representatives as Honorary Vice Chairmen;

3. The Secretary of Labor, all living former Secretaries of Labor, and the President of the AFL–CIO, as Co-Chairmen;

4. Other representatives of labor, management, and government, and other distinguished persons in public life who shall be appointed, on my behalf, by the Secretary of Labor; and

5. Members of the Senate and Members of the House of Representatives who shall be invited to serve, on my behalf, by the Secretary of Labor after consultation with the President of the Senate or the Speaker of the House of Representatives, as may be appropriate.

Persons appointed or invited to serve by the Secretary of Labor, acting on my behalf, may be designated as additional Honorary Vice Chairmen by the Secretary of Labor.

The Committee shall take the lead in planning and carrying out appropriate activities for the celebration of the Department of Labor Fiftieth Anniversary Year, and I request appropriate State labor offices, labor, management, and other interested groups to join with the Committee to the end that such activities may serve as an occasion to commemorate the contributions of the Department of Labor of the United States to the welfare of our workers and their families and to our Nation.

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

DONE at the City of Washington this second day of May in the year of our Lord nineteen hundred and sixty-two, and of [SEAL] the Independence of the United States of America the one hundred and eighty-sixth.

JOHN F. KENNEDY

By the President:

GEORGE W. BALL,
Acting Secretary of State.

[F.R. Doc. 62–4498; Filed, May 7, 1962; 10:20 a.m.]

Rules and Regulations

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

[Dept. Circular 92 (Rev.) 6th Amdt.]

PART 203—SPECIAL DEPOSITS OF PUBLIC MONEYS UNDER ACT OF CONGRESS APPROVED SEPTEMBER 24, 1917, AS AMENDED

Participation Certificates of the Export-Import Bank of Washington; Correction

In paragraph (m) added to § 203.7 of Part 203, Subchapter A, Chapter II, Title 31, of the Code of Federal Regulations of the United States of America (appearing also as Treasury Department Circular No. 92, Revised, 14 F.R. 7058, November 23, 1949, as amended), published in the FEDERAL REGISTER of April 18, 1962, at page 3656, the phrase "which evidence a participation in the Eximbank Portfolio Fund" was inadvertently omitted. Paragraph (m) should read as follows:

(m) *Participation Certificates of the Export-Import Bank of Washington.* Participation Certificates issued by the Export-Import Bank of Washington which evidence a participation in the Eximbank Portfolio Fund at face value (principal amount less payments made thereon).

(Sec. 8, 40 Stat. 291, as amended; 31 U.S.C. 771)

Dated: May 3, 1962.

[SEAL] J. DEWEY DAANE,
Acting Fiscal Assistant Secretary.

[F.R. Doc. 62-4422; Filed, May 7, 1962; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER-352]

PART 296—CLASSIFICATION AND EXEMPTION OF INDIRECT AIR CARRIERS

Subpart H—Preparation and Retention of Records and Reporting Requirements: Air Freight Forwarders

MAY 3, 1962.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of May 1962.

The Board, by publication of a notice of proposed rule making in 26 F.R. 4211 and by issuance of Economic Draft Release, EDR-28, dated May 11, 1961, Docket 12412, proposed new rules with respect to the preparation of airwaybills and manifests by air freight forwarders engaged indirectly in the interstate transportation of property.

In response to the notice, comments were received from air freight forwarders, shippers, a trade association, and other interested persons. The majority of the comments were in favor of the proposal. One forwarder commented favorably on the proposal, but stated that it conducted a specialized type of operation which precluded technical compliance with the proposed rule. One forwarder opposed the proposal for the reason that it was borrowed from procedures used in air express operations which are not used, and are unnecessarily costly in regular air freight operations. A shipper in its comments suggested that the Board adopt a rule which would standardize the format of all airwaybills.

The Board has reviewed all of the comments and concludes that it should finalize the rule as proposed in the notice, except that § 296.70(a)(2)(x), the transportation tax provision, has been deleted as unnecessary, and minor editorial changes have been made in the note following subparagraph (5) of § 296.70(b).

The Board is aware that certain forwarders provide a specialized service requiring specialized documentation which may not fully comply with § 296.70. In addition, the Board recognizes that forwarders may develop new and improved methods of documentation which may not fully comply with this section. In such cases forwarders may request an exception from § 296.70. A note to this effect has been included at the end of § 296.70(b)(5). The Board as a matter of policy will grant such exceptions provided that the proposed method of documentation does not (1) mislead or confuse the shipping public, or (2) hamper the Board in carrying out its investigative and policing function.

The contention that the contents of the proposal were taken from practices in air express operations rather than regular air freight operations is erroneous. The proposal was largely patterned after the documentation rule presently applicable to international air freight forwarders, which has been in force for a number of years.

A shipper suggested that the Board adopt rules which would standardize the format of all airwaybills. It was the view of this shipper that such standardization would reduce many of the problems experienced by the shipper in the administrative processing of airwaybills. This suggestion may have merit and the Board intends to make a more comprehensive study of the matter. However, pending such study, the Board is of the opinion that the subject proposal should be finalized.

Interested persons have been afforded an opportunity to participate in the formulation of this rule, and due consideration has been given to all relevant matter presented. In consideration of the foregoing, the Civil Aeronautics Board hereby revises Subpart H of Part 296 of the Economic Regulations, 14 CFR Part 296, effective June 6, 1962, as follows:

Subpart H—Preparation and Retention of Records and Reporting Requirements: Air Freight Forwarders

Sec.
296.70 Preparation of airwaybills and manifests.
296.71 Record-retention requirements.
296.72 Reporting requirements.

AUTHORITY: §§ 296.70 to 296.72 issued under sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sections 407 and 101(3) of the Act, 72 Stat. 766, 737; 49 U.S.C. 1377, 1301.

Subpart H—Preparation and Retention of Records and Reporting Requirements: Air Freight Forwarders

§ 296.70 Preparation of airwaybills and manifests.

(a) Each holder of an operating authorization as an air freight forwarder shall prepare an accurate airwaybill for each shipment consigned for transportation to a direct air carrier by such holder in the capacity of an air freight forwarder and a copy thereof shall be supplied to the consignor and to the consignee of each such shipment. Each such airwaybill shall contain:

(1) The following information:

(i) Name and address of consignor, consignee, and air freight forwarder.

(ii) A limitation of liability statement.

(iii) Number of packages in shipment.

(iv) Total weight (both actual and dimensional, where applicable).

(v) Description of commodities.

(vi) Point of origin and destination of shipment.

(vii) Declared value of shipment.

(viii) Date of airwaybill preparation.

(ix) Name of employee or agent preparing airwaybill.

(2) The following charges, when applicable:

(i) Commodity rate applied.

(ii) Total weight-rate charge.

(iii) Pick-up and/or delivery.

(iv) Excess valuation.

(v) Charges advanced.

(vi) Assembly or distribution.

(vii) Other accessorial charges (specify).

(viii) Insurance (liability).

(ix) C.O.D. fee.

(x) Total charges and an indication as to whether charges are prepaid or collect.

(b) Each holder of an operating authorization as an air freight forwarder shall prepare an accurate manifest showing every individual shipment included in each consolidated shipment consigned for transportation to a direct air carrier by such holder. There shall be set forth in each such manifest the following information:

(1) The number of the air freight forwarder's individual airwaybill for each individual shipment within a consolidated shipment.

(2) Name of the direct air carrier transporting the shipment and the number of the direct air carrier's airwaybill under which the shipment is transported.

(3) Date of shipment.

(4) Weight of each individual shipment and the total weight of consolidated shipment.

(5) When a consolidated shipment consists of a combination of shipments to be transported to points in the United States and foreign points outside thereof, a clear statement that shipments with a foreign destination are included in the consolidated shipment.

NOTE: Where a forwarder desires to conduct an operation which entails the use of documentation different from that required herein, it is the responsibility of such forwarder to secure from the Board in advance, permission to deviate from the requirements of this section.

§ 296.71 Record-retention requirements.

Each holder of an operating authorization as an air freight forwarder shall comply with the applicable record-retention provisions of Part 249 of this subchapter, as amended.

§ 296.72 Reporting requirements.

Each holder of an operating authorization as an air freight forwarder shall comply with the applicable reporting provisions of Part 244 of this subchapter, as amended.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 62-4431; Filed, May 7, 1962; 8:50 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Reg. Docket No. 1014; Amdt. 88]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

Subpart D—Designated Mountainous Areas

In a notice of proposed rule making contained in Draft Release No. 61-28 and published in the FEDERAL REGISTER January 3, 1962 (27 F.R. 14) the Agency gave notice that it has under consideration an amendment to §§ 610.3 and 610.8 of the regulations of the Administrator.

Under Part 610, certain areas of the United States have been designated by the Administrator as mountainous areas. In these areas, it is necessary to establish, with appropriate exceptions, minimum IFR altitudes of 2,000 feet above the highest obstacles on the airway or off-airway route because of the accompanying weather phenomena, pressure differentials, and disturbed air flow attending the passage of strong winds over the mountains. Since these conditions exist in the mountainous areas of the Aleutian Group of the State of Alaska and the State of Hawaii, it was deemed advisable to designate these areas as mountainous areas. Consideration was also given to including the Commonwealth of Puerto Rico as a designated mountainous area. Accordingly, the Agency proposed (1) deletion of § 610.8 (c) (2) (v) which excepts the Aleutian Group from that portion of Alaska presently designated as mountainous area, (2) including the State of Hawaii and the Commonwealth of Puerto Rico as designated mountainous areas and (3) excepting from the designated mountainous area of Alaska a small coastal area in Northern Alaska where mountainous terrain does not exist.

The proposal also contained an exception to the criteria used in the establishment of minimum en route altitudes to permit the designation of specific routes at altitudes less than 2,000 feet for the mountainous areas in Puerto Rico and Hawaii.

In response to the notice, the Agency has received comments generally in favor of the proposal. Objections were received regarding the designation of Puerto Rico and Hawaii as mountainous area. The objection to Puerto Rico was that the routes in the Puerto Rico area were primarily over water and the terrain was not sufficiently mountainous to justify the raising of the MEA as would be necessary if the new criteria were applied. Consideration was given to this objection and the Puerto Rico area was revised by designating only the interior portion of Puerto Rico as mountainous area. This change and the exception which will permit designation of specific routes at altitudes less than 2,000 feet will provide a degree of flexibility commensurate with prescribed standards for the type of terrain.

The objection to designation of the State of Hawaii as mountainous area was that such designation would result in unreasonably high MEAs due to the unusual airways route structure in the area and the short route segments with airports at near sea level which would extend flight time for climb and letdown. Consideration has been given to these comments and the exception has been revised to permit designation of altitudes on specific routes providing only 1,200 feet obstruction clearance. Thus each route would be subject to evaluation of all factors prior to designation of altitudes less than 2,000 feet and the lower altitudes would be authorized commensurate with safety.

Interested persons have been afforded an opportunity to participate in the making of this regulation and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated by the Administrator (24 F.R. 5662), Part 610 of the regulations of the Administrator (14 CFR 610) is amended as follows to become effective June 7, 1962:

1. By amending the introductory paragraph of § 610.3(b) (2) (i) to read as follows:

(i) *Exceptions.* Altitudes may be established providing only 1,200 feet obstruction clearance in the designated mountainous areas of the Eastern United States, the Commonwealth of Puerto Rico and the State of Hawaii and 1,600 feet obstruction clearance in the designated mountainous areas of the Western United States and the State of Alaska: *Provided,* That consideration will be given to the following items before altitudes providing less than 2,000 feet obstruction clearance in these areas are established:

2. By amending § 610.8(c) (2) (v) to read as follows:

(v) Beginning at a point where latitude 69°30′ intersects the northwest coast of Alaska and eastward along the 69°30′ parallel to the 150° Meridian; thence northward along the 150° Meridian to 69°50′ north latitude; thence eastward along the 69°50′ parallel to a point where 69°50′ intersects the northeast coastline of Alaska; thence westward along the northern coastline of Alaska to the intersection of latitude 69°30′, point of beginning.

3. By substituting the accompanying map of designated mountainous area, Alaska, for the present map of designated mountainous terrain, Alaska, and adding the accompanying maps of designated mountainous area, Hawaii and Puerto Rico, following § 610.8.

4. By amending § 610.8 by adding new paragraphs (d) and (e) to read as follows:

(d) *Hawaii.*[11] The following islands of the State of Hawaii: Kauai, Oahu, Molokai, Lanai, Kehoolawe, Maui, and Hawaii.

(e) *Puerto Rico.*[12] The area bounded by the following coordinates:

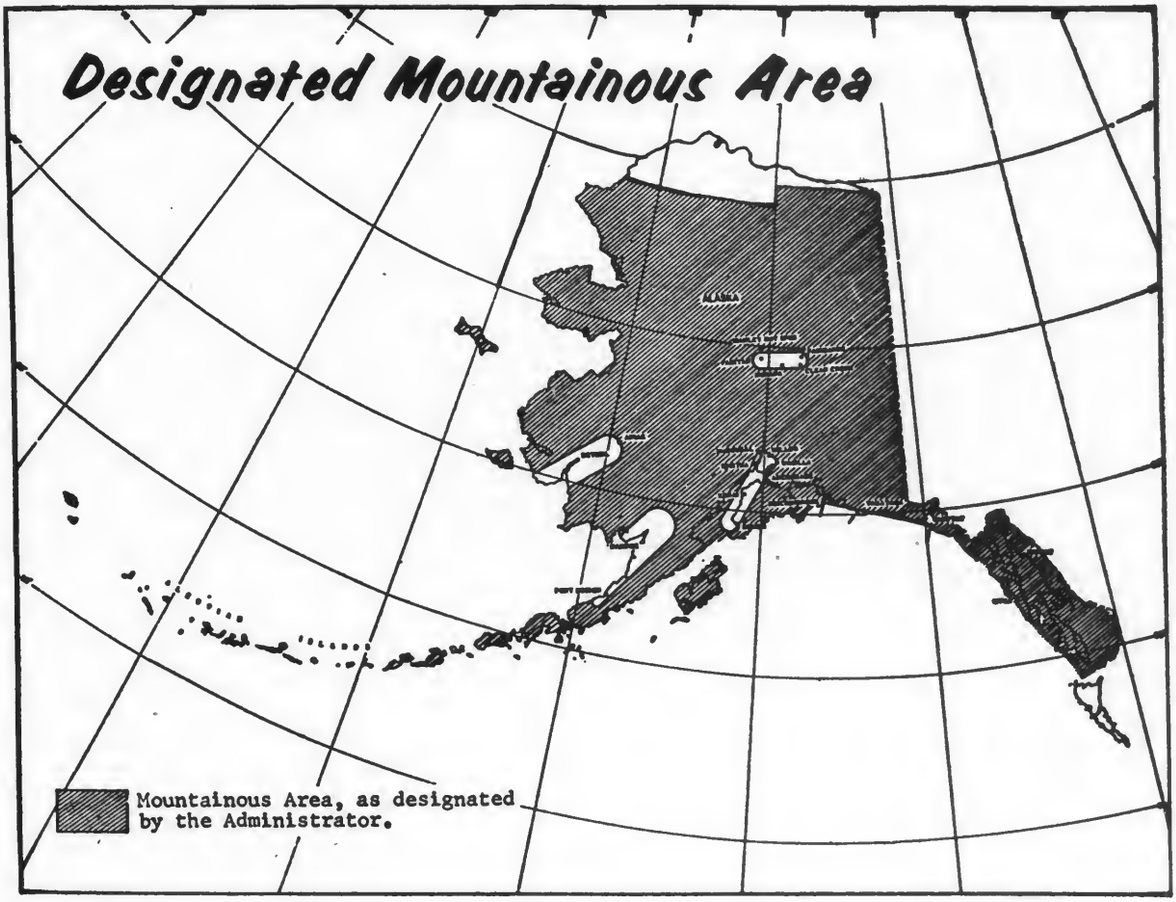
Beginning at latitude 18°22′ N., longitude 66°58 W.; thence to latitude 18°19′ N., longitude 66°06′ W.; thence to latitude 18°20′ N., longitude 65°50′ W.; thence to latitude 18°20′ N., longitude 65°42′ W.; thence to latitude 18°03′ N., longitude 65°52′ W.; thence to latitude 18°02′ N., longitude 65°-51′ W.; thence to latitude 17°59′ N., longitude 65°55′ W.; thence to latitude 18°05′ N., longitude 65°57′ W.; thence to latitude 18°-11′ N., longitude 67°07′ W.; thence to latitude 18°22′ N., longitude 66°58′ W.; the point of beginning.

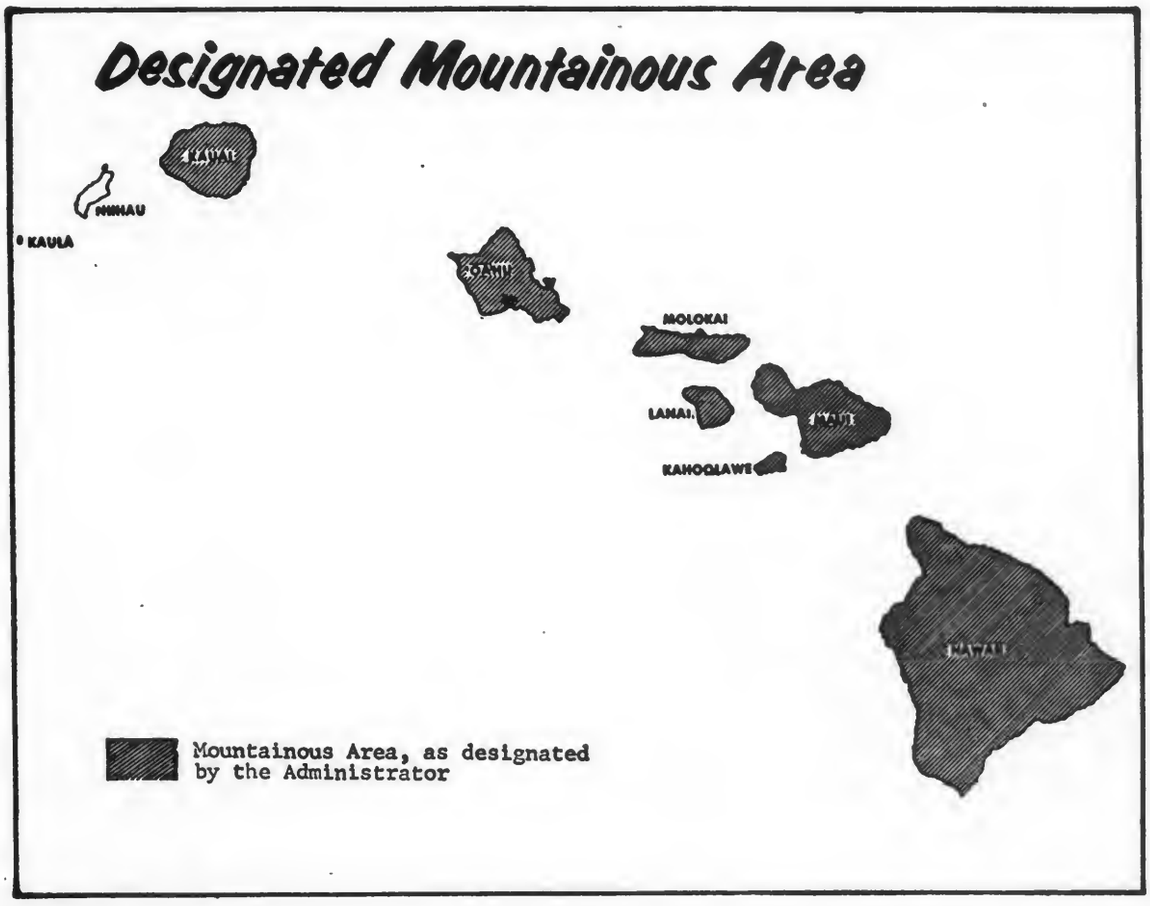
(Secs. 307(c), 313(a), 601; 72 Stat. 749, 752, 775; 49 U.S.C. 1348, 1354, 1421)

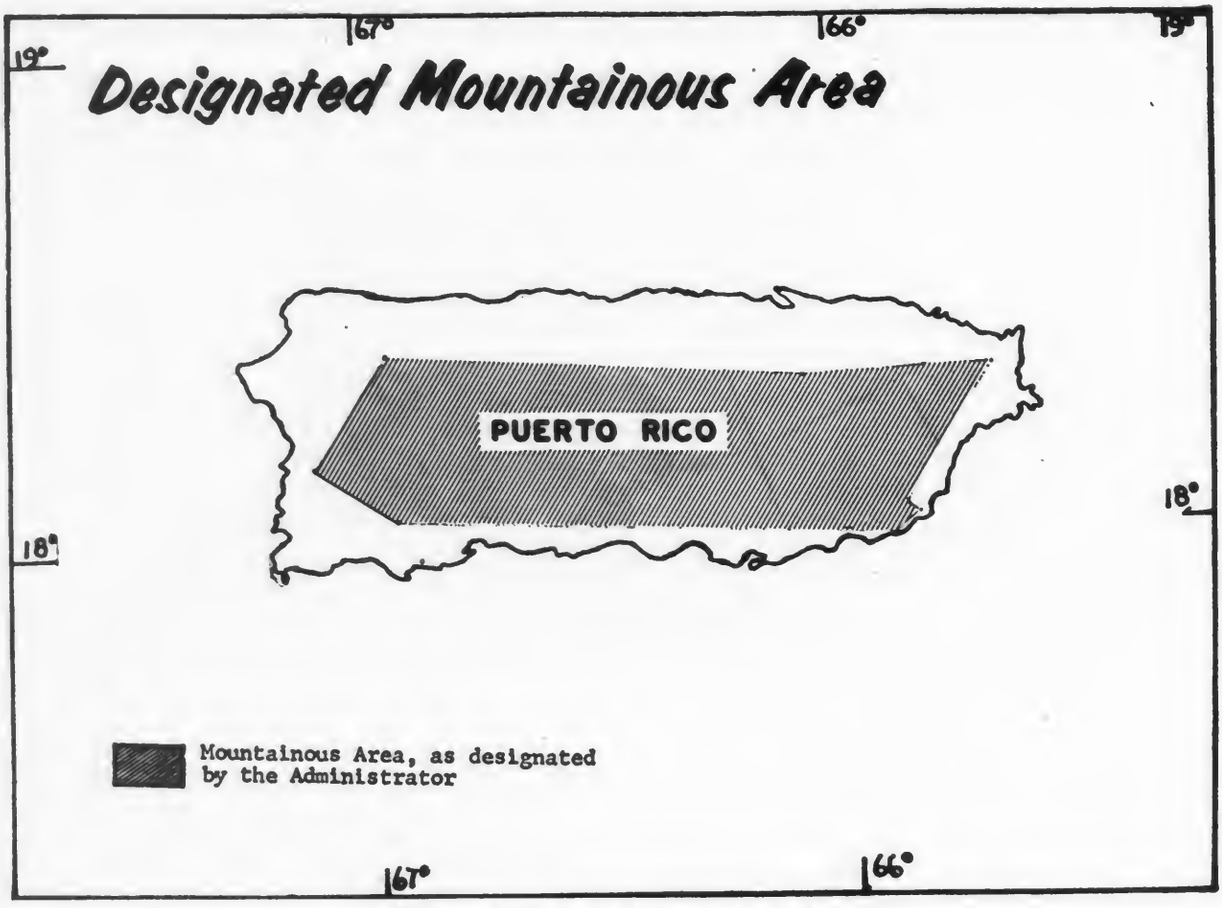
Issued in Washington, D.C., on May 1, 1962.

