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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10638

AUTHORIZING THE DIRECTOR OF THE OFFICE OF DEFENSE MOBILIZATION TO ORDER THE RELEASE OF STRATEGIC AND CRITICAL MATERIALS FROM STOCK PILES IN THE EVENT OF AN ATTACK UPON THE UNITED STATES

WHEREAS section 5 of the Strategic and Critical Materials Stock Piling Act, as amended by the act of July 23, 1936, 60 Stat. 596 (50 U. S. C. 98d) provides, in part, that during a national emergency with respect to common defense proclaimed by the President strategic and critical materials may be released from stock piles for use, sale, or other disposition on the order of such agency as may be designated by the President; and

WHEREAS the existence of a national emergency with respect to common defense has been proclaimed by the President by Proclamation No. 2914 of December 16, 1950; and

WHEREAS an enemy attack on the continental United States might create shortages of strategic and critical materials requiring immediate release of such materials from stock piles to meet military and essential civilian requirements:

NOW, THEREFORE, by virtue of the authority vested in me by the said section 5 of the Strategic and Critical Materials Stock Piling Act, it is hereby ordered as follows:

In the event of enemy attack upon the continental United States (exclusive of Alaska) the Director of the Office of Defense Mobilization is authorized and directed to order the release by the Administrator of General Services of such materials from stock piles established under the Strategic and Critical Materials Stock Piling Act, in such quantities, for such uses, and on such terms and conditions, as the Director determines to be necessary in the interests of the national defense.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
October 10, 1955.

[F. R. Doc. 55-8370; Filed, Oct. 11, 1955; 2:55 p. m.]

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation

[Amdt. 1]

PART 424—BARLEY CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1956 AND SUCCEEDING CROP YEARS

MISCELLANEOUS AMENDMENTS

The above identified regulations (19 F. R. 9315) are hereby amended, effective beginning with the 1956 crop year, as follows:

1. Section 424.3 is amended to read as follows:

§ 424.3 *Application for insurance.* Application for insurance on a form prescribed by the Corporation may be made by any person to cover his interest as landlord, owner-operator, or tenant, in a barley crop. For any crop year applications shall be submitted to the county office on or before the following applicable closing date preceding such crop year except that in the state of Washington an application for insurance may be filed until the February 23 following the closing date provided that in such cases, winter barley will not be insured for the first crop year of the contract.

State and Closing Date

California, August 31.
Washington, October 31.
All other states, March 31.

2. Subsection (a) of section 13 of the policy shown in § 424.6 is amended to read as follows:

(a) Subject to the provisions of this section, the contract shall be in effect for the first crop year specified on the application and shall continue in effect for each succeeding crop year until canceled by either the insured or the Corporation. Cancellation may be made by either party giving written notice to the other party on or before the applicable cancellation date, which shall be the April 30 for California, the June 30 for Washington, and the December 31 for all other states, preceding the crop year for which the cancellation is to become effective: *Provided, however,* That the contract shall terminate as if canceled by the Corporation prior to such cancellation date (1) if by the March 31 following such cancellation date for all counties with a December 31 cancellation date any amount

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FEDERAL REGISTER

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RECORD RETENTION REQUIREMENTS

Reprint Notice

A reprint of the Federal Register dated April 8, 1955, is now available.

This issue, containing a 57-page index-digest of Federal laws and regulations relating to the retention of records by the public, is priced at 15 cents per copy.

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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due the Corporation under this contract remains unpaid, or (2) if by such cancellation date for all other counties any amount due the Corporation under this contract, except the premium due on the crop harvested or to be harvested in the calendar year in which the cancellation date occurs, remains unpaid. Any notice of cancellation by the insured shall be in writing and shall be filed with the county office. The Corporation shall mail any notice of cancellation to the insured's last known address and mailing shall constitute notice to the insured.

(Secs. 506, 516, 52 Stat. 73, 77, as amended; 7 U. S. C. 1506, 1516. Interpret or apply secs. 507, 508, 509, 52 Stat. 73, 74, 75, as amended; 7 U. S. C. 1507, 1508, 1509)

Adopted by the Board of Directors on October 4, 1955.

[SEAL] C. S. LAIDLAW,
Secretary,
Federal Crop Insurance Corporation.

Approved on October 10, 1955.