GEORGE C. PRILL,
Director, Flight Standards Service.

[11] See map of mountainous area, Hawaii.
[12] See map of mountainous area, Puerto Rico.


Designated Mountainous Area
Mountainous Area, as designated by the Administrator.


Designated Mountainous Area
NIIHAU
KAULA
MOLOKAI
LANAI
KAHOOLAWE
Mountainous Area, as designated by the Administrator



[F.R. Doc. 62-4385; Filed, May 7, 1962; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 577, 6th Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Black Stem Rust

ADMINISTRATIVE INSTRUCTIONS DESIGNATING RUST-RESISTANT BARBERRY, MAHOBERBERIS AND MAHONIA PLANTS

Pursuant to § 301.38–5 of the regulations supplemental to the black stem rust quarantine (7 CFR 301.38–5), issued under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162), administrative instructions appearing as 7 CFR 301.38–5a are hereby revised to read as follows:

§ 301.38–5a Administrative instructions designating rust-resistant barberry, mahoberberis, and mahonia plants.

(a) The Director of the Division, upon the basis of evidence satisfactory to him, has determined that the following species and horticultural varieties of barberry, mahoberberis, and mahonia are resistant to black stem rust, and such species and varieties are hereby designated as rust-resistant:

SCIENTIFIC NAME

Berberis arido-calida.
B. beaniana.
B. buxifolia.
B. buxifolia nana.
B. calliantha.
B. candidula.
B. cavallieri.
B. chenaulti.
B. circumserrata.
B. concinna.
B. coxii.
B. darwini.
B. dasystachya.
B. dubia.
B. formosana.
B. franchetiana.
B. gagnepaini.
B. gilgiana.
B. gladwynensis.
B. horvathi.
B. hybrido-gagnepaini.
B. insignis.
B. julianae.
B. koreana.
B. lempergiana.
B. lepidifolia.
B. linearifolia.
B. linearifolia var. Orange King.
B. lologensis.
B. manipurana.
B. mentorensis.
B. pallens.
B. potanini.
B. Renton.
B. replicata.
B. sanguinea.
B. sargentiana.
B. stenophylla.
B. stenophylla diversifolia.
B. stenophylla gracilis.
B. stenophylla irwini.
B. stenophylla nana compacta.
B. taliensis.
B. telomaica artisepala.
B. thunbergi.
B. thunbergi argenteo marginata.
B. thunbergi atropurpurea.
B. thunbergi atropurpurea erecta.
B. thunbergi atropurpurea nana.
B. thunbergi atropurpurea "Redbird".
B. thunbergi atropurpurea "Zebra".
B. thunbergi aurea.
B. thunbergi erecta.
B. thunbergi "globe".
B. thunbergi "golden".
B. thunbergi maximowiczi.
B. thunbergi minor.
B. thunbergi plurifiora.
B. thunbergi "thornless".
B. thunbergi "variegata".
B. thunbergi xanthocarpa.
B. triacanthophora.
B. verruculosa.
B. virgatorum.
B. wokingensis.
B. xanthoxylon.
Mahoberberis aqui-candidula.
M. aqui-sargentiae.
M. miethkeana.
Mahonia aquifolium.
M. bealei.
M. compacta.
M. dictyota.
M. fortunei.
M. japonica.
M. lomarifolia.
M. nervosa.
M. pinnata.
M. piperiana.
M. pumila.
M. repens.

(b) Plants of the species and varieties listed in paragraph (a) of this section may be moved interstate in compliance with the regulations in this subpart.

(c) Under the regulations in this subpart, seeds and fruit of the species and varieties listed in paragraph (a) of this section, if produced in any of the States of Colorado, Illinois, Indiana, Iowa, Kan-

sas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, may be moved between such States only under permit or, wherever produced, may be moved from the States named to points outside thereof, and between States other than those named, without restriction. Under the regulations, seeds and fruit of the species and varieties listed in paragraph (a) of this section generally are prohibited movement into the States named.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161. 19 F.R. 74, as amended, 7 CFR 301.38–5)

These instructions shall become effective on May 8, 1962; when they shall supersede P.P.C. 577, fifth revision, effective July 15, 1959 (7 CFR 301.38–5a).

The purpose of this revision is to add to the list of rust-resistant species and horticultural varieties of barberry, mahoberberis, and mahonia plants the following five additional species and varieties: Berberis dasystachya, B. thunbergi atropurpurea "Zebra", Mahonia japonica, M. piperiana, and M. pumila.

The designation of such rust-resistant species and varieties in effect constitutes a relaxation of the restrictions of the regulations and depends upon facts within the knowledge of the Plant Pest Control Division, based on tests conducted by the U.S. Department of Agriculture to determine the susceptibility of such species and varieties to black stem rust. It has been determined that there is no unwarranted pest risk involved in the permitted movement of such species and varieties.

The determination having been made that these species and varieties are rust-resistant, authorization for their movement in accordance with the regulations should be accomplished promptly in order to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure concerning this revision are impracticable, and since it relieves restrictions it may be made effective less than thirty days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of May 1962.

E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 62–4441; Filed, May 7, 1962; 8:51 a.m.]

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

[Lemon Reg. 18, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 910.318 (Lemon Regulation 18, 27 F.R. 4046) are hereby amended to read as follows:

(ii) District 2: 390,600 cartons.

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

Dated: May 2, 1962.

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

[F.R. Doc. 62–4419; Filed, May 7, 1962; 8:48 a.m.]

Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order No. 39]

PART 1039—MILK IN MILWAUKEE, WIS., MARKETING AREA

Order Amending Order; Correction

In the order amending the Milwaukee, Wisconsin, milk order issued April 20, 1962, and published in the FEDERAL REGISTER on April 26, 1962 (27 F.R. 3974), the following correction is made: The first reference in § 1039.62(h) to "paragraph (a)" should read "paragraph (g)".

Signed at Washington, D.C., on May 3, 1962.

JOHN P. DUNCAN, JR.,
Assistant Secretary.

[F.R. Doc. 62–4446; Filed, May 7, 1962; 8:52 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Federal Power Commission

Effective upon publication in the FEDERAL REGISTER, paragraph (a) of § 6.325 is amended as set out below.

§ 6.325 Federal Power Commission.

(a) Two Private Secretaries in the Office of the Chairman, one Confidential Assistant to the Chairman, and one Private Secretary and one Confidential Assistant to each Commissioner.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 62–4426; Filed, May 7, 1962; 8:49 a.m.]

Chapter II—Employment and Compensation in the Canal Zone

PART 204—COMPENSATION AND ALLOWANCES

General Pay Adjustments

Effective upon publication in the FEDERAL REGISTER, § 204.14 is amended to read as follows:

§ 204.14 General pay adjustments.

For positions for which the basic rate of compensation has been established in relation to rates for the same or similar work in the continental United States, rates of pay shall be adjusted by heads of departments with reference to changes in the corresponding rates in the United States. For all other positions, rates of pay shall be adjusted under administrative policies jointly determined by the heads of departments concerned.

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

[F.R. Doc. 62–4415; Filed, May 7, 1962; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55610]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Entry and Sampling of Ores and Crude Metals Not for Smelting in Bond

The purpose of the extra copy of the entry for ores and crude metals required to be filed by § 8.46(a) of the Customs Regulations was to provide a document upon which collectors of customs could

report changes in entered quantities and value to the Bureau of the Census which would reflect the results of the analysis of the samples of the imported merchandise. Under the examiner verification program which went into effect on January 1, 1962, this extra copy is no longer required. Therefore, § 8.46(a), is amended to read as follows:

§ 8.46 Entry and sampling of ores and crude metals not for smelting in bond.

(a) When ores or crude metals are entered for consumption or warehousing at the port of first arrival, they shall be sampled for assay and moisture purposes in accordance with commercial methods under the supervision of customs officers, as provided for in § 8.48. They shall be transported under bond to the place of sampling if proper sampling facilities are not available at the port of entry.

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

[SEAL] N. G. STRUB,
Acting Commissioner of Customs.

Approved: April 27, 1962.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 62-4421; Filed, May 7, 1962; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER J—AIR FORCE PROCUREMENT INSTRUCTION

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following miscellaneous amendments and revisions are issued to this subchapter:

PART 1016—PROCUREMENT FORMS

Subpart A—Forms for Advertised Supply Contracts

§ 1016.150 [Deletion]

Delete § 1016.150.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

Subpart B—Forms for Negotiated Procurement

Delete Subpart B and insert the following:

CROSS REFERENCE: See Subpart B, Part 16, Subchapter A, Chapter I of this title.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314; 70A Stat. 127-133; 10 U.S.C. 2301-2314)

Subpart C is revised to read as follows:

Subpart C—Purchase and Delivery Order Forms

Sec.
1016.300 Scope of subpart.
1016.301 Receipt for cash-subvoucher (Standard Form 1165).
1016.302 Purchase Order — Invoice — Voucher (Standard Form 44).
1016.303 Order for supplies or services. (DD Forms 1155, 1155r, 1155c, 1155c-1 and 1155s).
1016.303-1 General.
1016.303-2 Conditions for use.
1016.303-51 Payment and discount provisions.
1016.304 Blanket purchase order.

AUTHORITY: §§ 1016.300 to 1016.304 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

§ 1016.300 Scope of subpart.

See § 16.300 of this title.

§ 1016.301 Receipt for cash-subvoucher (Standard Form 1165).

AF procurement activities will use AF Form 385, "Cash Purchase Receipt," and AF Form 763, "Interim Receipt for Cash," in lieu of Standard Form 1165. See § 1003.604 of this chapter.

§ 1016.302 Purchase Order—Invoice—Voucher (Standard Form 44).

See § 3.605 of this title and 1003.605 of this chapter.

§ 1016.303 Order for Supplies or Services. (DD Form 1155, 1155r, 1155c, 1155c-1 and 1155s).

§ 1016.303-1 General.

See § 16.303-1 of this title.

§ 1016.303-2 Conditions for use.

(a) *General.* See § 16.303-2(a) of this title.

(b) *Use as a purchase order of not more than $2,500.* Section 16.303-2(b)(2) of this title will be interpreted as prohibiting the addition of any clause covering the subject matter of any ASPR clause, except as authorized therein, and the following:

(1) When effecting purchases outside the United States, its possessions, and Puerto Rico, DD Form 1155 will be amended according to Subpart PP, Part 1007 of this chapter.

(2) When required, a provision substantially as follows will be inserted on the schedule portion: "A variation in quantity not to exceed ____ percent is authorized subject to the conditions of General Provisions No. 2 on the reverse hereof."

(3) When the DD Form 1155 is used in procurements of food products, the following clause will be added when applicable. (See § 16.303 of this title.)

PREFERENCE FOR DOMESTIC FOOD PRODUCTS (AUG. 1958)

The Contractor agrees that there will be delivered under this contract only such articles of food as have been grown or produced in the United States, its possessions, or Puerto Rico; provided this clause shall have no effect to the extent that the Secretary has determined as to any such articles that a satisfactory quality and sufficient quantity cannot be procured as and when needed at United States market prices; provided further that nothing herein shall preclude the delivery of foods under this contract which have been manufactured or processed in the United States, its possessions, or Puerto Rico.

(4) The delivery schedule will be stated in terms of specific dates on or before which delivery will be made (e.g., Item 1 is to be delivered on or before November 1, 1960). These specific dates will make allowances for the approximate number of days required for distribution and the time required for receipt by the contractor of DD Form 1155.

(5) When DD Form 1155 is used for central procurement of supplies the appropriate clause in § 1007.4014 of this chapter, "Certificate of Conformance," will be added.

(6) When DD Form 1155 is used in central procurements the clause in § 7.105-7 of this title, "Material Inspection and Receiving Report," will be added.

(c) *Use of DD Form 1155s.* See § 16.303-2(c) of this title.

(d) *Use as a delivery order.* See § 16.303-2(d) of this title.

(e) *DD Form 1155c (Continuation Sheet).* When Standard Form 36, "Continuation Sheet (Supply Contract)," is used in lieu of DD Form 1155c a column designated "Quantity Accepted" will be added to the Standard Form 36, to permit the completion of the Inspection and Acceptance Certificate on the face of DD Form 1155.

(f) *Use in the purchase of commissary resale items.* When the DD Form 1155 is used to purchase commissary resale items, sufficient space will be allowed in the "Supplies or Services" column between the descriptions of the items and the "Quantity (No. Units)" column to permit the commissary officer to manually insert the unit and total selling prices of each item.

§ 1016.303-51 Payment and discount provisions.

Under the Payments Clause on the reverse of DD Form 1155, payments for partial deliveries accepted by the Government may be made when the amount due on such deliveries warrants payment. To reduce administrative costs in preparing separate payment vouchers and checks, the following procedures may be followed:

(a) When only one delivery is contemplated, the purchase order may specify that only one payment will be made and that the discount period, if any, will commence upon receipt of complete delivery or invoice, whichever is later.

(b) Where multiple deliveries are contemplated, the purchase order may specify that payment will be made and that the discount period will commence after final delivery or receipt of invoices on the entire order, whichever is later.

(c) If contractors are reluctant to wait until final delivery, and it is considered more practicable to pay upon the accumulation of several partial deliveries rather than on each delivery or on final delivery, the purchase order may provide for a partial payment when invoices for deliveries received equal or exceed a specific dollar amount or percentage of the total amount. For example, when invoices for accepted partial deliveries exceed either $1,000 or 50 percent of the total amount of the order. The purchase order may further provide that in such instances the discount period will commence upon receipt of both the specified amount of deliveries and the invoice covering the deliveries.

§ 1016.304 Blanket purchase order.

See § 1003.606 of this chapter.

Subpart D—Construction Contract Forms

§§ 1016.450—1016.451–3 [Deletion]

Sections 1016.450 through 1016.451–3 are deleted.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

Subpart E—Special Contract and Order Forms

1. Revise §§ 1016.501–50 through 1016.502 as follows:

§ 1016.501–50 Formats.

The format of Utility Service Contract (Long Form) is set forth in Subpart KK, Part 1007 of this chapter. DD Form 671, "Negotiated Utilities Service Contract," is available through normal publications distribution channels. Utility Service Contract (Long Form) is not available and local reproduction is authorized.

§ 1016.501–51 Procurement outside the United States, its possessions and Puerto Rico.

When effectuating procurements outside the United States, its possessions and Puerto Rico, DD Form 671 and Utility Service Contract (Long Form) will be amended according to Subparts KK and PP, Part 1007 of this chapter.

§ 1016.502 Negotiated Contract Form for Stevedoring Services (DD Form 674).

2. Add § 1016.502–1 as follows:

§ 1016.502–1 General.

When DD Form 674 is used, Clause 11, Liability and Insurance, will be amended by inserting the following under Clause 23, Alterations in Contract:

Subparagraph a of Clause 11—Liability and Insurance, is hereby deleted and the following substituted therefor.

a. The Contractor

(1) shall be liable to the Government for loss of or damage to property, real and personal, owned by the Government or for which the Government is liable; and

(2) shall be responsible for and hold the Government harmless from loss or damage to property not included in (1) above; and

(3) shall be responsible for and hold the Government harmless from bodily injury and death of persons,

occasioned either in whole or in part by the negligence or the fault of the Contractor, its officers, agents or employees in the performance of work under this contract. For the purpose of this Clause, all cargo loaded or unloaded under this contract is agreed to be property owned by the Government or property for which the Government is liable. The amount of the loss or damage as determined by the Contracting Officer will be withheld from payments otherwise due the Contractor until the actual loss or damage is ascertained, at which time the Contractor shall be paid the difference, if any, between the amount withheld and the amount of the actual loss or damage sustained by the Government. Determinations of liability and responsibility by the Contracting Officer will constitute questions of fact within the meaning of the Clause of this contract entitled "Disputes." The general liability and responsibility of the Contractor under this Clause are subject only to the following specific limitations.

3. Revise § 1016.503 and add § 1016.504–50 as follows:

§ 1016.503 Master Contract for Repairs and Alteration of Vessels (DD–ASPR Form 731 and DD Form 731–1).

ASPR Form No. 1, July 1, 1961 will be used until stocks have been exhausted by changing the form designation to read "DD–ASPR Form 731, July 15, 1961, supersedes DD Form 731, Jan. 1, 1959, and ASPR Form No. 1, July 1, 1961."

§ 1016.504–50 Miscellaneous forms used in the procedure required to advertise in newspapers.

AFPI Form 25, "Request for Authority to Advertise." See § 1001.1005 of this chapter.

§ 1016.505–2 [Amendment]

4a. In paragraph (a) amend the final words: "(MCPC)____Hq AMC" to read: (AFLC or AFSC, as appropriate)."

b. In paragraph (c) amend the final words: "to the Commander, AMC, Attn: "MCPP–3" to read: "to AMC (MCPP)".

§ 1016.505–51 [Amendment]

5. In § 1016.505–51, delete paragraphs (b) and (c) and the designation "(a)".

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133, 10 U.S.C. 2301–2314)

Subpart H—Miscellaneous

1. Delete subparagraphs (4) and (5) of § 1016.810–50(a), and amend subparagraph (3) to read as follows:

§ 1016.810–50 Processing bidders' mailing list application form.

* * * * *

(a) * * *

(3) Send applications and AFPI Form 24, "Commodity List Data," to the cognizant procurement district (small business specialist), when applications are intended for AFLC central procurement activities and AFSC systems divisions.

2. Revise § 1016.814–1 to read as follows:

§ 1016.814–1 Architect-Engineer Experience Data (DD Form 1071).

DD Form 1071 to be used in lieu of AF Forms 194 and 284.

§§ 1016.853—1016.854–2 [Deletion]

3. §§ 1016.853 through 1016.854–2 are deleted.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133, 10 U.S.C. 2301–2314)

PART 1017—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

§§ 1017.000, 1017.001 [Deletion]

Sections 1017.000 and 1017.001 are deleted.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133, 10 U.S.C. 2301–2314)

Subpart B is revised to read as follows:

Subpart B—Requests for Contractual Adjustment

Sec.

1017.202 Contract Adjustment Boards.
1017.203 Authority of other officers and and officials.
1017.205 Limitations upon exercise of authority.
1017.205–2 Additional limitations upon authority below Secretarial level.
1017.207 Submission of requests by contractors.
1017.207–1 Filing requests.
1017.208 Processing cases.
1017.208–1 Investigation.
1017.208–2 Disposition below Secretarial level.
1017.208–50 Implementing documents.
1017.208–51 Letters of denial.

AUTHORITY: §§ 1017.202 to 1017.208–51 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 1017.202 Contract Adjustment Boards.

See § 17.202 of this title.

§ 1017.203 Authority of other officers and officials.

The authority delegated as listed in § 17.203(b)(3) of this title has been redelegated as follows:

(a) The Commander, AFLC, has redelegated his authority to the Director of Procurement and Production, to the Deputy for Procurement, and, while he is acting as Director of Procurement and Production, to the Deputy for Production, Hq AFLC.

(b) The Commander, AFSC, has redelegated his authority to the Deputy Chief of Staff, Procurement and Materiel, to the Director of Procurement, and, while he is so acting as the Director of Procurement, to the Deputy Director of Procurement, Hq AFSC. However, the Commanders, AFSC and AFLC have agreed that requests for contractual adjustment arising under contracts of the Air Force Systems Command will be treated in the same manner as requests under paragraph (c) of this section.

(c) Requests for contractual adjustment arising under contracts of commands to which authority has not been delegated will be transmitted for appropriate action to the Air Force Logistics Command.

§ 1017.205 Limitations upon exercise of authority.

See § 17.205 of this title.

§ 1017.205–2 Additional limitations upon authority below Secretarial level.

In addition to the limitations in § 17.205–2 of this title, officers and officials below the Secretarial level will not approve contractors' requests, regardless of dollar amount, if implementation of the approval would require action at the Secretarial level; for example, if a determination and findings under 5 U.S.C. 55a (P.L. 600, 79th Cong.) would be required. Such requests may be denied or submitted to the Air Force Contract Adjustment Board (see § 17.203(a) (1) and (3) of this title).

§ 1017.207 Submission of requests by contractors.

§ 1017.207–1 Filing requests.

(a) The filing of a request does not relieve the contractor of its obligation to continue performance according to the terms of its contract.

(b) When a person files a request directly with cognizant contracting officer or his duly authorized representative, the contracting officer will, without delay, notify AFLC (MCPKA) by letter or electrically transmitted message. The notification will contain information necessary to prepare the preliminary record required by § 17.207–3 of this title and described in § 17.401 of this title.

§ 1017.208 Processing cases.

§ 1017.208–1 Investigation.

(a) *General.* Except for requests filed pursuant to § 17.204–2(a) of this title, "Loss however caused," the contracting officer will check the adequacy of the contractor's request and investigate the accuracy of the information supplied. Requests indicating circumstances set forth in § 17.204–2(a) of this title as a basis for adjustment will be forwarded immediately to the approving authority without investigation. Contracting officers will: (1) Make use of available AF personnel in their investigation, (2) not request an audit be performed by AF personnel in respect to the contractor's request, which if deemed necessary will be requested by AFLC (MCPKA), and (3) obtain, as a part of his investigation, such of the additional facts and evidence described in § 17.207–4 of this title, which he considers will be necessary in making a determination of the case.

(b) *Forwarding to approving authority.* Upon completion of the investigation the contracting officer will forward the request for relief, all documents and correspondence relating thereto, and the contract file, together with his comments and specific recommendation to AFLC (MCPKA).

(c) *Contract file.* The contract file submitted according to paragraph (b) of this section will in all cases include:

(1) A copy of the contract and all change orders and supplemental agreements.

(2) A copy of the IFB or RFP.

(3) An abstract of bids or proposals received and a copy of any applicable findings and determination.

(d) *Contracting officer's recommendation and comments.* The contracting officer's recommendation should state whether, in his opinion, the contractor's request should be approved, in whole or in part, or denied. If the contracting officer recommends approval involving a change in the contract price or other payment to the contractor, the recommendation should specify the dollar amount which the contracting officer considers fair and reasonable with supporting evidence. Contracting officer's comments will include:

(1) A statement of the facts based on the contracting officer's knowledge of the circumstances involved.

(2) A statement as to whether the contractor has submitted the information required in § 17.207–2 of this title, or requested by the contracting officer pursuant to § 17.207–4 of this title, and commenting on the accuracy and completeness of information so received.

(3) A statement, when approval is recommended, of why the subject matter of the request could not be resolved under the terms of the contract itself. (A Public Law 85–804 request should not be a substitute for appealing a decision to the Armed Services Board of Contract Appeals, or for negotiating settlements under the Changes Clause, Termination Clause, or any other clause in the contract which specifies a method for settling claims under the contract. A small Disputes claim, however, may be considered with a larger claim which can be handled only under Public Law 85–804.)

(4) A statement of the extent of performance and whether performance to date has been satisfactory.

(5) Whether contractor is a small or large business, if not stated in the contract.

(6) Where the contractor has alleged a mistake, a statement of when the alleged mistake was first brought to the contracting officer's attention, whether he believes that a mistake actually occurred, and, if so, how it occurred; for example, through clerical or mathematical error in the contractor's office, through an error in the bid, etc. (and whether in advertised procurements, he requested verification of the bids).

(7) Where the contractor has alleged an informal commitment, a statement of the action taken by the Government, whether the Government actually received supplies or services as a result of that action, and evidence to support or preclude a finding that at the time the informal commitment, if any, was made it was impracticable to use normal procurement procedures.

(8) Such additional evidence as the contracting officer considers pertinent.

§ 1017.208–2 Disposition below Secretarial level.

(a) *Disposition.* Authority to deny contractors' requests has not been delegated to contracting officers at any level. All contractors' requests must be forwarded for action as directed by § 1017.208–1.

(b) *Records.* See § 17.208–2(b) of this title.

§ 1017.208–50 Implementing documents.

If a decision of approval is to be implemented by a contractual document to be issued by a field office of any major command, the command rendering the decision as listed in § 17.203(b)(3) of this title should prepare a contractual document in draft form containing all the mandatory requirements of § 17.206 of this title and forward to the field office to enable it to issue a proper contractual document.

§ 1017.208–51 Letters of denial.

Where a contractor's request is denied at or below the Secretarial level, a letter informing the contractor that its request has been denied, and by whom, will be prepared and sent by the appropriate command listed in § 17.203(b)(3) of this title, or by the contracting officer at the request of that command.

Subpart C is revised to read as follows:

Subpart C—Residual Powers

Sec.

1017.300 Scope.
1017.301 Delegations of authority.
1017.302 Standards for using residual powers.
1017.303 Procedures.
1017.304 Maintenance of records.

AUTHORITY: §§ 1017.300 to 1017.304 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 1017.300 Scope.

See § 17.300 of this title.

§ 1017.301 Delegations of authority.

Authority to make or approve contracts for sales of Government property, subject to the standards specified in § 1017.302, has been delegated to the Deputy Chief of Staff, Systems and Logistics, and, while he is so acting, to the person acting for the time being as Deputy Chief of Staff, Systems and Logistics, and has been redelegated to the Director, Procurement Management, Office, Deputy Chief of Staff, Systems and Logistics.

§ 1017.302 Standards for using residual powers.

(a) Sales of Government property pursuant to the delegations of authority described in § 1017.301 will be subject to the limitations in § 17.205–1 of this title and in addition:

(1) Such sales will be based on a finding that it is made in connection with and will facilitate or expedite performance of a specific contract or subcontract for military procurement.

(2) The property sold under this authority must not be obtainable by the contractor or subcontractor without unreasonable delay through commercial sources or through the exercise of other Government sale or property disposal authority, and it must be impracticable to furnish such property as Government property according to Part 13 of this title.

(3) Except as provided in subparagraph (4) of this paragraph, sales under this authority will provide for cash payments; will be made at prices that are fair and reasonable under the circumstances of the case.

(4) Sales of property to be repaid in kind will be made only when the property is needed by the contractor or subcontractor to maintain or expedite the production rate under a contract with the Government, or subcontract thereunder, and only when the contractor or subcontractor has made arrangements to obtain or produce identical articles which can be used to replace the property loaned.

(b) All contracts for sales of Government property made pursuant to this authority will contain a statement of the facts and circumstances on which the action is based.

(c) This authority does not apply to the disposition of (1) Excess or surplus property, unless and until such property

has been withdrawn from such excess or surplus category according to applicable regulations, or (2) property subject to priorities or allocation under the Defense Production Act, except where such transfer is authorized under the aforesaid Defense Production Act or applicable regulations or orders thereunder.

§ 1017.303 Procedures.

All proposals for the exercise of residual powers to make contracts for the sale of Government property will be sent through channels to Hq USAF (AFSPM).

§ 1017.304 Maintenance of records.

Two copies of each Memorandum of Approval signed by any officer or official to whom authority has been delegated as stated in § 1017.301 will be forwarded promptly to the Air Force Contract Adjustment Board, Office of the Assistant Secretary of the Air Force (Materiel).

Subpart D—Records of Requests and Dispositions

Subpart D is revised to read as follows:

Sec.
1017.400 Scope of subpart.
1017.402 Final records.
1017.403 Sample format for preliminary and final records.

AUTHORITY: §§ 1017.400 to 1017.403 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 1017.400 Scope of subpart.

See § 17.400 of this title.

§ 1017.402 Final records.

Final record on contractor's request will be prepared promptly when request is: (a) Withdrawn, (b) denied and letter of denial is forwarded to contractor, and (c) approved in whole or in part after the action authorized by the Memorandum of Decision has been taken.

§ 1017.403 Sample format for preliminary and final records.

The sample format in § 17.403 of this title has been established as AFPI Form 48, "Record of Request for Adjustment, Public Law 85–804." AFPI Form 48 will be used by AF activities for the preparation and maintenance of prescribed records.

PART 1030—APPENDIXES TO AIR FORCE PROCUREMENT INSTRUCTION

§ 1030.4 Appendix D—Rules for notice and hearing under gratuities clause in § 7.104–16 of this title.

D–1 through D–14 see Subchapter A, Chapter I of this title and Subpart T, Part 1001 of this chapter.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

PART 1052—PRE-AWARD SURVEYS

Part 1052 is deleted.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

PART 1053—CONTRACTS; GENERAL

Subpart D—Administrative Requirements

1. Revise §§ 1053.404, 1053.404–2, 1053.404–3, 1053.404–5, and 1053.407–9 as follows:

§ 1053.404 Assignment of office of administration and designation of accounting and finance officer.

§ 1053.404–2 Definitions.

(a) *Office of administration.* The AF activity having overall responsibility for the administration of contract as stipulated therein.

(b) *AF Contract Management District (AFCMD).* A component of a contract management region (CMR). It is responsible for surveillance of contractors within an assigned geographical area, excluding contractors at whose facilities AF plant representative offices are established. This includes administration of contracts, industrial property, production and industrial resources analysis, product quality and reliability assurance, industrial security, and accounting and disbursing.

(c) *AF Plant Representative Office (AFPRO).* A component of a CMR. It is responsible for surveillance of a designated contractor at whose facility a plant residency is established and for other contractors as assigned within its area. This includes the functions and responsibilities as listed in paragraph (b) of this section.

(d) *AF Contract Management Office (AFCMO).* A component of an AFCMD or AFPRO. In a geographical area or for a number of assigned plants, the air procurement office is responsible for designated functions of the AFCMD/AFPRO such as administration of contracts and industrial property, production and industrial resources analysis, product quality and reliability assurance, and industrial security.

(e) *Plant office.* A plant office is a component of the parent APD or AFPRO and is responsible for specified functions of the parent organization such as administration of contracts and industrial property, production and industrial resources analysis, product quality and reliability assurance, and industrial security. The plant office is responsible for surveillance of a designated AF contractor at whose facility it is established. The individual in charge of a plant office is the "Officer in Charge"; except in a plant where only quality control inspectors are assigned, in which case the individual in charge is the "AF Quality Control Representative."

(f) *Home office.* The contractor's office which has authority to negotiate, submit bids or proposals, execute and administer AF contracts, and perform purchasing, billing, subcontracting, expending, and recording under AF contracts.

(g) *Secondary administration.* The performance of certain administrative responsibilities which have been delegated from the office of administration to another AF office of administration.

(h) *Accounting and finance officer.* The individual having the overall responsibility for paying or receiving all funds and moneys passing between the Government and the contractor according to the terms of the contract.

(i) *Comptroller Service Division.* The accounting and finance activity, within an APD/AFPRO; (1) Designated to make payments on certain contracts and (2) assigned fund accounting responsibility on certain central procurement contracts when administration is assigned to APDs/AFPROs.

(j) *AFSC test site office (AFSCTSO).* An AFSC test site office is a component of the CMR in whose geographical area it is located. The AFSCTSO is responsible for performing secondary contract administration at an AF test site as delegated by offices of primary administration (APDs/AFPROs).

(k) *Contract Support Detachment.* A Contract Support Detachment (CSD) is under the administrative jurisdiction of the WCMR. A CSD executes the contract management responsibility for WCMR, including appropriate secondary assignments of contract administration, at a specific missile site. It supports the site commander in performing his responsibilities of site activation, installation and check out, and test. The CSD receives technical guidance and staff surveillance from the AFPR located at the facility of the missile contractor, except that Ogden APD provides this support to the CMR detachments responsible for the Minuteman.

NOTE: The following apply to paragraphs (b) through (c) of this section, as appropriate:

(1) AF personnel on official business to APDs/AFPROs or to contractors' facilities under the cognizance of these activities are required to give prior notice and/or to report to one of the following (in order named): APD, AFPRO, air procurement office, AF officer in charge, or AF quality control representative for registering and coordinating the business to be conducted.

(2) AF personnel will address official correspondence intended for an AF contractor through appropriate APD/AFPRO.

(3) Electrically transmitted messages may be addressed directly to the contractor with an information copy to APD/AFPRO.

NOTE: The following apply to paragraphs (j) and (k) of this section, as appropriate:

(1) AF personnel on official business are required to give prior notice and report to AFSCTSO before visiting a contractor work site.

(2) All personnel desiring to visit missile sites will obtain clearance from the Commander BSD/DCAS, Air Force Unit Post Office, Los Angeles, California (DCQIP–1/Visitor Control), prior to visit.

§ 1053.404–3 Responsibility.

The procuring contracting officer will determine, according to procedures herein, the office of administration and the accounting and finance office for a contract. The designated office of administration will assign secondary administrative responsibility where necessary.

§ 1053.404–5 Geographical areas of CMRs, AFCMDs and AFPROs.

(a) *CMRs.*

(1) *Eastern Contract Management Region (ECMR).* The States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Maryland, Delaware, Pennsylvania, District of

Columbia, West Virginia, Virginia, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Florida and the Caribbean area, Iceland, Greenland, Bermuda, Bahama Islands, and Ascension Islands.

(2) *Central Contract Management Region (CCMR).* North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Tennessee, Kentucky, Illinois, Indiana, Ohio, Michigan, Wisconsin, and the Canadian Provinces.

(3) *Western Contract Management Region (WCMR).* Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, California, Nevada, Alaska, and Hawaii.

(b) *AFCMDs.*

(1) *Atlanta AF Contract Management District (ECMR).* Georgia, South Carolina, and North Carolina.

(2) *Boston AF Contract Management District (ECMR).* Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut (less Fairfield County), Iceland, and Greenland.

(3) *Chicago AF Contract Management District (CCMR).* Iowa, and that portion of Illinois north of the northern boundaries of the following counties: Adams, Brown, Cass, Douglas, Edgar, Macon, Menard, Moultrie, and Sangamon.

(4) *Cleveland AF Contract Management District (CCMR).* Beginning at western boundary of the Ohio State Line, that portion of Ohio north of Highways 30 and 30S and the cities located thereon (excluding the city of Lima), to the western boundary of Marion County and that portion of Ohio north of the southern boundary of the following counties: Marion, Morrow, Knox, Muskingum, Noble, and Monroe.

(5) *Dallas AF Contract Management District (CCMR).* Texas and Louisiana.

(6) *Dayton AF Contract Management District (CCMR).* Kentucky Tennessee; and beginning at the western boundary of the Ohio State Line, that portion of Ohio south of Highways 30 and 30S exclusive of cities on said highway lines (but including Lima), to the western boundary of Marion County and that portion of Ohio south of the southern boundaries of the following counties: Marion, Morrow, Knox, Muskingum, Noble, and Monroe.

(7) *Detroit AF Contract Management District (CCMR).* Michigan and Dominion of Canada.

(8) *Indianapolis AF Contract Management District (CCMR).* Indiana.

(9) *Los Angeles AF Contract Management District (WCMR).* Kern, San Luis Obispo, San Bernardino, Los Angeles, Orange, Riverside, Santa Barbara, Ventura Counties in California, and Clark County, Nevada.

(10) *Milwaukee Air Procurement District (CCMR).* Wisconsin, Minnesota, North Dakota, and South Dakota.

(11) *Newark Air Procurement District (ECMR).* Richmond County in New York State and following counties in New Jersey: Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren.

(12) *New York Air Procurement District (ECMR).* Fairfield County in Connecticut; and the following counties in New York State: Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rockland, Suffolk, Ulster, and Westchester.

(13) *Ogden Air Procurement District (WCMR).* Utah, Idaho, Montana, and Wyoming.

(14) *Orlando Air Procurement District (ECMR).* Florida and the Caribbean area, Bermuda, Bahamas Islands, and the Ascension Islands.

(15) *Philadelphia Air Procurement District. (ECMR).* Pennsylvania, Delaware, Maryland, Virginia, West Virginia, District of Columbia, and the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem.

(16) *Phoenix Air Procurement District (WCMR).* Arizona and New Mexico.

(17) *Rochester Air Procurement District (ECMR).* That portion of New York State north and west of, but not including, Ulster, Orange, Greene, and Columbia Counties.

(18) *San Diego Air Procurement District (WCMR).* Imperial and San Diego Counties in California.

(19) *San Francisco Air Procurement District (WCMR).* Nevada less Clark County, all of California north of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, and Hawaii.

(20) *St. Louis Air Procurement District (CCMR).* Missouri, Nebraska, Oklahoma, Kansas, Arkansas, and that portion of Illinois south of the northern boundaries of the following counties: Cass, Adams, Brown, Douglas, Edgar, Macon, Menard, Moultrie, and Sangamon.

(c) *AFPROSs (Those with geographical areas).*

(1) *Boeing, Seattle (WCMR).* Oregon, Washington, and Alaska.

(2) *Martin, Denver (WCMR).* Colorado.

(3) *Hayes, Birmingham (ECMR).* Alabama and Mississippi.

§ 1053.407–9 Contracts for food of animal origin.

Contracts for foods of animal origin will have placed in each contract file prior to distribution of the contract, the following certificate:

CERTIFICATION FOR FOOD CONTRACT

I certify that the contractor's establishment supplying the item being procured by Contract No. ------ has been inspected and is approved as a local source of supply or is currently listed as an approved source of supply by other governmental agencies as provided in Section II, AFR 160–7, as amended.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

Subpart R—Preparation and Use of Certain Kinds of Base Procurement Contracts

§ 1053.1802 [Amendment]

1. In § 1053.1802 (a)(3) and (b)(2), the specification number is amended to read: "MIL–C–9876A (USAF)", and in the material following paragraph (b)(2)(ii), delete the words: "and specifications (Part III)".

§ 1053.1803 [Amendment]

2. In § 1053.1803(b)(5), subdivision (i) is amended to read as follows:

(i) Prepare a single supplemental service order, on reproducible master, for each contractor involved, listing all service orders by order number, owner's name and lot number, with that particular firm, authorizing extension of services.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

By order of the Secretary of the Air Force.

CARROLL W. KELLEY,
Lieutenant Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 62–4403; Filed, May 7, 1962; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.105, paragraphs (d) and (e) are amended to read as follows:

§ 3.105 Revision of decisions.