J. A. McCONNELL,
Assistant Secretary.

[F. R. Doc. 55-8314; Filed, Oct. 12, 1955; 8:52 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter G—Determination of Proportionate Shares

[Sugar Determination 855.3]

PART 855—MAINLAND CANE SUGAR AREA

1956 CROP

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended (hereinafter referred to as "act") the following determination is hereby issued:

§ 855.3 *Proportionate shares for sugarcane farms in the Mainland Cane Sugar Area for the 1956 crop*—(a) *Farm proportionate share.* A 1956-crop proportionate share for each sugarcane farm in the mainland cane sugar area shall be established in terms of acres (acreage or acres as used herein means the area on which sugarcane is grown on the farm and marketed (or processed) for the extraction of sugar or liquid sugar, or harvested for seed, and the area of sugarcane abandoned and classified as bona fide abandonment under procedure issued by the Commodity Stabilization Service) as follows:

(1) *Farm bases.* The farm base for each farm for which a proportionate share was established pursuant to § 855.2 (Determination of Proportionate Shares for the 1955 Crop) shall be such share, except that if the 1955 acreage on any farm was less than 80 percent of its 1955 proportionate share, due to a cause other than drought, flood, storm, freeze, disease, or insects, as determined by the appropriate Agricultural Stabilization and Conservation County Committee (hereinafter referred to as County Committee) the base shall be the larger of 5 acres or 125 percent of such 1955 acreage.

(2) *Farms with bases.* The proportionate share for any farm for which a farm base is established under subparagraph (1) of this paragraph shall be the largest of (i) 5 acres; (ii) the farm base, but not in excess of 25.0 acres; and (iii) 87.0 percent of such farm base.

(3) *New farms.* The proportionate share for any farm without a farm base and on which there was no sugarcane acreage during the 1955-crop year, shall be 5.0 acres.

(4) *Transfer of farm bases*—(i) *Land acquired by Federal or State Agency.* The base established, or which would have been established pursuant to subparagraph (1) of this paragraph for any land which is removed from sugarcane production because of acquisition by purchase or lease by any Federal or State Agency having the right of eminent domain shall be available for use in providing an equitable base for land owned, purchased, or leased by the owner of the land so acquired by any of such agencies. Upon application to the appropriate Agricultural Stabilization and Conservation State Office (hereinafter referred to as State Office) within five years from the date of such acquisition, any such owner shall be entitled to a base for any other land owned, purchased, or leased by him equal to the farm base which would have been established for such other land, plus the farm base which

would have been established for the land so acquired, as determined by the appropriate State Office.

(ii) *Dividing or combining ownership tract acreage records.* (a) Where an ownership tract of land (a farm or a portion of a farm which is separately owned) which was part of a farm as constituted for the 1955 program becomes a part of another farm or a separate farm under the 1956 program, a base for such tract shall be determined by multiplying the 1955 proportionate share for the farm of which such tract was a part by the percentage that the total acreage of sugarcane for the tract for the crop years 1951-54 plus the 1955 measured acreage within the proportionate share is of the total sugarcane acreage within the farm's proportionate shares in this period for all tracts comprising the 1955 farm of which it was a part. Where an ownership tract of land which was part of a 1955 farm is subdivided, the base for each subdivision shall be determined by multiplying the base established for the tract in accordance with the above method by the percentage that the total cropland acreage in each subdivision of the tract suitable for the production of sugarcane is of the total acreage of such cropland in the tract. Where a 1955 farm consisting of one ownership tract is subdivided, the base for each subdivision shall be obtained by multiplying the 1955 proportionate share by the percentage that the total cropland acreage suitable for the production of sugarcane in each subdivision of the tract is of the total acreage of such cropland in the ownership tract. Where the County Committee determines that the use of the cropland relationships in any case results in the establishment of a base which is not representative of the crops growing on the 1955 farm at the time of subdivision or combination or is inconsistent with written evidence of sugarcane acreage records supplied by the parties affected, such base shall be adjusted by the County Committee taking into consideration the foregoing factors.

(b) The base for such tract or subdivision thereof determined as heretofore provided shall, for the purposes of determining a farm base under subparagraph (1) of this paragraph, be considered as the 1955-crop proportionate share for such tract or subdivision thereof, if it becomes a separate farm, or as a part of the 1955-crop proportionate share of the farm of which the tract or subdivision thereof becomes a part.

(c) Where two or more farms, for each of which a 1955 proportionate share was established, are combined as one farm for the 1956 crop, the sum of the 1955 proportionate shares established for each of the farms combined shall, for the purposes of determining a farm base under subparagraph (1) of this paragraph, be considered as the 1955-crop proportionate share for such combined farm.