* * * * *

(d) *Severance of service connection.* Subject to the limitations contained in § 3.957, service connection will be severed only where evidence establishes that it is clearly and unmistakably erroneous (the burden of proof being upon the Government). A change in diagnosis may be accepted as a basis for severance action if the examining physician or physicians or other proper medical authority certifies that, in the light of all accumulated evidence, the diagnosis on which service connection was predicated is clearly erroneous. This certification must be accompanied by a summary of the facts, findings, and reasons supporting the conclusion. When severance of service connection is considered warranted, a rating proposing severance will be prepared setting forth all material facts and reasons and submitted to Central Office for review without notice to claimant or representative. Ratings for carious or missing teeth, pyorrhea, or Vincent's disease will not be submitted. If the proposal is approved on review by Central Office, the claimant will be notified of the contemplated action and furnished detailed reasons therefor and will be given a reasonable period, not to exceed 60 days from the date on which notice is mailed to his last address of record, for the presentation of additional evidence.

(e) *Reduction in disability evaluation.* Where the reduction in evaluation of a service-connected disability is considered warranted and the lower evaluation would result in a reduction or discontinuance of payments currently being made, the reduction will not be effected for 60 days from date of rating to permit submission of additional evidence. The letter of notification to the veteran will bear the same date as the rating.

2. Following § 3.105, two new cross references are added so that the cross references read as follows:

CROSS REFERENCES: Effective dates. See § 3.400. Reductions and discontinuances. See § 3.500. Protection; service connection. See § 3.957.

3. Section 3.113 is revised to read as follows:

§ 3.113 Signature by mark.

All signatures by mark or thumbprint must be:

(a) Witnessed by two persons who can write and who have signed their names and addresses; or

(b) Certified by a notary public or other person having authority to administer oaths for general purposes; or

(c) Certified by a Veterans Administration employee under authority of Veterans Administration Form 4505 series.

(72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective May 8, 1962.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-4423; Filed, May 7, 1962; 8:48 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 5—COMPLAINTS

PART 31—STAMPS, ENVELOPES, AND POSTAL CARDS

PART 32—PRECANCELED STAMPS

Miscellaneous Amendments

The regulations of the Post Office Department are amended as follows:

I. In § 5.2 *Postal law violations,* make the following changes in the alphabetical listing of postal inspectors in charge who receive information and complaints on postal law violations from the various jurisdictions:

A. Amend the column *"If you live in the State of ____"* to read *"If mailer lives in the State of ____".*

B. Opposite "Atlanta 2, Ga.", delete "Puerto Rico" and the "Virgin Islands".

C. Opposite "New York 1, N.Y." insert "Puerto Rico" and the "Virgin Islands" immediately following "Fishers Island;".

D. In the address of the postal inspector in charge at "St. Louis", strike out postal zone "1" and insert in lieu thereof postal zone "99".

NOTE: The corresponding Postal Manual section is 115.2.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501)

II. In § 31.5 *Exchange of stamps,* make the following changes:

A. In paragraph (c), subparagraph (2) is amended to show that all aerogrammes (air-letter sheets) presented for redemption by the public are exchangeable for postage stamps or other stamped paper at their postage value less one cent for each aerogramme redeemed. As so amended, subparagraph (2) reads as follows:

(c) *Unserviceable and spoiled envelopes or cards, and unused precanceled stamps.* * * *

(2) Unmutilated aerogrammes (air-letter sheets) for postage value less one cent for each aerogramme redeemed.

B. In paragraph (c), amend the second sentence of subparagraph (6) by inserting "aerogrammes" immediately following "or"; and by enclosing "air-letter sheets" in parentheses.

C. In paragraph (d), amend subparagraph (2) for the purpose of clarification as follows:

(d) *Nonexchangeable.* * * *

(2) Stamps cut from postal cards, stamped envelopes, or aerogrammes (air letter sheets).

NOTE: The corresponding Postal Manual sections are 141.53 and 141.54.

(R.S. 161, as amended; 5 U.S.C. 22, 369; 39 U.S.C. 501, 2501)

III. In § 32.2 *Sale and use of precanceled stamps,* amend paragraph (e) by striking out the figures "9-54" immediately following "A. B. Co." in the first sentence therein, and inserting in lieu thereof "4-62".

NOTE: The corresponding Postal Manual section is 142.25.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 62-4427; Filed, May 7, 1962; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2079]

PART 192—OIL AND GAS LEASES

Description of Lands in Offer

On page 11911 of the FEDERAL REGISTER of December 13, 1961, there was published a notice of proposed amendments of §§ 192.42a and 192.140. The purpose of the proposed amendment of § 192.42a was to permit oil and gas leasing of portions of protracted sections where entire protracted sections are not available for lease. The proposed amendment of § 192.140 required that assignments out of oil and gas leases covering lands within protracted surveys be for entire protracted sections only, except where the lease includes less than entire protracted sections.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed revisions. After careful consideration of the comments received, the proposed amendment of § 192.140 has been withdrawn. The proposed amendment of § 192.42a has been changed, as set forth below, and is hereby adopted. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

Section 192.42a(c) is amended to read as follows:

§ 192.42a Description of lands in offer.

* * * * *

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, must, except as provided below, include only entire sections described according to the section, township, and range shown on the approved protracted surveys.

(1) An offer may include less than an entire protracted section where only a portion of such a section is available for lease. In such case the offer must describe all the available lands by subdivisional parts in the same manner as provided in paragraph (a) of this section for officially surveyed lands. If this is not feasible, as e.g., in the case of an irregular section, the offer must describe the entire section and contain a statement that it shall be deemed to include all of the land in the described section which is available for lease.

STEWART L. UDALL,
Secretary of the Interior.

MAY 1, 1962.

[F.R. Doc. 62-4408; Filed, May 7, 1962; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14120; FCC 62-488]

PART 3—RADIO BROADCAST SERVICES

Table of Assignments for Television Broadcast Stations; Further Report and Order

In the matter of amendment of § 3.606 Table of Assignments Television Broadcast Stations (Huntsville, Fort Payne, Guntersville, Tuskegee, and Sheffield, Alabama; Humboldt and Murfreesboro, Tennessee; Dalton and Fort Valley, Georgia; and Corbin, Kentucky; Jasper and Hamilton, Ala.; Starkville, Mississippi), Docket No. 14120 (RM-241, RM-253, RM-280).

1. The Georgia State Board of Education on March 8, 1962, filed a timely Petition for Reconsideration seeking relief from so much of the Report and Order in this proceeding, adopted February 6, 1962 (FCC 62-161), dealing with the removal of Channel 25+ from Dalton, Georgia (see RM-253).

2. The following of the chronology before the Commission is pertinent:

(a) The Commission's notice of proposed rule making, based on petitions toward that end, adopted May 11, 1961 (FCC 61-640) looked toward the addition of two channels at Huntsville, one being Channel 25+;

(b) The Georgia State Board of Education opposed this as conflicting with its need for a station in or near Dalton, for which it had already authorized studies for selection of a transmitter site in anticipation of filing an application for such a station;

(c) The petitioner in RM-253 then suggested alternatives to afford a satisfactory channel assignment for Dalton, Channel 18— or Channel 16, which were noticed for rule making by the further notice, adopted September 27, 1961 (FCC 61-1156);

(d) The Georgia Board in its Comments supported the Channel 18— alternative and then petitioned for a Statewide plan of 8 UHF channels for noncommercial educational purposes and, as significant here, Channel 18— for Dalton (Docket No. 14409, RM-290; FCC 61-1043).

3. The Commission concluded that there was no urgency to replace the channel deleted from Dalton and that this matter could therefore be more appropriately dealt with in the rule making proceeding on the statewide plan. It appears, however, that the Board is ready and willing to proceed promptly with a station in or near Dalton. In fact, a transmitter site has been selected, and the necessary air space clearance has assertedly been given by the Federal Aviation Agency. The Board could proceed to apply for a construction permit if an assignment were available at Dalton. No objections have been voiced as to the deletions of channels at Fort Valley, Georgia; Murfreesboro, Tennessee; and Burnsville, N.C.,[1] requisite to assignment of Channel 18 to Dalton (see Plan II in the further notice). In the circumstances, we believe that the public interest would be served by now assigning Channel 18— to Dalton as a noncommercial educational channel.

4. Authority for the amendments adopted herein is contained in sections 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended.

[1] In deleting this assignment, we take cognizance of the circumstance that the proposal is part of the proceeding in Docket No. 14409 and that the time for filing comments has expired without objection having been taken.

5. In view of the foregoing: *It is ordered*, That effective June 11, 1962, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations is amended, to (1) add the following entry under the State of Georgia:

	Channel No.
Dalton	*18—

and (2) delete the entries for Fort Valley, Georgia; Murfreesboro, Tennessee; and Burnsville, North Carolina.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: May 2, 1962.

Released: May 3, 1962.

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

[F.R. Doc. 62-4440; Filed, May 7, 1962; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 33]

SPORT FISHING

Klamath Forest National Wildlife Refuge, Oregon

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

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

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

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

§ 33.4 List of open areas; sport fishing.

* * * * *

OREGON

* * * * *

Klamath Forest National Wildlife Refuge.

STEWART L. UDALL,
Secretary of the Interior.

MAY 1, 1962.

[F.R. Doc. 62-4406; Filed, May 7, 1962; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 723, 725, 727]

TOBACCO

Notice of Formulation of Regulations Relating to the Marketing of Tobacco, Collection of Marketing Penalties, and Records and Reports, 1962–63 Marketing Year

Notice is hereby given that, pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1311–1315, 1372–1375), the Agricultural Act of 1949 (63 Stat. 1051), as amended, and the Agricultural Act of 1956 (70 Stat. 188), as amended, marketing quota regulations are being prepared governing the issuance of marketing cards for marketing and price-support purposes, the identification of tobacco for purposes of marketing restrictions and price support, the collection and refund of penalties, and the records and reports incident thereto on the marketing of cigar-binder (types 51 and 52) tobacco, cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, burley tobacco, flue-cured tobacco, fire-cured (type 21) tobacco, fire-cured (types 22, 23, and 24) tobacco, dark air-cured tobacco, Virginia sun-cured tobacco and Maryland tobacco for the 1962–63 marketing year.

It is contemplated that the regulations for the 1962–63 marketing year will be substantially the same as those issued for the 1961–62 marketing year (26 F.R. 5112, cigar-binder and cigar-filler and binder; 26 F.R. 4915; 5207, burley, flue-cured, fire-cured, dark air-cured and Virginia sun-cured; 26 F.R. 5208; 8097, Maryland) except for the proposed changes set forth herein.

The changes presently being considered, other than changes made solely for clarification, are as follows:

1. The definition of "nonwarehouse sale" contained in § 725.1231(j) of the 1961–62 regulations would be revised to exclude the small quantities of tobacco in excess of the 700-pound basket limitation in the case of burley tobacco, and the 300-pound basket limitation in the case of flue-cured tobacco, provided that the number of pounds of such small overage quantities are recorded on the same floor sheet as the parent basket of which such small quantities would otherwise be a part. Sales of such small amounts of tobacco would be considered as auction sales of tobacco.

2. The definition of discount variety tobacco contained in § 725.1231(t)(1) of the 1961–62 regulations would be revised to read as follows:

(1) "Discount Variety" or "Limited Support Variety" means any of the flue-cured tobacco seed varieties designated as Coker 139, Coker 140, or Dixie Bright 244, or a mixture or strain of such seed varieties, or any breeding line of flue-cured tobacco seed varieties, including, but not limited to, 187-Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XYZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, or Dixie Bright 244: *Provided*, That where there is growing in a field off-type plants of not more than 2 percent, such off-type plants shall not be considered in determining the flue-cured tobacco variety being produced. Flue-cured tobacco which is not determined to be discount variety, shall be considered as "acceptable variety." For the purpose of these regulations, any breeding line of flue-cured tobacco identified as having appearance and growth characteristics similar to Coker 139, Coker 140, or Dixie Bright 244, shall be considered to have the quality characteristics of Coker 139, Coker 140, or Dixie Bright 244.

3. A change would be made in the provisions now contained in §§ 723.1231(m)(2), (3); 725.1231(t)(2), (3); and 727.1231(t)(1), (2) of the 1961–62 regulations to provide for all tobacco grown on a farm in an area in which quota tobacco is produced being subject to marketing quotas until the county committee is furnished satisfactory proof by the producer that the tobacco was not subject to marketing quotas and was marketed or was to be marketed as a nonquota kind.

4. The provisions contained in § 725.1235(f) of the 1961–62 regulations, which concern the identification of discount varieties of flue-cured tobacco, would be revised (a) to give a producer an opportunity to appear at a hearing before the county committee to present evidence that tobacco produced by him is not of a discount variety, (b) to provide for the State committee reviewing any determination of the county committee that tobacco is of a discount variety if requested to do so by a producer, and (c) to give the State committee the right to review and change any decision by a county committee that tobacco is or is not of a discount variety.

5. A new provision would be included in § 725.1235 of the 1961–62 regulations to provide that the farm operator would be allowed 7 days in which to comply with a request of the county committee (a) to file a report showing whether or not he had discount variety tobacco, or (b) to permit plants to go to flower, or (c) to permit photographing or sampling of his tobacco plants. Failure to comply with such a request of the county committee would result in a card being issued identifying such tobacco when sold as discount variety tobacco.

6. The provisions contained in § 725.1253(1) of the 1961–62 regulations would be changed to require each warehouseman who is engaged in the business of holding sales of flue-cured, burley, fire-cured, dark air-cured or Virginia sun-cured tobacco at a public auction, to make all reports on a daily basis, including those now made on a weekly and seasonal basis. Reports heretofore required to be made in § 725.1253 (h), (i), (j), and (k) which would be eliminated, are: (i) Form MQ–80 (Tobacco), Auction Warehouse Report (season report); (ii) Form MQ–81 (Tobacco), Report of Penalties (weekly report); (iii) Form MQ–86 (Tobacco), Report of Resales (daily report); and (iv) MQ–83 (Tobacco), Field Assistant Report (daily report). Similar changes would also be contained in the 1962–63

Maryland Tobacco Marketing Quota Regulations.

7. A provision would be added to §§ 725.1253 and 727.1253 of the 1961–62 regulations which, for the purpose of insuring eligible tobacco the opportunity of proper price support, would require the marketing card serial number and prefix letter to be recorded by the warehouseman on the warehouse floor sheet covering any sale of producer tobacco. A provision would also be included requiring the warehouse bill number covering any sale of producer tobacco to be recorded by the field assistant or the warehouseman on the inside front cover of the marketing card.

8. The provisions now contained in §§ 725.1246 and 727.1246 which provide for the word "scrap" to be plainly written on any memorandum of sale, bill of nonwarehouse sale, or Form MQ–82 (Tobacco), Sale Without Marketing Card, to cover sales of scrap tobacco would be withdrawn.

All persons who desire to submit written data, views, and recommendations in connection with the above proposals, or wish to suggest other changes in the present regulations, should file the same with the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington 25, D.C., within 10 days after the date of the publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 2, 1962.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62–4445; Filed, May 7, 1962; 8:52 a.m.]

[7 CFR Part 1073]

[Docket No. AO–173–A13]

MILK IN WICHITA, KANSAS, MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Wichita, Kans., on March 13, 1962, pursuant to notice thereof issued on March 5, 1962 (27 F.R. 2290).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary on April 13, 1962 (27 F.R. 3740; F.R. Doc. 62–3806) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were received.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (27 F.R. 3740; F.R. Doc. 62–3806) are hereby approved and adopted and set forth in full herein.

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

1. Class I milk price; and
2. Classification of solids used to fortify fluid milk products.

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

1. *Class I milk price.* The provision in the order which would discontinue the Class I order price May 31, 1962, should be terminated. Such termination would retain the present Class I pricing provisions in the order.

Effective June 1, 1961, an amendment to the Wichita, Kansas, milk order modified the supply-demand adjustor, deleted the base-excess plan and changed the Class I differential. Because of the difficulty in projecting the overall effect of these changes, due to the dynamics of the milk industry, the Class I pricing provisions were made effective for only a twelve-month period. This provided a period of time in which to evaluate the effectiveness of the price level established by the pricing formula.

The Class I price which has been in effect since June 1, 1961, has been effective in maintaining the proper price relationship with surrounding markets and in maintaining prices responsive to supply and demand conditions in the market. Since June 1961 the supply-demand adjustor has varied from a low of minus 12 cents to a high of minus 36 cents. During the same period a year earlier (June 1960 through March 1961), the supply-demand adjustment varied from a low of minus 2 cents to a high of minus 90 cents. The effect of the minus 90 cents was reduced to minus 29 cents by the proviso which sets a floor price in relation to the Kansas City Class I price. The Class I price since June 1961 has varied 27 cents, ranging from a high of $4.93 to a low of $4.66. The Class I price variation during the same months of the previous year was 63 cents.

The Wichita Class I price has a floor and a ceiling based on the Kansas City Class I price. Since June 1961 this floor or ceiling price has been effective only once. This was in March 1962 and was due largely to a change in the basic formula price used to determine the Kansas City Class I price. No change was made at the same time in the basic formula used in Wichita. During 1960 the Kansas City floor price, effective in four months, offset the supply-demand adjustments by 4 cents in August, 33 cents in September, 61 cents in October and 16 cents in November.

The producers' cooperative proposed the continuation of the present Class I price provisions. Handlers had no objections to maintaining this price. The Class I price level has produced an adequate supply of milk and promoted orderly marketing in the area. Accordingly, such Class I price should be retained.

2. *Classification of solids used to fortify fluid milk products.* Fluid milk products fortified with additional milk solids should be considered a Class I product up to the weight of an unmodified product of the same nature and butterfat content. The skim milk equivalent of the added solids in excess of such weight should be considered a Class III product.

Fortified milk products result from the addition of nonfat solids to a fluid product to yield a finished product of a higher nonfat solids content than that of an equivalent amount of whole (producer) milk. Hence, the fluid equivalent of added nonfat solids should be classified in Class III rather than Class I. The demand for fortified skim products has increased steadily in the past few years. This is due in part to the emphasis on low-fat diets and the high nutritional value of nonfat milk solids.

The Wichita order provides that the skim milk equivalent of fortified products be classified as Class I. Handlers proposed that the skim milk equivalent of nonfat solids used to fortify fluid milk products be assigned the lowest price class.

Nonfat milk solids and condensed milk are normally produced from unpriced milk or milk which has been priced as surplus under a Federal order. These products are not necessarily made from producer milk and may be made from ungraded milk. The added milk solids do not replace producer milk and often will increase the palatability and sales of Class I products.

It is practical and administratively necessary to maintain the skim milk equivalent method of accounting for total receipts and disposition. Accordingly, fortified milk products should be classified as Class I only to the extent of the weight of an unmodified product of the same nature and butterfat. The difference between the volume assigned to Class I and the total skim milk equivalent of the added milk solids in the product should be assigned to Class III. Flavoring materials, not including their water content, should be excluded from the total skim milk and butterfat to be accounted for in the fluid milk product.

This method of accounting for fluid milk products to which nonfat solids have been added will assure that reconstituted milk and skim milk classified in Class I include all of the water associated with the milk solids used. Reconstituted fluid milk products compete for Class I sales with other milk and skim milk, and if made from other source milk, could displace producer milk in Class I sales to the extent of the full volume of liquid associated with such solids. Therefore, accounting for these products on the basis of the original volume plus any water associated with such solids is necessary to return to producers a value commensurate with the use and availability of their milk for Class I purposes.

In 1961, the skim equivalent of milk solids used in fortifying fluid products was 0.46 percent of the total Class I milk sales and 0.29 percent of the total producer milk sales. Effective June 1, 1961, an amendment was issued which changed the classification of the skim equivalent

of solids added to dietary products from Class I to Class III. From June through December 1961, the skim equivalent of milk solids added to fluid products was 0.35 percent of the Class I sales.

A proposal was made to increase the norms in the supply-demand adjustor to offset any possible increase in the price reduction caused by the supply-demand adjustor which may result from changing the classification of milk solids added to fluid products from Class I to Class III. The quantity of the skim equivalent of milk solids used in fortifying fluid products in relation to the total quantity of Class I sales is so minute it does not justify changing the supply-demand adjustor norms. Accordingly, such proposal is denied.

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

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

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

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

Determination of representative period. The month of March 1962 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Wichita, Kans., marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on May 3, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Wichita, Kans., Marketing Area

§ 1073.0 Findings and determinations.

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

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

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

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

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary, on April 13, 1962, and published in the FEDERAL REGISTER on April 19, 1962 (27 F.R. 3740; F.R. Doc. 62-3806), shall be and are the terms and provisions of this order, and are set forth in full herein.

1. Change § 1073.41(a) to read as follows:

(a) Class I milk should be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products except:

(i) Fluid milk products classified as Class III pursuant to paragraph (c) (2), (3), and (4) of this section; and

(ii) Fluid milk products which are fortified with nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unfortified product of the same butterfat content;

(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) Not specifically accounted for as Class II or Class III utilization.

2. Change § 1073.41(c)(5) to read as follows:

(5) The weight of skim milk in fortified fluid milk products which is not classified as Class I pursuant to paragraph (a)(1)(ii) of this section;

3. Revoke the following words in the first sentence of § 1073.51(a) "for each of the 12 months immediately following the effective date of this amendment".

[F.R. Doc. 62-4444; Filed, May 7, 1962; 8:51 a.m.]

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

[7 CFR Part 1094]

[Docket No. AO 103–A19]

MILK IN NEW ORLEANS MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision to Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New Orleans marketing area, which was issued April 13, 1962 (27 F.R. 3689), is hereby extended to May 4, 1962.

Dated: May 3, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62–4443; Filed, May 7, 1962; 8:51 a.m.]

[7 CFR Part 1120]

[Docket No. AO 328]

MILK IN LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

Decision on Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Lubbock, Texas, on June 6–10, 1961, pursuant to notice thereof issued on May 11, 1961 (26 F.R. 4198), upon a proposed marketing agreement and order regulating the handling of milk in the Lubbock-Plainview, Texas, marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Secretary, United States Department of Agriculture, on March 13, 1962 (27 F.R. 2512; F.R. Doc. 62–2591), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision, containing notice of opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (27 F.R. 2512; F.R. Doc. 62–2591) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

Under Issue No. 3 *Order Provisions:*

1. The first sentence under the subtitle *Producer-handler* is revised.

2. The seventh and eighth sentences in the fourth paragraph under the subtitle *Handler* are revised.

3. The fifth sentence in the second paragraph under the subtitle *Producer* is revised.

4. Two new paragraphs are added after the seventh paragraph under the subtitle *Classification of milk.*

5. The second paragraph under the subtitle *Allocation* is revised.

6. Add two new paragraphs after the eleventh paragraph under the subtitle *Class I price.*

7. Add two new paragraphs after the ninth paragraph under the subtitle *Location differentials.*

8. Add two new paragraphs after the fifth paragraph under the subtitle *Payments on other source milk.*

9. Add a new paragraph after the third paragraph, under the subtitle *Payments to individual-producer and cooperative associations.*

10. Add a new paragraph after the sixth paragraph under the subtitle *Administrative provisions.*

11. Add a new paragraph after the eighth paragraph under the subtitle *Administrative provisions.*

12. The twelfth paragraph under the subtitle *Administrative provisions* is revised.

13. Add a new paragraph after the third paragraph under the subtitle *Marketing services.*

The material issues of record related to:

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

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

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

(a) The scope of regulation,

(b) The classification and allocation of milk,

(c) The determination and level of class prices,

(d) The distribution of proceeds to producers, and

(e) Administrative provisions.

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

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

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

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

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

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

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

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

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

Milk for the local market is secured in direct competition with milk moving to the adjacent Texas Panhandle and Central West Texas Federal order markets. Producers are aware that their neighbors shipping to these markets have assurance that their returns reflect the

actual utilization value of their milk and actual butterfat content thereof at the specified order prices. While producers do not have access to utilization data of either individual handlers, or the market as a whole, they recognize that local handlers have a higher average Class I utilization than that of regulated handlers in adjacent markets. While local producer returns are related to returns in these adjacent markets they obviously do not reflect fully the value of the market's higher Class I utilization.

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

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

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

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

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

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

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

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

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

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

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

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

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

It is intended that the marketing area shall include all territory occupied by Government reservations, institutions or other such establishments, whether municipal, State or Federal, within the boundaries of the area as defined. The quality requirements for milk for such installations are similar to those for milk sold in other parts of the marketing area. These, by location and past performance, represent logical areas of distribution for dealers who are in substantial competition with one another in the

marketing area. Unless they are included, regulated handlers will be placed at a serious competitive disadvantage in competing with unregulated dealers for such sales. The inclusion of these areas will tend to assure uniform and equal minimum prices for milk among handlers.

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

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

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

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

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

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

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

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

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

The months of March through June are the months of flush production when it would be expected that the regular direct receipts would most likely exceed fluid requirements. In such cases it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby milk for Class I use. Performance standards under the order should not force milk to be transported to distributing plants for the purpose of maintaining pooling eligibility. Accordingly, supply plants which have demonstrated their association with the market during the months of September through November, when milk supplies are normally shortest, should be permitted to retain pooling status during the flush production months. However, there is no reason why such plant should be required to pool during any period in which it does not meet the shipping requirements. To avoid any misunderstanding between the operator and the market administrator as to the plant's status during the flush production months, the plant operator must notify the administrator in writing prior to the first day of any month of March through June if he does not wish to exercise his option for automatic pooling status for the remainder of the period through June.

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

One handler in the market maintains an ungraded manufacturing operation in the same building as his Grade A plant. The manufacturing operation is not approved by any health authority for receiving, processing or packaging any Grade A fluid milk product and the applicable health regulations do not permit transfer of milk from the ungraded to the Grade A operations. If Grade A milk is moved to the ungraded operation it loses its status as Grade A milk. The ungraded operation has no facilities for receiving fluid milk and there is no pipe-

line connecting the two plants. Under such circumstance there is no reason for restricting the operation of the ungraded facilities to any greater degree than is the case in the operation of any other ungraded plant. However, proper safeguards must be provided to insure that the ungraded and graded portions of any pool handler are maintained as separate entities. It is concluded, therefore, that if a portion of a pool plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for receiving, processing or packaging any fluid milk product for Grade A disposition, it should not be considered a part of the pool plant. However, if the graded and ungraded operations are not maintained separately, the entire operation of the plant would be considered that of a pool plant and all ungraded milk received at such plant would be considered as other source receipts.

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

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

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

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

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

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

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

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

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

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

Handler. A "handler" should be defined as any person in his capacity as the operator of a pool plant or any nonpool distributing or supply plant and any cooperative association with respect to producer milk diverted for the account of such association to a nonpool plant and, at its election, any cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such association.

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

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

The second role of the cooperative association as a handler without a plant is with respect to its operations in delivering the milk of its producer members directly from the farm to pool plants. Under the current arrangements for marketing the milk of producers using farm milk tanks, the amount of milk received and the butterfat tests thereof are determined by measurement at the farm and from butterfat samples taken at the farm. After the milk has been pumped into the tank truck, and commingled with the milk of other producers, there is no further opportunity to measure or sample or reject the milk of an individual producer except as the operator of the pool plant measures, samples or accepts the entire lot of milk. When such operations are

conducted at the behest and under the supervision of a cooperative association, it is the association who has control over the operations with respect to individual producers. Accordingly, the association should be considered to be the responsible handler for reporting, accounting and payment for the milk. However, in order to allow flexibility in the marketing arrangements between cooperative associations and operators of pool plants, the order should make provision for the transferee handler to be the responsible handler upon notification by the association. Where the cooperative association is the responsible handler, the milk is treated as a receipt of producer milk by the cooperative association at a pool plant in the same location as the pool plant at which the milk was physically received. The milk is then treated as a transfer by the cooperative association to the plant operator and is classified according to the interhandler transfer terms of the order.

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

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

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

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

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

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

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

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

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

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

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

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

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

Exception was taken to the failure of the order to provide that frozen cream be included as a Class II product. The classification of frozen cream, as such,

was not considered at the hearing. Proponents initially proposed a Class II classification for storage cream but revised their proposal at the hearing in favor of a Class I classification.

The recommended order specifically provides that cream transferred to a nonpool plant and labeled and invoiced "for manufacturing use only" shall be Class II. Cream held in storage by a pool handler would be included in inventory of fluid milk products and would be classified in Class II pending final disposition. Accordingly, there is no need for a specific Class II classification for storage cream.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dumped skim milk and butterfat should be classified as Class II provided that the market administrator is provided opportunity to witness the dumping, if he so desires. Clearly, dumpage is distinguishable from shrinkage in that it is a disposition which may be accounted for. Since it results in no financial return to the handler, however, such disposition should be considered a Class II

usage. However, since it would be impossible to verify dumpage other than by witnessing, or on the basis of handlers' records, safeguards must be provided to prevent handlers from constructing dumpage records to offset excess shrinkage experience or unreported Class I disposition. Provision for advance notice to the market administrator will provide such a safeguard since the administrator then will have opportunity to witness dumpage for verification purposes.

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

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

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

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

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

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

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

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

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

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

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

Much of the supplemental milk for the market has in the past been brought in from other Federal order markets. When such supplemental milk is actually needed and is obtained under conditions which assure that it was paid for at Class I prices under another order, it is appropriate that the need be recognized in the allocation of such milk. The Acting Secretary in his recommended decision concluded that following the assignment of unpriced other source milk to the lowest available use class and prior to the assignment of bulk receipts from other Federal order plants, 5 percent of producer receipts and receipts from cooperative associations pursuant to § 1120.17(c)(2) should be assigned to any remaining Class II use. Producers excepted to the assignment of producer milk to Class II prior to milk received from plants under other Federal orders when receipts of local producer milk were adequate to meet Class I requirement. It was their position that this procedure should apply only when producer receipts are less

than 110 percent of Class I sales. The recommended limited assignment of producer milk to Class II, would permit a handler whose regular milk supplies at anytime run short to bring in milk from other Federal order markets and have it assigned to Class I. In view of the variation in local supplies and in the quantities of milk bottled on different days within a week, an assignment of 5 percent of producer receipts to Class II is a reasonable amount of surplus for assignment to local producer milk when a handler purchases other Federal order milk. Moreover, the Class I prices in this market are aligned with prices in other Federal orders and hence there will be no occasion for handlers to exploit this provision.

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

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

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

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

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

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

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

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

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

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

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

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

For the purpose of ascertaining current order price relationships, producer receipts and Class I sales, official notice is taken of the price and pool statistics released by the respective market administrators of the North Texas and Texas Panhandle Federal orders for the period April through December 1961.

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

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

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

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

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

Proponents of regulation filed exceptions to the level of Class I prices under the proposed order. Exceptors claimed the recommended level of Class I prices would cause misalignment of Class I prices among Federal orders in this area.

After review of the record evidence, it is concluded that the recommended Class I price is aligned with Class I prices under other Federal order markets from which milk can be expected to move to this market. Contrary to exceptors position, there is no evidence to suggest that producer returns under the recommended order would be reduced to an extent which would threaten the supply of milk for the market. As previously pointed out returns during 1961 would have been increased at least 20 cents per hundredweight. The proposed price level, it is concluded, will assure the maintenance of an adequate milk supply for the local market and accordingly, exceptors' request for a higher pricing is denied.

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

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

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

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

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

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

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

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

time will return to producers a competitive use value for such milk.

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

The value resulting from multiplying the Chicago butter price by 0.125 for Class I milk and 0.115 for Class II milk will provide an appropriate means for adjusting the prices in the market for each one-tenth percent variation in the butterfat content of milk used in various products. The use of the Chicago butter price as a basis of establishing butterfat differentials will provide assurance to both producers and handlers that such differentials reflect changes in butterfat value in the national market. The differentials herein recommended were generally supported by proponents and will implement continuing price alignment with prices in adjacent Federal order markets.

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

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

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

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

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

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

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

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

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

One handler took exceptions to the failure to provide a 10-cent location adjustment for his plant at Plainview. Exceptions filed by this handler reflected the same position taken at the hearing and outlined in his brief. He pointed out that his producer's farms are located at points where hauling rates to his plant at Plainview are 10 to 15 cents less than to plants at Lubbock.

The proposed marketing area represents one market for all handlers who would be fully regulated by this order. No one handler has a location advantage over another in the distribution of Class I milk in the market. Some milk moves from Lubbock to Plainview and other milk moves from Plainview to Lubbock. Under these circumstances, no differential value of milk between the two cities can be recognized. Moreover, the marginal supplies of milk for both cities will be obtained in Roosevelt County, New Mexico, and Bailey, Cochran and Parmer Counties, Texas, where hauling rates to both cities are about the same. Therefore, a location differential for a plant at Plainview would not be appropriate.

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

The role of the classification system and the minimum prices as set forth in a Federal milk order is to insure that the price competition from reserve and excess milk will not break the market price for Class I milk, thereby destroying the incentive necessary to encourage adequate production. Because the minimum pricing and pooling program of the order is applicable only to fully regulated plants, it is necessary in order to assure continuing market stability, to remove any advantage unregulated plants may attain with respect to sales in a regulated market. Such plants have an incentive to sell their excess milk at any price which exceeds the value of the milk for manufacturing uses. If unregulated plant operators were allowed to dispose of their surplus milk for Class I purposes in the regulated market without some compensatory or neutralizing provision in the order, it is clear that the disposi-

tion of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated marketing area, would be defeated.

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

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

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

Exception was taken to the failure to provide for the waiver of compensatory payments on other source milk allocated to Class I when the supply of producer milk was insufficient to fill Class I milk requirements. It was exceptor's position, that in such an event it would be necessary to purchase unpriced milk from outside sources and such milk would not displace producer milk.

When total market receipts of producer milk are less than 110 percent of total Class I sales handlers likely would need to purchase other source milk for fluid uses. Under such circumstances, such purchases would not displace producer milk in Class I and hence a compensatory payment on unpriced milk allocated to Class I is unnecessary. Accordingly, it is provided that no compensatory payments will be applicable to a pool handler for unpriced other source milk in the form of fluid milk products allocated to Class I in any month in which producer receipts are less than 110 percent of total Class I sales.

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

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

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

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

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

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

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

Under the plan herein recommended, and which was generally supported at the hearing, bases would reflect each individual producer's average daily deliveries during the months of September through December and would be effective for the subsequent months of March through June. Each producer would receive payment at the base price for all

milk delivered during the March–June period which was not in excess of his established base. Milk delivered in such months in excess of his established base would be paid for at the excess price.

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

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

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

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

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

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

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

One handler excepted to the proposed procedure whereby the cooperative association files with the handler and the market administrator a list of its member producers for whom it is entitled to collect payments. The exceptor asked that such list be furnished by the market administrator with his certification that the cooperative member list is accurate. The proposed order language provides several safeguards to assure that handlers are not required to pay a cooperative for milk delivered by a producer who is not a member of such cooperative association. First, the cooperative association must file with its claim a promise to reimburse the handler for any funds collected on milk which was not delivered by members. Second, the list of claimed members must be filed simultaneously with the market administrator. Finally, the handler (or any producer) may take exception to the claimed membership of any of the claimed members. When such exception is taken, the market administrator is required to determine the accuracy of the claim. Thus, the proposed language provides the protection against erroneous claims which the exceptor seeks.

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

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

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

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

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

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

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

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

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

The duties of the market administrator as provided in the order are neces-

sary to define his responsibilities and are similar to those found in other orders issued pursuant to the Act.

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

Provisions similar to those contained in other Federal orders, provide for the public announcement of the name of any person who fails to make reports or payments on the specified dates as required under this part. A handler maintained his position established on the record and in his brief that this announcement should be made five days after the date reports or payments are due. The dates established under the order provide reasonable time for the performance by handlers of the acts prescribed. Therefore, the requested five-day period of grace should not be adopted.

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

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

Exceptions were filed to the proposed provisions regarding reports which handlers are required to file, and books, records and facilities which must be made available to the market administrator to verify such reports. The provisions proposed herein are those which have been used for some time in Federal milk orders to describe the market administrator's responsibilities in administering the order and the obligations of handlers. The language is explicit in that it places responsibility on the market administrator to prescribe reports and records which are necessary to carry out the terms of the order. Exceptor asked that the term "reasonably necessary" be inserted for the term "necessary". The testimony in support of the substitute language infers that the addition of the word "reasonably" would transfer the immediate responsibility for determining what records and reports are necessary from the market administrator to some unknown person. This would leave uncertainty in regard to such matters and thus hamper effective administration of the order. Hence, the proposed change in the description of the market administrator's duties should not be adopted. The handler is not, of course, precluded from seeking administrative corrections of any demands of the market administrator which he claims are unreasonable.

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

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

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

Since splitting of an accounting period would require audit of receipts, sales, inventories and shrinkage for each period within a month, the administrative workload is comparable to that involved in a full month. Little, if any, experience has been gained in the administrative cost of this provision under practical order operations. Therefore, it is concluded that any handler electing two accounting periods in any month should pay an administrative assessment of twice the rate otherwise applicable or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period.

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

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

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

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

Plants not fully subject to the classification and pricing provisions of a Federal order may distribute limited quantities of Class I milk in the marketing area. As previously indicated the operator of such plant may choose to make a compensatory payment on his unpriced market area sales or to pay to the pool the difference between the use value of his milk computed as though he were a pool handler and the value actually paid to his dairy farmers. Where the latter option is elected the market administrator must perform essentially the identical audit that he would perform if the plant were a pool plant. In such case the handler's obligation to the administrative fund should be computed on the same basis as though he were a pool

handler. When the handler elects to make a compensatory payment on his market area sales the audit procedure is likely to be less extensive and hence less costly. Hence, a payment of the rate of assessment on only the amount of his marketing area sales will more appropriately reflect such handler's fair share of the cost of administration; to enable the Secretary to reduce the rate of assessment below the five-cent per hundredweight maximum without the necessity of holding an amendment hearing should be included. Such a reduction should take place when experience in the market shows that a rate less than 5 cents a hundredweight will produce sufficient revenue to administer the order properly.

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

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

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

In addition to the previously listed changes in order language, certain other nonsubstantive changes for clarification purposes have been made.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

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

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

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

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

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in Lubbock-Plainview, Texas, Marketing Area," and "Order Regulating the Handling of Milk in the Lubbock-Plainview, Texas, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted among producers to determine whether the issuance of the attached order regulating the handling of milk in the Lubbock-Plainview, Texas, marketing area, is approved or favored by the producers, as defined under the terms of the proposed order, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of January 1962, is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on May 3, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

Order [1] Regulating the Handling of Milk in the Lubbock-Plainview, Texas, Marketing Area

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AUTHORITY: §§ 1120.0 to 1120.95 issued under secs. 1–19 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1120.0 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 procedure, 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 Lubbock-Plainview, 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 as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order 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 or commercial activity specified in a marketing agreement upon which a hearing has been held;

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, except a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, as follows: (i) Each pool handler for skim milk and butterfat contained in producer milk, milk received from a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), and in other source milk allocated to Class I pursuant to § 1120.46(a)(2) and (3) and the corresponding steps in § 1120.46(b): *Provided,* That if such handler elects pursuant to § 1120.34 to use two accounting periods in any month the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine as demonstrated as appropriate in terms of the particular cost of administering the additional accounting period; and (ii) each handler operating a nonpool distributing plant pursuant to § 1120.62 to the extent provided in such § 1120.62.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Lubbock-Plainview, Texas, marketing area shall be in conformity to, and in compliance with the following terms and conditions:

The provisions of §§ 1120.1 to 1120.95, both inclusive, of the proposed order contained in the recommended decision issued by the Acting Secretary, United States Department of Agriculture, on March 13, 1962 (27 F.R. 2512; F.R. Doc. 62–2591), shall be and are the terms and conditions of this order and are set forth in full herein subject to the following revisions:

Changes are made in §§ 1120.9, 1120.12(a), 1120.14, 1120.30 (a) and (a)(1)(i), 1120.31(a)(1)(i), 1120.44(a), 1120.45, 1120.52, 1120.70 and 1120.86(a).

DEFINITIONS

§ 1120.1 Act.

"Act" means Public Act No. 10, 73d Congress as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1120.2 Secretary.

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

§ 1120.3 Department.

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

§ 1120.4 Person.

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

§ 1120.5 Cooperative association.

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

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

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

§ 1120.6 Lubbock-Plainview, Texas, marketing area.

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

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

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

§ 1120.7 Fluid milk product.

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

§ 1120.8 Route.

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

§ 1120.9 Plant.

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

§ 1120.10 Distributing plant.

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

§ 1120.11 Supply plant.

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

§ 1120.12 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than the plant of a producer-handler, from which a volume of Class I milk not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a cooperative association(s) in its capacity as a handler pursuant to § 1120.17(c)(2) is disposed of during the month on routes unless the volume so disposed of in the marketing area is less than 15 percent of such receipts or less than 1500 pounds on a daily average: *Provided*, That if a portion of such plant, physically apart from the Grade A portion of such a plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be a part of such pool plant pursuant to this paragraph;

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

§ 1120.13 Nonpool plant.

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

§ 1120.14 Producer.

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

§ 1120.15 Producer milk.

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

§ 1120.16 Other source milk.

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

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

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

§ 1120.17 Handler.

"Handler" means:

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

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

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

§ 1120.18 Producer-handler.

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

§ 1120.19 Base milk.

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

§ 1120.20 Excess milk.

"Excess milk" means milk received at a pool plant (or diverted pursuant to § 1120.14(b)) from a producer during any of the months of March through June which is in excess of base milk received from such producer during such month, and milk received (or diverted pursuant to § 1120.14(b)) during such month from a producer for whom no base can be computed pursuant to § 1120.65.

§ 1120.21 Chicago butter price.

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

MARKET ADMINISTRATOR

§ 1120.25 Designation.

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

§ 1120.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

(c) To make such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1120.27 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as the Secretary may prescribe, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay from the funds received pursuant to § 1120.86, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1120.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

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

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

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

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

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

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

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

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

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

Reports Records and Facilities

§ 1120.30 Reports of receipts and utilization.

(a) On or before the eighth day after the end of each month each cooperative association in its capacity as a handler pursuant to § 1120.17(c) (1) and (2) and each handler with respect to each of his pool plants shall report to the market administrator for such month and for each accounting period in such month elected pursuant to § 1120.34, in the detail and on forms prescribed by the market administrator, as follows:

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

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

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

(iii) Receipts of other source milk; and

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

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

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

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

§ 1120.31 Other reports.

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

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

(i) His name and address, if not previously reported;

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

(iii) The average butterfat content of such milk;

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

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

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

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

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

§ 1120.32 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

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

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

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

(d) Payments to producers and cooperative associations.

§ 1120.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1120.34 Accounting periods.

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

his intention to use two accounting periods.

CLASSIFICATION

§ 1120.40 Skim milk and butterfat to be classified.

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

§ 1120.41 Classes of utilization.

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

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

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

§ 1120.42 Shrinkage on other source milk.

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

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

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

§ 1120.43 Responsibility of handlers and reclassification of milk.

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

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

§ 1120.44 Transfers.

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

(a) As Class I milk if transferred in the form of any fluid milk product to a pool plant unless utilization as Class II milk is claimed by both handlers (or by the handler if such transfer is between two pool plants of the same handler) in their reports submitted pursuant to § 1120.30(a) for the month and an equivalent Class II utilization is available in the transferee plant following step (9) in the allocation procedure provided in § 1120.46: *Provided,* that if either or both plants have receipts of other source milk, the skim milk and butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk at both plants except Class I utilization assigned to other source milk pursuant to § 1120.46 (a)(4) and the corresponding step of (b);

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

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

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

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

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

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

(1) The transferring or diverting handler claims classification in Class II in his report submitted for the month pursuant to § 1120.30(a);

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

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

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

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

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

For each month the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler pursuant to

this part and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant of such handler and for a cooperative association in its capacity as a handler pursuant to § 1120.12(c): *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1120.46 Allocation of skim milk and butterfat classified.

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

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

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

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

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products from plants which are not fully subject to the classification and pricing provisions of another order issued pursuant to the Act;

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

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

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products from plants fully subject to the classification and pricing provisions of another order issued pursuant to the Act and not assigned pursuant to subparagraph (4) of this paragraph;

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

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

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

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

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

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

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

MINIMUM PRICES

§ 1120.50 Class prices.

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

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

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

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

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pounds of nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.16.

§ 1120.51 Butterfat differentials to handlers.

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

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

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

§ 1120.52 Location differentials to handlers.

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

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

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

§ 1120.53 Rate of payment on unpriced milk.

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

§ 1120.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1120.60 Producer-handlers.

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

§ 1120.61 Plants subject to other Federal orders.

The provisions of this part shall not apply with respect to the operation of any plant specified in paragraphs (a) or (b) of this section except that the operator thereof, with respect to total receipts of skim milk and butterfat and the utilization thereof, shall make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1120.12(a) which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month on routes in such other Federal order marketing area than was disposed of on routes in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless notwithstanding the provisions of this paragraph it is regulated under such other order;

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

§ 1120.62 Handlers operating nonpool distributing plants.

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

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

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

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

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

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

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

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

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

§ 1120.63 State institutions.

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

DETERMINATION OF BASE

§ 1120.65 Computation of daily base for each producer.

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

§ 1120.66 Base rules.

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

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

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

(c) Except as provided in paragraph (b) of this section an entire base shall be transferred from a person holding such base to any other person, effective as of the first day of any month following receipt by the market administrator of an application for such transfer. Such application shall be on a form approved by the market administrator and shall be signed by the baseholder or his heirs and by the person to whom such base is to be transferred: *Provided,* That if a base is held jointly, the entire base shall be transferrable only upon receipt of such application signed by all joint holders or their heirs: *And provided further,* That if one or more bases is transferred to a producer already holding a base which was either earned by such producer, or transferred to him, a new base shall be computed by adding together the total producer milk received during the base-forming period from all persons in whose name such bases were earned and dividing the total by the number of days in the base-forming period from the earliest day producer milk was received from any such persons through the last day of such period, inclusive, but by not less than 112.

§ 1120.67 Announcement of established bases.

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

DETERMINATION OF PRICES TO PRODUCERS

§ 1120.70 Computation of the obligations of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler by making the computations provided in paragraphs (a) through (f) of this section for each of his pool plants, and adding together the resulting totals: *Provided,* That in any month in which the total receipts of producer milk are less than 110 percent of the total Class I utilization at all pool plants, the computation pursuant to paragraph (c) of this section shall not be applicable:

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

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

(c) Add an amount computed by multiplying the skim milk and butterfat

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1120.72 Computation of uniform price.

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

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

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

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

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

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

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

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

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

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

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

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

§ 1120.74 Butterfat differential to producers.

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

§ 1120.75 Location differentials to producers.

The uniform price determined pursuant to § 1120.72 and the uniform price for base milk determined pursuant to § 1120.73 to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall and Childress and 100 miles or more from the City Hall of Lubbock, Texas, by the shortest hard surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers.

PAYMENTS

§ 1120.80 Time and method of payment for producer milk.

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

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

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

(i) Payments made pursuant to subparagraph (1) of this paragraph;

(ii) Location differential deductions pursuant to § 1120.75;

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

(iv) Proper deductions authorized by such producer:

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

following after receipt of the balance due from the market administrator;

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

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

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

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

(d) In making payments to producers pursuant to paragraph (a)(2) of this section and to a cooperative association pursuant to paragraph (b) of this section each handler shall furnish each producer from whom he has received milk, or each such cooperative association with respect to each producer member, whichever is applicable, with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The applicable month;

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

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

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

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

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

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

§ 1120.81 Producer-settlement fund.

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

§ 1120.82 Payments to the producer-settlement fund.

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

§ 1120.83 Payments out of the producer-settlement fund.

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

§ 1120.84 Adjustment of errors in payment.

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

§ 1120.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1120.80(a)(2) shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator no later than the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received by handlers from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by or responsible to him.

(b) In the case of a producer for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in said paragraph (a), such deductions from payments to be made directly to such producers pursuant to § 1120.80(a)(2) as are authorized by such producers and on or before the 15th day after the end of each month pay such deductions to the cooperative association rendering such services.

§ 1120.86 Expense of administration.

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

(a) Each pool handler for skim milk and butterfat contained in producer milk, milk received from a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), and in other source milk allocated to Class I pursuant § 1120.46(a)(2) and (3) and the corresponding steps in § 1120.46(b): *Provided,* That if such handler elects pursuant to § 1120.34 to use two accounting periods in any month the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period; and

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

§ 1120.87 Adjustment of overdue accounts.

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

§ 1120.88 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part, except as provided in paragraphs (b) and (c) of this section, shall terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such

two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the last day of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the last day of the month during which the payment (including deduction or set off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1120.90 Effective time.

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

§ 1120.91 Suspension or termination.

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

§ 1120.92 Continuing obligations.

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

§ 1120.93 Liquidation.

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

§ 1120.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1120.95 Separability of provisions.

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

[F.R. Doc. 62-4442; Filed, May 7, 1962; 8:51 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 608]

[Airspace Docket No. 62-WA-50]

TEMPORARY RESTRICTED AREA

Proposed Designation

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 608.60 of the regulations of the Administrator, the substance of which is stated below.

The Department of the Air Force has requested designation of a temporary restricted area of approximately 2,640 square miles in South Carolina from the surface to 2,500 feet MSL during daylight hours from August 8 through August 18, 1962, to contain hazardous activities to be conducted in conjunction with a military exercise known as "Swift Strike II".

This exercise, involving approximately 500 military aircraft and 50,000 personnel in an air assault with paradrops by troop carrier aircraft and close support activities by jet aircraft, would be hazardous to nonparticipating aircraft.

The area will be bounded where possible by prominent landmarks, rivers, highways and railroads, and will exclude the Florence, S.C. (§ 601.2142) and the Sumter, S.C. (§ 601.1984) control zones and the airspace from the surface to 2,500 feet MSL within a 3-mile radius centered on the following civil airports:

a. Brown, S.C.
b. Sumter, S.C.
c. Huggins, S.C.
d. Moore, S.C.
e. Darlington County, S.C.
f. Bishopville, S.C.
g. Hartsville, S.C.

This temporary restricted area will be joint use with the Federal Aviation Agency Jacksonville ARTC Center designated as controlling agency and "CINCAFSTRIKE" as using agency. The Shaw AFB RAPCON, Shaw AFB, S.C., will be the liaison station for relay of information concerning release of the area between the controlling agency and using agency.

If this action is taken, Temporary Restricted Area Swift Strike II would be designated as follows:

Boundaries. Beginning at latitude 34°-42'30" N., longitude 79°52'40" W.; thence via the Pee Dee River to latitude 34°17'50" N., longitude 79°37'05" W.; to latitude 34°-15'10" N., longitude 79°41'00" W.; thence counterclockwise around the Florence, S.C., control zone (§ 601.2142) to latitude 34°-08'25" N., longitude 79°39'45" W.; to latitude 34°06'00" N., longitude 79°32'00" W.; thence via the Pee Dee River to latitude 33°54'05" N., longitude 79°26'00" W.; thence via United States Highway No. 378 to latitude 33°55'00" N., longitude 79°44'50" W.; thence via United States Highway No. 52 to latitude 33°39'28" N., longitude 79°52'25" W.; thence via South Carolina State Highway No. 261 to latitude 33°44'20" N., longitude 80°27'40" W.; thence via the Atlantic Coast Line Railroad to latitude 33°45'00" N., longitude 80°27'20" W.; to latitude 33°-45'00" N., longitude 80°25'00" W.; to latitude 33°54'45" N., longitude 80°25'00" W.; thence counterclockwise around the Sumter, S.C. (Shaw AFB) control zone (§ 601.1984) to latitude 34°00'00" N., longitude 80°33'00" W.; to latitude 34°00'00" N., longitude 80°-42'00" W.; thence via United States Highway No. 601 to latitude 34°13'18" N., longitude 80°41'00" W.; thence via United States Highway No. 1 to point of beginning, excluding the airspace within a 3-mile radius centered on the following civil airports.

a. Brown, S.C.
b. Sumter, S.C.
c. Huggins, S.C.
d. Moore, S.C.
e. Darlington County, S.C.
f. Bishopville, S.C.
g. Hartsville, S.C.

Designated altitude. Surface to 2,500 feet MSL.

Time of designation. Sunrise to sunset, August 8 through August 18, 1962.

Controlling agency. Federal Aviation Agency, Jacksonville ARTC Center.

Using agency. CINCAFSTRIKE, Shaw AFB, S.C.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All

communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on May 4, 1962.

CLIFFORD P. BURTON,
Chief, Airspace Utilization Division.

[F.R. Doc. 62-4448; Filed, May 7, 1962; 8:53 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 4]

[Docket No. 14628; FCC 62-489]

EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST SERVICES

Notice of Proposed Rule Making

In the matter of amendment of Part 4, Subpart E of the Commission's rules and regulations to permit the simultaneous operation of two STL transmitters in a single aural broadcast STL channel for the transmission of stereophonic broadcast material from the studio to the transmitter of an FM broadcast station, Docket No. 14628.

1. The Commission has received a number of inquiries from licensees of FM broadcast stations as to the possibility of securing two STL (studio-transmitter link) assignments for the purpose of transmitting stereophonic broadcast program material from the studio to the transmitter of an FM broadcast station. The reason offered for the need of two channels is that the second aural channel cannot be multiplexed on a single channel with sufficient quality to meet the prescribed standards for stereophonic broadcasting.

2. In the broadcast auxiliary services where the total number of channels available is limited, it has been our policy to prohibit the use of more than one program channel between the same two points to serve a single broadcast station. Such use would substantially reduce the availability of these channels. While it is recognized that in many parts of the country the channels are not currently saturated, it must be noted that the present allocation of frequency space for this service is designed to accommodate future needs as well as current demands for the service. Only the most compelling reasons would warrant abandonment of our present policy.

3. The ultimate stereophonic broadcast is accomplished in a 200 kc/s FM broadcast channel. It is not clear why this program material cannot be delivered from the studio to the transmitter in a 500 kc/s STL channel. It is possible that some technique other than multiplexing may require exploration. At the request of the Commission, Moseley Associates, Inc., of Santa Barbara, California, conducted tests with two STL transmitters operating within a single 500 kc/s STL channel. The report of these tests indicates that such operation is feasible and the program material so transmitted is likely to be of suitable quality for an FM station to meet the performance standards prescribed for stereophonic broadcasting. Also, the technique of frequency translation, similar to that used for re-broadcasting television signals, is worth investigating as a suitable means for getting program material from the studio to the transmitter.

4. Therefore, pursuant to the applicable procedures set out in § 1.213 of the Commission's rules, comments are invited on a proposal to provide for the assignment of two STL transmitters within a single 500 kc/s aural broadcast STL channel in the 942-952 Mc/s band for use by the licensee of an FM broadcast station to provide two aural channels for the delivery of stereophonic broadcast program material. The two frequencies assigned would be approximately 125 kc/s above and below the channel center frequency now specified in § 4.502 of the rules for aural broadcast STL and intercity relay stations. Frequency modulation would be employed with the maximum excursion of the carrier on either side of the assigned frequency limited to 75 kc/s for 100 percent modulation. Interested parties may submit comments and data on other methods which might be employed to accomplish the delivery of stereophonic broadcast program material within a single 500 kc/s channel in the 942-952 Mc/s band. All comments must be submitted on or before June 11, 1962, and reply comments on or before June 21, 1962. In reaching its decision on the rules and standards of general applicability which are proposed herein, the Commission will not be limited to consideration of comments of record, but will take into account all relevant information obtained in any manner from informed sources.

5. Authority for the adoption of the amendments proposed herein is contained in sections 4(i) and 303 (b), (c), (f), and (r) of the Communications Act of 1934, as amended.

6. In accordance with the provisions of § 1.54 of the rules, an original and 14 copies of all written comments and statements shall be furnished to the Commission.

Adopted: May 2, 1962.

Released: May 3, 1962.

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

[F.R. Doc. 62-4439; Filed, May 7, 1962; 8:51 a.m.]

Notices

DEPARTMENT OF DEFENSE

Department of the Navy

[No. 22B]

CERTAIN CLASSES AND TYPES OF NAVAL VESSELS

Navigational Light Waivers

Certificate of the Secretary of the Navy under sections 143a and 360, Title 33 of United States Code.

Whereas 33 United States Code, sections 143a and 360, provides that the requirements of the Regulations for Preventing Collisions at Sea, 1948, the Inland Rules, the Great Lakes Rules and the Western River Rules as to the number, position, range of visibility, or arc of visibility of lights required to be displayed by vessels shall not apply to any vessel of the Navy where the Secretary of the Navy shall find or certify that, by reason of special construction, it is not possible for such vessel or class of vessels to comply with the statutory provisions as to navigation lights, and

Whereas a recent study indicates that the military design characteristics of the nuclear-powered submarines, known as the SSB(N) 608 and SSB(N) 616 classes of vessels, preclude installation of anchor lights in conformance with the currently existing waiver on such lights or with Rule 11 of the Regulations for Preventing Collisions at Sea (33 United States Code, section 145i).

Now, therefore, I, Fred Korth, Secretary of the Navy, hereby certify that these submarines are naval vessels of special construction and, with respect to the position of the anchor lights, it is not possible to comply with the requirements relating to such lights.

Further, I hereby find that it is feasible to locate the said anchor lights as follows: The forward anchor light shall be carried at a height not less than 6 feet above the hull, and the after anchor light may be carried at a greater height.

Further, I hereby certify that such locations constitute compliance as closely with the applicable statutes as I hereby find to be feasible.

I further direct that item (f), table 2 of Waiver Certificate Number 22 published in the FEDERAL REGISTER, Volume 25, Number 122 of June 23, 1960 (25 F.R. 5791) be rescinded, substituting therefor:

(f) The forward anchor light is carried at a height not less than 6 feet above the hull, and the after anchor light may be carried at a greater height.

Further, I hereby specify that this Certificate shall be effective in addition to Waiver Certificates Numbers 22 (25 F.R. 5791) and 22A (26 F.R. 11505).

And further, I hereby specify that the effective date of this certificate is June 1, 1962.

Dated at Washington, D.C., this 23d day of April 1962.

[SEAL] FRED KORTH,
Secretary of the Navy.

[F.R. Doc. 62-4425; Filed, May 7, 1962; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Programs

[File 9A-56]

VICTOR HERNANDEZ RODRIGUEZ ET AL.

Temporary Order Denying Export Privileges

In the matter of Victor Hernandez Rodriguez, and EMDA Import and Export Co., Inc., 10434 Burbank Boulevard, North Hollywood, Calif., and Aero Distribuidora S.A., Boulevard de Aviacion Civil 485, Mexico, D.F., Mexico, with branch offices at Torreon, Sinaloa and Los Mochis, Mexico, and Dr. Ramon Alvarez Gutierrez, Refacciones y Accesories, S.A., Colorado 79, Mexico, D.F., Mexico, respondents, File 9A-56.

The Temporary Order in this matter issued December 19, 1961 was extended March 19, 1962 for an additional 45 days. This order was issued in connection with an investigation instituted by the Investigations Staff, Bureau of International Programs because of reports and evidence, which justified a reasonable belief that the respondents had for some time been obtaining substantial quantities of U.S. origin aircraft parts and equipment shipped from the United States to Mexico for use in Mexico, but thereafter sold by the respondents for the purpose of transshipment to Cuba, which was in fact done with knowledge that such actions were contrary to the U.S. Export Control Law.

The Investigations Staff, Bureau of International Programs, has applied under § 382.11 of the export regulations for a further extension of the provisions of the Temporary Order of December 19, 1961, as to the above named respondents, to be effective until the final disposition of administrative compliance proceedings in the Bureau of International Programs involving the said respondents.

This matter has been considered by the Compliance Commissioner who, being fully advised thereof, has reported his recommendations to me that the present Temporary Order should be extended until the final disposition of administrative compliance proceedings involving the said respondents, since such will be in the public interest and necessary for effective enforcement of the law. I do so find: *It is therefore ordered:*

(1) The respondents, Victor Hernandez Rodriguez, his firms Aero Distribuidora, S.A., and EMDA Import & Export Co., Inc., and Dr. Ramon Alvarez Gutierrez and his firm Refaccion y Accesories, S.A., and their agents and employees, are hereby denied all privileges of participating directly or indirectly in any manner, form, or capacity in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit respondents' participation (a) as a party to or representative of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, delivering, or disposing of any commodities and technical data in whole or in part exported or to be exported from the the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States.

(2) Such denial of export privileges shall apply not only to each of said respondents, but also to any other person, firm, corporation, or business organization with which any respondent may be now or hereafter related by ownership, affiliation, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

(3) This order shall take effect forthwith and shall remain in effect until the completion of any administrative compliance proceedings that may be initiated by the Investigations Staff, unless sooner vacated or extended.

(4) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, without prior disclosure of the facts to, and specific authorization from the Bureau of International Programs shall directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities or technical data from the United States, or (b) order, receive, buy, sell, use, deliver, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a reexportation of any commodity or technical data exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (1) and (2) hereof may receive any benefit or have any interest or participation of any kind or nature, direct or indirect.

(5) A certified copy of this order shall be served upon the respondents.

(6) In accordance with the provisions of § 382.11(c) of the export regulations, any respondent may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: May 1, 1962.

FORREST D. HOCKERSMITH,
Director, Office of Export Control.

[F.R. Doc. 62-4404; Filed, May 7, 1962; 8:45 a.m.]

[Files I.S. 23-733, I.S. 23-811]

TRANSCONTINENTAL, S.A., ET AL.

Extension of Temporary Order Denying Export Transactions

In the matter of Transcontinental, S.A., Inversiones Mexicanas, S.A. (successor to Transcontinental, S.A.), Ramon Cortes Buenrostro, also known as: Raimundo Cortes, Ramon B. Cortes, Ramon B. Cortez, Ignacio Hernandez Garcia, all of Avenida Morelos 98, Mexico, D.F., Mexico, or Reforma 87-404, Mexico, D.F., Mexico, File I.S. 23-773; Lorenzo L. Saunders, 1720 Montrose Drive, Tyler, Tex., Cia. Impulsora Mexicana, S.A., Armando Arroyo Vasquez, Pople 44, Apartado Postal 21264, Mexico, D.F., Mexico, File I.S. 23-811; respondents.

A temporary Order issued in this matter on December 19, 1961, for a period of 90 days, was extended on March 19, 1962, for an additional 45 days. This order was issued in connection with an investigation instituted by the Investigations Staff, Bureau of International Programs, into purchases by the above named respondents of large quantities of U.S. origin automotive trucks, and engine parts, tractor parts, and equipment which they caused to be exported from the United States to Mexico, where they sold and disposed of the goods and participated in and made arrangements whereby the U.S. goods were to be, and in part actually were, on-shipped or transshipped from Mexico to Cuba in violation of the U.S. Export Control Law.

The Investigations Staff, Bureau of International Programs, has applied under § 382.11 of the export regulations for a further extension of the provisions of the Temporary Order of December 19, 1961, as to the above named respondents, to be effective until the final disposition of proceedings in the Bureau of International Programs or elsewhere involving the said respondents.

This matter has been considered by the Compliance Commissioner who, being fully advised thereof, has reported his recommendations to me that the present Temporary Order should be extended until the final disposition of administrative compliance or other proceedings involving the said respondents, since such will be in the public interest and necessary for effective enforcement of the law. I do so find: *It is therefore ordered:*

(1) The respondents, their affiliates, and their agents and employees, are hereby denied all privileges of participating directly or indirectly in any manner, form, or capacity in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit respondents' participation (a) as a party to or representative of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, delivering, or disposing of any commodities and technical data in whole or in part exported or to be exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States.

(2) Such denial of export privileges shall apply not only to each of said respondents, but also to any other person, firm, corporation, or business organization with which any respondent may be now or hereafter related by ownership, affiliation, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

(3) This order shall take effect forthwith and shall remain in effect until the completion of any administrative compliance or other proceedings that may be initiated, unless sooner vacated or extended.

(4) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, without prior disclosure of the facts to, and specific authorization from the Bureau of International Programs shall directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities or technical data from the United States, or (b) order, receive, buy, sell, use, deliver, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a reexportation of any commodity or technical data exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (1) and (2) hereof may receive any benefit or have any interest or participation of any kind or nature, direct or indirect.

(5) A certified copy of this order shall be served upon the respondents.

(6) In accordance with the provisions of § 382.11(c) of the export regulations, any respondent may move at any time to vacate or modify this Temporary Denial Order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: May 1, 1962.

FORREST D. HOCKERSMITH,
Director, Office of Export Control.

[F.R. Doc. 62-4405; Filed, May 7, 1962; 8:45 a.m.]

Office of the Secretary

GLENN E. CARTER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past 6 months.

A. Deletions: No changes.
B. Additions: No changes.

This statement is made as of April 20, 1962.

GLENN E. CARTER.

APRIL 23, 1962.

[F.R. Doc. 62-4424; Filed, May 7, 1962; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-30]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Operation of Plum Brook Reactor

Please take notice that pursuant to provisions of paragraph IVB of Provisional Operating License No. TR-3, the National Aeronautics and Space Administration has been authorized to operate the Plum Brook Reactor located near Sandusky, Ohio, past the level of 1 kilowatt thermal.

Based upon a report of inspection by a representative of the Division of Compliance and an evaluation of this report by the Test and Power Reactor Safety Branch, Division of Licensing and Regulation, I have found that:

1. The chute valve structure mounted into the reactor tank described in Item 27 (Fuel Chute Installation) in Category I of the amendment to the application filed by NASA on October 17, 1960, has been completed.

2. The portions of Item 8 (Quadrant and Canal Pumpout) in Category I of amendment to the application filed by NASA on October 17, 1960, required to fill quadrants, A, C, and D are completed.

Notice of issuance of Provisional Operating License No. TR-3 was issued on March 14, 1961.

Dated at Germantown, Md., this 1st day of May 1962.

For the Atomic Energy Commission.

R. LOWENSTEIN,
Director, Division of Licensing and Regulation.

[F.R. Doc. 62-4402; Filed, May 7, 1962; 8:45 a.m.]

[Docket No. 50-170]

NATIONAL NAVAL MEDICAL CENTER

Notice of Order of Extension of Completion Date

Please take notice that the Atomic Energy Commission has issued an order extending to July 1, 1962, the latest completion date specified in Construction Permit No. CPRR-61 for the construction of the National Naval Medical Center's TRIGA Mark F nuclear reactor to be located in Bethesda, Md.

Copies of the Commission's order and of the application by National Naval Medical Center are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

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

For the Atomic Energy Commission.

R. LOWENSTEIN,
Director, Division of Licensing and Regulation.

[F.R. Doc. 62-4416; Filed, May 7, 1962; 8:47 a.m.]

[Docket No. 50-170]

NATIONAL NAVAL MEDICAL CENTER

Notice of Proposed Transfer of Construction Permit and Issuance of Construction Permit Amendment

Please take notice that unless within fifteen (15) days after the publication of this notice in the FEDERAL REGISTER, a request by the licensee for a formal hearing or a petition to intervene pursuant to the Commission's "Rules of Practice" (10 CFR Part 2) has been filed with the Commission, the Atomic Energy Commission proposes to (1) authorize the transfer of Construction Permit No. CPRR-61, issued on November 28, 1960, for the construction of a TRIGA Mark F tank-type nuclear reactor on the grounds of the National Naval Medical Center, Bethesda, Maryland, from the National Naval Medical Center to the Armed Forces Radiobiology Research Institute pursuant to § 50.80 of Title 10, Code of Federal Regulations, Part 50 and (2) issue Amendment No. 1, set forth below to Construction Permit No. CPRR-61 changing the name of the licensee from the National Naval Medical Center to the Armed Forces Radiobiology Research Institute. In a letter to the Commission dated March 19, 1962, the Armed Forces Radiobiology Research Institute filed application for the transfer to it of Construction Permit No. CPRR-61. The National Naval Medical Center in an endorsement dated March 21, 1962, to the above letter approved and consented to the transfer of Construction Permit No. CPRR-61 to the Armed Forces Radiobiology Research Institute.

The Commission proposes to authorize the transfer of Construction Permit No. CPRR-61 on the basis that the Armed Forces Radiobiology Research Institute is qualified to be the holder of said permit and the transfer of said permit is consistent with the applicable provisions of law, and regulations and orders issued by the Commission pursuant thereto.

A request for a hearing by the licensee or petitions for leave to intervene by persons whose interest may be affected by this proposed action may be filed with the Commission by mail or telegram addressed to the Secretary, United States Atomic Energy Commission, Washington 25, D.C., or by delivery to the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., or to the Office of the Secretary, at the Commission's Headquarters, Germantown, Maryland.

For further details see the application for transfer by the Armed Forces Radiobiology Research Institute on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

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

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch Division of Licensing and Regulation.

[Proposed Construction Permit No. CPRR-61; Amdt. 1]

Construction Permit No. CPRR-61 is revised in its entirety to read as follows:

1. By application dated June 24, 1960, and amendments thereto dated September 23, 1960, and September 30, 1960, August 17, 1961, September 5, 1961, and April 24, 1962 (hereinafter collectively referred to as the "Application") the National Naval Medical Center requested a Class 104 license, defined in § 50.21 of Part 50, "Licensing of Production and Utilization Facilities," Title 10, Chapter I, CFR, authorizing construction and operation of a TRIGA Mark F tank-type nuclear reactor (hereinafter referred to as the "reactor") on a site on the grounds of the National Naval Medical Center, Bethesda, Maryland. Construction Permit No. CPRR-61 was issued to the National Naval Medical Center on November 8, 1960. By application amendment dated March 19, 1962, submitted with the approval and consent of the National Naval Medical Center, the Armed Forces Radiobiology Research Institute requested that Construction Permit No. CPRR-61 be transferred to the Armed Forces Radiobiology Research Institute.

2. The Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The reactor will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities";

B. The reactor will be used in the conduct of research and development activities of the types specified in Section 31 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act");

C. Armed Forces Radiobiology Research Institute is financially qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter I, CFR, to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time;

D. Armed Forces Radiobiology Research Institute and its contractor, General Atomic Division of General Dynamics Corporation, are technically qualified to design and construct the reactor;

E. Armed Forces Radiobiology Research Institute has submitted sufficient information to provide reasonable assurance that the reactor can be constructed and operated at the proposed location without undue risk to the health and safety of the public, and that omitted information necessary to complete the application will be supplied; and

F. The issuance of a construction permit to Armed Forces Radiobiology Research Institute will not be inimical to the common defense and security or the health and safety of the public.

3. Pursuant to the Act and Title 10, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," the Commission hereby issues a construction permit to Armed Forces Radiobiology Research Institute to construct the reactor in accordance with the application. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. The earliest completion date of the reactor is March 15, 1962. The latest completion date of the reactor is July 1, 1962. The term "completion date," as used herein, means the date on which construction of the reactor is completed except for the introduction of the fuel material, and

B. The reactor shall be constructed and located on the National Naval Medical Center's site in Bethesda, Maryland, as specified in the application.

4. This permit is provisional to the extent that a license authorizing operation of the reactor will not be issued by the Commission unless Armed Forces Radiobiology Research Institute has submitted to the Commission, by amendment of the application, additional data to complete the hazards analysis of operating the proposed reactor and the Commission has found that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor in accordance with the specified procedures.

5. Upon completion (as defined in paragraph 3A above) of the construction of the reactor in accordance with the terms and conditions of this permit, upon the filing of the additional information needed to bring the original application up-to-date, and upon finding that the reactor authorized has been constructed and will operate in conformity with the application, as amended, and in conformity with the provisions of the Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to Armed Forces Radiobiology Research Institute pursuant to section 104c of the Act, which license shall expire ten years after the date of this construction permit.

6. Pursuant to § 50.60 of the regulations in Title 10, Chapter I, CFR, Part 50, the Commission has allocated to Armed Forces Radiobiology Research Institute for use in connection with the operation of the reactor four kilograms of contained uranium-235.

Date of issuance:

For the Atomic Energy Commission.

[F.R. Doc. 62-4417; Filed, May 7, 1962; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13562; Order No. E-18299]

PACIFIC NORTHERN AIRLINES, INC.

Proposed B-720 Passenger Charter Rates; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of May, 1962.

Pacific Northern Airlines, Inc., has filed tariff revisions marked to become effective May 6, 1962, proposing passenger charter rates for B-720 aircraft of $3.75 per live mile and $2.75 per ferry mile, and layover charge of $150 per hour, with a minimum charge of $1,500.

Northwest Airlines, Inc., has filed a complaint against Pacific Northern's tariff stating that the proposed jet charter rates are unduly low; that they do not meet the statutory criteria of section 404 of the Act; and that the revenue yield which would be obtained by Pacific Northern under the proposed rates would not be sufficient to cover the cost of operation.

The proposed rates appear to be below the general pattern of rates established for B-720 and B-707 type aircraft and significant question is raised as to their lawfulness. The carrier has submitted no justification for its proposal.

Upon consideration of this tariff and all relevant matters, the Board finds that the tariff proposal with respect to passenger charter rates for B-720 aircraft may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and should be investigated. In view of the departure of this proposal from the existing general level of jet aircraft charter rates, and in accordance with the action of the Board in similar cases involving reduced charter rates,[1] the Board has concluded to suspend the operation of such B-720 tariff proposal and the use thereof pending investigation, insofar as it involves interstate and overseas air transportation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 404, and 1002 thereof,

It is ordered, That:

1. An investigation is hereby instituted to determine whether the rates, charges, and provisions on 2d Revised Page 6 of Pacific Northern Airlines, Inc., C.A.B. No. 8 are, or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions.

2. Pending hearing and decision by the Board, all rates, charges, and provisions on 2d Revised Page 6 of Pacific Northern Airlines, Inc. C.A.B. No. 8 are suspended and their use deferred to and including August 3, 1962, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

4. Copies of this order shall be filed with the tariff and shall be served upon Pacific Northern Airlines, Inc. and Northwest Airlines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 62-4428; Filed, May 7, 1962; 8:49 a.m.]

[1] Overseas National Airways, Order E-16462 dated Mar. 2, 1961; The Flying Tiger Line, Inc., Order E-17789, Dec. 1, 1961, and Order E-18037, Feb. 19, 1962; Trans International Airlines, Inc., Order E-18060, Mar. 1, 1962; Alaska Airlines, Inc., Order E-18133, Mar. 21, 1962.

[Docket No. 13394, etc.]

FRONTIER-NORTH CENTRAL ROUTE TRANSFER "USE IT OR LOSE IT" CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 29, 1962, at 10 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Richard A. Walsh.

In order to facilitate conduct of the conference interested parties are instructed to submit to the examiner and other parties on or before May 15, 1962, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., May 2, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-4429; Filed, May 7, 1962; 8:50 a.m.]

[Docket No. 1706 etc.]

REOPENED TRANSATLANTIC FINAL MAIL RATE CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on June 11, 1962, at 10 a.m., d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., May 2, 1962.

[SEAL] JAMES S. KEITH,
Hearing Examiner.

[F.R. Doc. 62-4430; Filed, May 7, 1962; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 30, 1962.

The Forest Service has filed an application, serial No. Nevada 058294 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws.

The applicant desires the land for the location of a district ranger's headquarters. For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box No. 1551, Reno, Nev.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 36 N., R. 38 E.,
Sec. 18, SW¼NE¼SE¼.

The area described contains 10 acres.

H. CURT HAMMIT,
Land Office Manager.

[F.R. Doc. 62-4447; Filed, May 7, 1962; 8:52 a.m.]

Office of the Secretary

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

Delegation of Authority

The following material is a portion of the Departmental Manual and the numbering system is that of the Manual. Material that relates solely to internal management has not been included.

PART 270—SOUTHWESTERN POWER ADMINISTRATION

CHAPTER 3—COORDINATION AGREEMENTS

270.3.1 *Delegation of Authority.* The Administrator, Southwestern Power Administration, is delegated the authority of the Secretary of the Interior to negotiate and conclude agreements under section 2 of the Act of July 6, 1954 (68 Stat. 450), relating to coordination of the power operations of the Grand River Dam Authority, an instrumentality of the State of Oklahoma, and the power operations of the Federal projects in the area.

STEWART L. UDALL,
Secretary of the Interior.

MAY 1, 1962.

[F.R. Doc. 62-4407; Filed, May 7, 1962; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14341–14344; FCC 62M–622]

COLLIER ELECTRIC CO.

Order for Further Prehearing Conference

In re applications of Collier Electric Company: for renewal of the license for Station KAQ79, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Fort Morgan, Colorado, Docket No. 14341, File No. 848–C1–R–61; for renewal of the license for Station KAQ80, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Sterling, Colorado, Docket No. 14342, File No. 849–C1–R–61; for renewal of the license for Station KAQ81, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Sidney, Nebraska, Docket No. 14343, File No. 2670–C1–R–61; for renewal of the license for Station KAS41, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Bridgeport, Nebraska, Docket No. 14344, File No. 2710–C1–R–61.

The Hearing Examiner having under consideration:

(a) His Order following prehearing conferences herein released March 26, 1962 (FCC 62M–434);

(b) Memorandum Opinion and Order of the Commission In re Applications of Laramie Community TV Company, et al, Docket Nos. 14552–14556, released March 5, 1962 (FCC 62–250) designating that matter for hearing on specified issues;

(c) The Order of the Chief Hearing Examiner In re Applications of Laramie Community TV Company, et al, released April 20, 1962 (FCC 62M–576);

It appearing that the Examiner has been assigned to preside at both the aforementioned proceedings;

It further appearing that with one exception the same parties and counsel are involved in both proceedings;

It further appearing that the hearings herein are presently scheduled to commence on July 9, 1962, at the Offices of the Commission in Washington, D.C.;

It further appearing that the hearings In re Applications of Laramie Community TV Company, et al., are presently scheduled to commence on June 20, 1962, in Laramie, Wyoming;

It further appearing that it would be conducive to the prompt and orderly dispatch of the Commission's business to hold a further prehearing conference in the instant proceeding jointly with the prehearing conference In re Applications of Laramie Community TV Company, et al., which is now scheduled to be held at the Offices of the Commission in Washington, D.C., beginning at 9:00 a.m., Wednesday, May 9, 1962;

It is ordered, This 1st day of May 1962, that a further prehearing conference shall be held jointly with the prehearing conference now scheduled In re Applications of Laramie Community TV Company, et al., at the Offices of the Commission in Washington, D.C., at 9:00 a.m., Wednesday, May 9, 1962.

Released: May 2, 1962.

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

[F.R. Doc. 62–4432; Filed, May 7, 1962; 8:50 a.m.]

[Docket No. 14479; FCC 62M–614]

DeKALB BROADCASTING CO.

Order Continuing Hearing

In re application of Samuel C. Chafin and N. W. Griffin d/b as DeKalb Broadcasting Co., Decatur, Georgia, Docket No. 14479, File No. BP–14133, for construction permit.

The Hearing Examiner having under consideration the informal request of the applicant, DeKalb Broadcasting Co., for an extension of each of the dates specified in the Hearing Examiner's order of April 10, 1962, herein, and the applicant's representation that the other parties hereto have consented to such extension; and

It appearing, that, a grant of the subject request may result in a material shortening of the hearing record to be made herein;

It is ordered, This 30th day of April 1962, that:

(1) The date for exchange of written exhibits is continued from April 30, 1962, to May 15, 1962; and

(2) The date for notification of witnesses to be called for cross-examination is continued from May 7, 1962, to May 21, 1962; and

It is further ordered, That the hearing herein heretofore scheduled to commence on May 15, 1962, is continued to May 29, 1962, commencing at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: May 1, 1962.

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

[F.R. Doc. 62–4433; Filed, May 7, 1962; 8:50 a.m.]

[Docket No. 14518; FCC 62M–624]

DOLPH-PETTEY BROADCASTING CO. (KUDE)

Order Continuing Hearing Conference

In re application of Dolph-Pettey Broadcasting Company (KUDE), Oceanside, California, Docket No. 14518, File No. BP–14324; for construction permit.

Upon written request of counsel for Dolph-Pettey Broadcasting Company, and with the consent of the other parties, because of engineering difficulties:

It is ordered, This 1st day of May 1962, that the formal exchange of engineering exhibits scheduled to take place on May 1, 1962, be, and the same is, hereby continued to June 4, 1962; and

It is further ordered, That the prehearing conference in the above-entitled matter presently scheduled for May 14, 1962, be, and the same is, hereby continued to June 14, 1962 at 9:00 a.m.

Released: May 2, 1962.

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

[F.R. Doc. 62–4434; Filed, May 7, 1962; 8:50 a.m.]

[Docket No. 13313, etc.; FCC 62M–630]

IOWA CITY BROADCASTERS, INC., ET AL.

Order Continuing Hearing

In re applications of Iowa City Broadcasters, Inc., Iowa City, Iowa, Docket No. 13313, File No. BP–13877; WKAI Broadcasting Company (WKAI), Macomb, Illinois, Docket No. 14508, File No. BP–13902; Iowa Falls Broadcasting Corporation, Iowa Falls, Iowa, Docket No. 14509, File No. B–14618; for construction permits.

The Hearing Examiner having under consideration his orders of March 19 and April 17, 1962, wherein the commencement of hearing in this proceeding was set for May 8, 1962;

It appearing that on April 30, 1962, the applicants herein filed a joint petition before the Chief Hearing Examiner contemplating the dismissal of the application of Iowa City Broadcasters, Inc., and the grant without further hearing of the applications of WKAI Broadcasting Company and Iowa Falls Broadcasting Corporation;

And, it further appearing, that a grant of the said joint petition may obviate the necessity for a hearing in this proceeding, but that under the Commission's rules the petition may not be eligible for consideration by the Chief Hearing Examiner until a date subsequent to that presently set for the commencement of hearing;

It is ordered, This 2d day of May 1962, That the hearing herein heretofore scheduled to commence on May 8, 1962, is continued pending further order.

Released: May 3, 1962.

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

[F.R. Doc. 62–4435; Filed, May 7, 1962; 8:51 a.m.]

[Docket No. 14584; FCC 62M–615]

DON H. MARTIN (WSLM)

Order Continuing Hearing

In re application of Don H. Martin (WSLM), Salem, Indiana, Docket No. 14584, File No. BP–13712; for construction permit.

A prehearing conference in the above-entitled matter having been held on April 30, 1962, and it appearing from the

record made therein that certain agreements were reached and certain rulings made by the Hearing Examiner which should be formalized by order;

It is ordered, This 30th day of April 1962, that:

(1) The direct affirmative case of the applicant shall be presented entirely in the form of sworn written exhibits;

(2) Copies of all of the applicant's exhibits shall be supplied the other parties hereto on or before June 4, 1962, but such proposed exhibits may be amended or reformed at any time through June 18, 1962;

(3) Copies of all of the applicant's exhibits in final form shall be supplied the other parties hereto on or before June 18, 1962;

(4) In the event any party other than the applicant wishes to present evidence in exhibit form, copies of such exhibits shall be supplied the other parties hereto on or before July 9, 1962;

(5) Any party wishing to call for cross-examination any witness responsible for the preparation of any exhibit exchanged by any other party shall give notification thereof on or before July 16, 1962;

It is further ordered, That the hearing herein heretofore scheduled to commence on May 28, 1962, is continued to July 23, 1962, commencing at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: May 1, 1962.

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

[F.R. Doc. 62-4436; Filed, May 7, 1962; 8:51 a.m.]

[Docket No. 14425 etc.; FCC 62M-623]

SAUL H. MILLER ET AL.

Order on Procedural Dates

In re applications of Saul M. Miller, Kutztown, Pennsylvania, Docket No. 14425, File No. BP-13844; et al., Docket Nos. 14427, 14430, 14431, 14433, 14434, 14435, 14438, 14439, 14440, 14441, 14442, for construction permits.

To formalize agreements reached on the record at a prehearing conference held on April 30, 1962 in the above-entitled proceeding;

It is ordered, This 1st day of May 1962, that the dates of May 1, 2, 3, 7 and 14, 1962, presently scheduled to govern proceedings in this matter, be, and the same are, hereby cancelled and the following dates scheduled in place thereof:

Group III—14431 and 14434:	
Exchange of Exhibits in Final Form	5-11-62
Hearing	5-17-62
Group II—14427, 14430 and 14433:	
Exchange of Engineering Exhibits	5-14-62
Exchange of Lay Exhibits	5-21-62
Notification of Witnesses	5-28-62
Hearing	6- 6-62
Group IA—14435 and 14438:	
Exchange of Engineering Exhibits	5-14-62
Exchange of Lay Exhibits	5-25-62
Notification of Witnesses	6- 1-62
Hearing	6-18-62
Group IA—14441 and 14442:	
Exchange of Engineering Exhibits	5-21-62
Exchange of Lay Exhibits	6- 1-62
Notification of Witnesses	6- 8-62
Hearing	6-18-62
Group IB—14425, 14439 and 14440:	
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It is further ordered, That the agreements reached on the record at the prehearing conference on April 30, 1962, be, and the same are, hereby incorporated by reference to govern the future conduct of this proceeding.

Released: May 2, 1962.

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

[F.R. Doc. 62-4437; Filed, May 7, 1962; 8:51 a.m.]

[Docket No. 14611; FCC 62M-617]

PROGRESS BROADCASTING CORP. (WHOM)

Order Scheduling Hearing

In re application of Progress Broadcasting Corporation (WHOM), New York, New York, Docket No. 14611, File No. BP-13915; for construction permit.

It is ordered, This 30th day of April 1962, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 29, 1962, in Washington, D.C.; *And it is further ordered*, That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Friday, June 1, 1962.

Released: May 1, 1962.

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

[F.R. Doc. 62-4438; Filed, May 7, 1962; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CI61-644]

J. M. HUBER CORP.

Notice of Date of Hearing

MAY 2, 1962.

Take notice that pursuant to the authority conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on May 24, 1962, at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application in the above-entitled proceeding: *Provided, however*, That the Commission may, after a noncontested hearing, dispose of the proceeding pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, it will be unnecessary for Applicant to appear or be represented at the hearing. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

Notice of the application filed herein was published in the FEDERAL REGISTER on September 16, 1961 (26 F.R. 8687), and notice of the postponement of the hearing originally scheduled was published on October 11, 1961 (26 F.R. 9607). The final date for filing protests or petitions to intervene herein was September 29, 1961.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-4409; Filed, May 7, 1962; 8:46 a.m.]

[Docket No. CP62-174]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application and Date of Hearing

MAY 2, 1962.

Take notice that on January 25, 1962, as supplemented on March 5, 1962, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago 3, Ill., filed in Docket No. CP62-174 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, authorizing the construction and operation of a side tap and approximately 13.6 miles of 10-inch lateral pipeline replacing an equivalent length of 4-inch lateral pipeline, on the DeKalb-Sycamore lateral pipeline in DeKalb County, Ill., all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

The lateral being replaced is part of 16 miles of 4-inch lateral pipeline extending from Applicant's 20-inch pipeline in Illinois to a point of connection with the facilities of Northern Illinois Gas Co. (Northern), serving the communities of DeKalb and Sycamore, Ill. The purpose of this replacement is to increase the capacity of pipelines serving these communities in order to meet expected increased requirements.

The application states that the described facilities have been constructed and were placed in operation October 17, 1961. The actual cost of construction is stated to be $349,415, which cost is being financed from funds on hand.

Applicant does not propose herein any change in its presently authorized daily contract quantities for Northern.

The application further states that it is being filed by reason of Commission Order No. 241 issued January 12, 1962 at Docket No. R-205, amending § 2.55 of the Commission's rules and regulations under the Natural Gas Act.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 5, 1962, at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application; *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 25, 1962. Failure of any party to appear at and participate in the hearing shall be construed as a waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-4410; Filed, May 7, 1962; 8:46 a.m.]

[Docket No. E-7035]

NORTHERN STATES POWER CO.

Notice of Application

MAY 2, 1962.

Take notice that on April 26, 1962, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Northern States Power Co. (Applicant), a corporation organized under the laws of the State of Minnesota and doing business in the States of Minnesota, North Dakota, and South Dakota, with its principal business office at Minneapolis, Minn., seeking an order authorizing the issuance and sale at competitive bidding of $15,000,000, principal amount of First Mortgage Bonds, Series due June 1, 1992. Applicant proposes to issue the aforementioned bonds under a Trust Indenture dated February 1, 1937, from Applicant to Harris Trust and Savings Bank, Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Trust Indenture dated as of June 1, 1962. The interest rate of the First Mortgage Bonds will be determined under the principal of competitive bidding, and it is expected that the new bonds will be issued on June 19, 1962. Applicant states that the proceeds from the sale of the bonds will be used to pay, in part, the cost of Applicant's 1962 construction program, estimated at $39,300,000. The principal items of expenditure in 1962 are: $3,876,000 as Applicant's contribution to research and development costs of a 66,000-kilowatt atomic powerplant near Sioux Falls, S. Dak.; $1,446,000 for continuing installation of the 200,000-kilowatt Unit No. 8 at Applicant's Riverside steam electric generating plant in Minneapolis; $1,539,000 for continuing construction of a 230-kilovolt interconnection with Minnesota Power & Light Co.; $669,000 for construction of 115-kilovolt interconnections with Otter Tail Power Co. and Minnesota Power & Light Co.; $2,182,000 for rebuilding steam heating plant, mains and feeder line in St. Paul; $20,583,000 for additions and improvements generally to electric plant; $6,943,000 for additions and improvements to gas plant; and, $508,000 for additions and improvements to steam, telephone, water, and common utility plant.

Any person desiring to be heard or to make any protests with reference to said application should on or before the 22d day of May 1962, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-4411; Filed, May 7, 1962; 8:46 a.m.]

[Docket Nos. CP62-14, CP61-155]

TENNESSEE GAS TRANSMISSION CO. AND MANUFACTURERS LIGHT & HEAT CO.

Order Fixing Date for Hearing and Defining Issues

MAY 1, 1962.

On March 22, 1962, Tennessee Gas Transmission Co. (Tennessee), filed in the above-entitled proceeding a motion for reconsideration or in the alternative for prompt hearing with defined issues.

Tennessee alleges that it filed an application in the above-captioned proceeding for authorization to transfer the deliveries of 35,000 Mcf of natural gas per day that is presently being delivered to United Fuel Gas Co. (United) in Tennessee's eastern rate zone to The Manufacturers Light & Heat Co. (Manufacturers) for the account of United in Tennessee's northern rate zone. Tennessee proposes that its transfer of deliveries will take place during the 6-month period commencing on November 1, 1961, and ending on April 30, 1962, and for each 6-month period thereafter that commences on November 1 and ends on April 30, for the term of years coextensive with the term of the presently effective gas sales contract between Tennessee and United.

Tennessee alleges that pursuant to temporary authorization issued August 18, 1961, to transfer said deliveries as proposed in its application, Tennessee and United entered into a gas sales contract dated October 10, 1961, which, Tennessee alleges, provides for "the transfer or deliveries as proposed and temporarily authorized for a term of years ending on November 1, 1979." Tennessee further alleges that this contract was permitted to take effect on November 1, 1961, the date upon which the deliveries of natural gas to Manufacturers for the account of United was commenced.

Tennessee alleges that at the hearing hereon held December 18, 1961, the only issue raised was "that of the proper sharing, between United and Manufacturers, of the increased rate which United pays to Tennessee for deliveries made in Tennessee's northern rate zone over the rate United pays for deliveries in Tennessee's eastern rate zone." No party, it is alleged, raised any question as to the term of the transfer. Tennessee further alleges that all parties stipulated that: (1) Manufacturers should reimburse United for the net amount of such increased costs; (2) a condition with respect to such reimbursement should be included in the order issuing a certificate of public convenience and necessity to Tennessee and Manufacturers; (3) on or before January 2, 1962, staff counsel would serve upon all parties a copy of a draft of the proposed order containing such reimbursement condition; and, (4) the hearing should reconvene on January 15, 1962, for the purpose of offering the parties an opportunity to comment on the proposed order and to submit same to the examiner.

Tennessee states that at the reconvened hearing no party objected to the provisions of the proposed order; that subsequent to the conclusion of the hearing the Pennsylvania Public Utility Commission requested the Commission to modify the proposed order so as to provide that United and Manufacturers would share the additional zone differential charges from Tennessee in proportion to their estimated costs, as if Manufacturers had constructed the facilities which were originally proposed, but which were rendered unnecessary by the proposed transfer of deliveries. It is pointed out that the Pennsylvania Commission did not urge a reopening nor raise a question as to the term of the transfer service.

Tennessee asserts that unless such transfer is authorized on a long-term basis as proposed, Manufacturers will still be required to construct additional duplicate facilities.

The Commission in its order of February 20, 1962, said that it appeared to the Commission that there was a serious question as to whether the granting of the applications would not place Manufacturers in the position of making payments to United for a service which United did not render and that it would not be appropriate for United to make a charge for a service it did not render.

Tennessee has submitted no new facts which would warrant issuance of permanent authorization to it at this time. However, for the purpose of clarification of the issues, the Commission will indicate in the ordering paragraph herein the issues to be tried at the hearing to determine the propriety of the charge to be made by United.

The Commission finds: Good cause has been shown for the granting of Tennessee's motion for reconsideration or in the alternative for prompt hearing with defined issues to the extent that the proceeding will be set for hearing and the issues defined as hereinafter ordered.

The Commission orders: The above-docketed proceedings be and the same are hereby set for further hearing on June 4, 1962, and the issues to be developed upon such hearing shall include the following:

(1) Does United in fact render a service for which it should be reimbursed? (2) If United renders a service, is the proposed basis of reimbursement just and reasonable? (3) Does the arrangement properly fall within the scope of a volume No. 2 tariff filing, or is it in conflict with section 154.52 of the Commission's regulations? (4) Does the arrangement improve the reliability of service and offer additional flexibility in operating techniques to the integrated Columbia System? (5) Does the arrangement represent an accommodation to the Columbia System, resulting in benefiting the system as a whole, rather than primarily benefiting Manufacturers?

By the Commission.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-4412; Filed, May 7, 1962; 8:46 a.m.]

[Docket No. CP62-213]

UNITED GAS PIPE LINE CO. AND TENNESSEE GAS TRANSMISSION CO.

Notice of Application and Date of Hearing

MAY 2, 1962.

Take notice that on March 14, 1962, United Gas Pipe Line Co. (United), 1525 Fairfield Avenue, Shreveport, La., and Tennessee Gas Transmission Co. (Tennessee), P.O. Box 2511, Houston 1, Tex. (hereinafter sometimes referred to jointly as Applicants), filed in Docket No. CP62-213 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Tennessee to deliver natural gas to United up to and including March 31, 1963, in return for equivalent volumes of natural gas delivered to United during the period January 16 to January 29, 1962, all as more fully set forth in the joint application on file with the Commission and open to public inspection.

Applicants state that United made the temporary delivery of natural gas to Tennessee as a result of an emergency existing on Tennessee's system and that Applicants seek herein authorization permitting Tennessee to return such gas up to and including March 31, 1963.

No new facilities will be required to make the proposed deliveries.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 7, 1962, at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such joint application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 28, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefore is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-4413; Filed, May 7, 1962; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

COMMERCE UNION BANK

Order Approving Merger of Banks

In the matter of the application of Commerce Union Bank for approval of merger with Broadway National Bank.

There has come before the Board of Governors, pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), an application by Commerce Union Bank, Nashville, Tenn., a member bank of the Federal Reserve System, for the Board's prior approval of the merger of Broadway National Bank, Nashville, Tenn., with and into Commerce Union Bank; under the charter and title of the latter, the two offices of Broadway National Bank to be operated as branches of Commerce Union Bank.

Pursuant to said section 18(c), notice of the proposed merger, in form approved by the Board of Governors, has been published and reports on the competitive factors involved in the proposed transaction have been received from the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Department of Justice and have been considered by the Board.

It is ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be, and hereby is approved, provided that said merger shall not be consummated (a) sooner than 7 calendar days after the date of this order or (b) later than 3 months after said date.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington 25, D.C., or to the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 2d day of May 1962.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 62-4414; Filed, May 7, 1962; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice No. 633]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 3, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 64586. By order of April 27, 1962, the Transfer Board approved the transfer to Victor Douglas and Frances L. Douglas, a partnership, doing business as Lincoln Stage Line, Lincoln, Mont., of Certificate No. MC 35251, issued February 23, 1962, to Earl A. Foster, doing business as Lincoln-Helena Transportation Line, Lincoln, Mont., and a portion of Certificate No. MC 35252 issued June 11, 1942, to George J. Stoner, doing business as Lincoln Helena Transportation Line, Lincoln, Mont., acquired by transferor herein pursuant to MC-FC 63999, approved March 30, 1961, authorizing the transportation of passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, over regular routes, between Helena, Mont., and Lincoln, Mont.; serving all intermediate points; and off-route points within 5 miles of Lincoln; and general commodities, except Class A and B explosives, over a regular route, between Helena, Mont., and Lincoln, Mont., with service authorized to and from all intermediate points; and the off-route points within 20 miles of the above-specified route. Edwin S. Booth, P.O. Box 1686, Helena, Mont., attorney at law.

No. MC-FC 64594. By order of April 27, 1962, the Transfer Board approved the transfer to John J. Monaco and Albert P. Monaco, a partnership, doing business as Monaco Tours, Niagara Falls, N.Y., of Certificate No. MC 116678, issued August 4, 1958, to William A. Shirer, Niagara Falls, N.Y., authorizing the transportation of: Passengers and their baggage, in special operations, in round-trip sightseeing or pleasure tours, limited to seven passengers, not including

driver, and children under 10 years of age who do not occupy a seat or seats, in seasonal operations, beginning and ending at Niagara Falls, N.Y., and points in Niagara County, N.Y., within 6 miles thereof, and extending to ports of entry on the United States-Canada Boundary Line at Niagara Falls, and Lewiston, N.Y. Thomas J. Runfola, 631 Niagara Street, Buffalo 1, N.Y., attorney for applicants.

No. MC–FC 64601. By order of April 27, 1962, the Transfer Board approved the transfer to Frank Rotondo, doing business as Frank & Brothers Moving & Storage, Bronx, N.Y., of Certificate No. MC 5466, issued September 10, 1942, to Liberty Return Loads Association, New York, N.Y., authorizing the transportation, over irregular routes, of household goods, between points in New York, N.Y., Commercial Zone, on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, Ohio, Pennsylvania, Rhode Island, Virginia, Illinois, and the District of Columbia. David Brodsky, 1776 Broadway, New York 19, N.Y., applicants' attorney.

No. MC–FC 64663. By order of April 24, 1962, the Transfer Board approved the transfer to 88 Transit Lines, Inc., Monessen, Pa., of a portion of Certificate No. MC 1501 Sub-110, issued December 23, 1955, to The Greyhound Corporation, Chicago, Ill., authorizing the transportation of: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, between Pittsburgh, Pa., and Brownsville, Pa., serving all intermediate points on the regular route specified; and between Monongahela, Pa., and Charleroi, Pa., serving all intermediate points on the regular routes specified. Barrett Elkins, 1400 West Third Street, Cleveland 13, Ohio, attorney for transferor. Harry H. Frank, Esq., Commerce Building, Harrisburg, Pa., attorney for transferee.

No. MC–FC 64741. By order of April 24, 1962, the Transfer Board approved the transfer to Chicago Pittsburgh Express, Inc., Chicago, Ill., of Certificate No. MC 36988, issued September 24, 1942, to American Transportation Co., Inc., Chicago, Ill., authorizing the transportation of: General commodities, except livestock, between Chicago, Ill., and Joliet, Ill., and between Chicago, Ill., on the one hand, and, on the other, Chicago Heights, Ill., and points in Illinois in the Chicago, Ill., Commercial Zone. Edward A. Biggs, 139 North Clark Street, Chicago 2, Ill., attorney for applicants.

No. MC–FC 64790. By order of April 27, 1962, the Transfer Board approved the transfer to Compton Transfer & Storage Co., a corporation, Boise, Idaho, of Certificate No. MC 3486, issued May 19, 1949, to M. A. Compton, doing business as Compton Transfer & Storage Co., Boise, Idaho, authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between points within 150 miles of Boise, Idaho, in Idaho, Oregon, and Nevada, and household goods, as defined by the Commission, between points in Idaho, Oregon, Washington, and Utah. Kenneth G. Berquist, Sonna Building, Boise, Idaho, attorney for applicants.

No. MC–FC 64793. By order of April 27, 1962, the Transfer Board approved the transfer to Dewey Long Cartage, Inc., Cleveland, Ohio, of Permit No. MC 3977, issued December 6, 1956, to Dewey Long, doing business as Long Cartage, Cleveland, Ohio, authorizing the transportation of: Paper products and materials, supplies, and machinery used in the productions thereof, from the site of Hinde and Dauche Paper Co., plant at or near Cleveland, Ohio, to points in Pennsylvania on and west of U.S. Highway 219 (except Erie, Union City, Connellsville, and Pittsburgh), with no transportation from compensation on return except as otherwise authorized and between Cleveland, Ohio, on the one hand, and, on the other Erie, Union City, Connellsville, and Pittsburgh, Pa. G. H. Dilla, 5275 Ridge Road, Cleveland 29, Ohio, representative for applicants.

No. MC–FC 64875. By order of April 27, 1962, the Transfer Board approved the transfer to Lewis W. Groom, doing business as L. & N. Transfer, Route 1, Cassville, Wisconsin, of Certificate No. MC 59383, issued September 11, 1950, to Edward J. Neisius, doing business as C & H Transfer, 427 North Minnesota Street, Prairie du Chien, Wisconsin, authorizing the transportation of household goods, between points in Wisconsin within 50 miles of Dubuque, Iowa, on the one hand, and, on the other, points in Illinois and Iowa.

No. MC–FC 64890. By order of April 27, 1962, the Transfer Board approved the transfer to J. W. Trammell, Jr., doing business as Western Distributors, P.O. Box 5001, Dallas, Tex., in Certificate No. MC 117921, issued December 16, 1960, to Lloyd Jeter, 2524 Boca Chica Boulevard, Brownsville, Tex., authorizing the transportation, over irregular routes, of bananas, from Brownsville, Tex., to Fort Worth, Houston, Corpus Christi, San Antonio, and Austin, Tex., from New Orleans, La., to Fort Worth, Corpus Christi, Brownsville, and Harlingen, Tex., and from Galveston, Tex., to Fort Worth, Tex.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 62–4418; Filed, May 7, 1962; 8:47 a.m.]

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