(d) A farm proportionate share shall be established as provided in this section for each farm involved in a division or combination under this paragraph.

(5) *Appeals.* (1) A producer of sugarcane who believes that the proportionate

share established for his farm pursuant to this section is inequitable may file an appeal in writing at the local county Agricultural Stabilization and Conservation office (hereinafter referred to as county office) not later than July 1, 1956. The county committee shall make such adjustments as are necessary due to the use of any incorrect data in determining the proportionate share. In other cases, the county committee shall, after review of all of the facts, forward the case, together with its recommendation, to the State Committee. The State Committee shall consider the appeal and the county committee's recommendation in light of the interest of the appellant as related to the interests of all other producers of sugarcane in the State and shall return the case to the county committee, indicating the appropriate disposition.

(ii) Upon receipt thereof, the county committee shall notify the producer in writing as soon as possible regarding the decision on his appeal. If the producer is dissatisfied with the decision, he may appeal in writing before September 1, 1956, to the Director of the Sugar Division, Commodity Stabilization Service, U. S. Department of Agriculture, Washington 25, D. C., whose decision shall be final.

(6) *Delegation.* Farm bases and farm proportionate shares shall be established by the county committee in accordance with this section.

(b) *Share tenant and sharecropper protection and compliance with other conditions for payment.* In addition to compliance with the proportionate share for the farm in accordance with this section, eligibility for payment of any producer of sugarcane shall be subject to the following conditions:

(1) That the number of share tenants or sharecroppers engaged in the production of sugarcane of the 1956 crop on the farm shall not be reduced below the number so engaged with respect to the previous crop, unless such reduction is approved by the State Committee. In considering such approval the State Committee shall be guided by whether the reduction was the result of a voluntary action of the share tenant or sharecropper, or whether the reduction was beyond the control of the producer;

(2) That such producer shall not have entered into any leasing or cropping agreement for the purpose of diverting to himself or any other producer any payments to which share tenants or sharecroppers would be entitled if their leasing or cropping agreements for the previous crop were in effect; and

(3) That such producer has met the requirements of the act with respect to child labor, wage rates and, in the case of a processor-producer, prices paid for sugarcane.

STATEMENT OF BASES AND CONSIDERATIONS

Sugar Act requirements. Section 301 (b) of the Act provides as a condition for payment to producers that there shall not have been marketed (or processed) an amount of sugarcane grown on the farm and used for the production of sugar or liquid sugar in excess of the proportionate share for the farm as de-

terminated by the Secretary pursuant to section 302 of the act. For the mainland cane sugar area, the term "proportionate share" means the individual farm's share of the total acreage of sugarcane required to enable the area to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary, for the calendar year during which the larger part of the sugar from such crop normally would be marketed.

Section 302 (a) of the Act provides that the amount of sugar with respect to which payment may be made shall be the amount of sugar commercially recoverable from the sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm.

Section 302 (b) provides that in determining the proportionate share for a farm, the Secretary may take into consideration the past production on the farm of sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugarcane, and that the Secretary shall, insofar as practicable, protect the interests of new producers and small producers, and the interests of producers who are cash tenants, share tenants or sharecroppers.

General. Pursuant to the foregoing provisions of the act, proportionate shares for sugarcane farms must be established for each crop since the marketing of sugarcane within such shares by producers constitutes one of the conditions for payment. Restrictive proportionate shares are required in any area when the indicated production will be greater than the quantities needed to fill the quota and provide a normal carryover inventory for such area.

Restrictive proportionate shares, as established for the 1954 and 1955 crops, were designed to maintain a proper balance between sugar supplies and marketing quotas. However, new varieties of sugarcane, improved production practices and unusually favorable weather conditions have resulted in increased yields of sugar per planted acre and increases in the effective inventory of sugar (i. e., sugar on hand at the beginning of the calendar year, plus sugar processed after January 1 from the sugarcane crop of the previous year's designation)

During the First Session of the 84th Congress, several bills were introduced providing for amendments to the Sugar Act of 1948, as amended, which would have increased the quotas for the domestic sugar-producing areas, including the mainland sugarcane area. However, no legislation in this respect was enacted. It is likely that further consideration will be given to this matter in the next Session of Congress.

The Senate adopted a resolution urging the Department to carry out loans, purchases or other operations with respect to 100,000 tons of sugar produced from the 1955 or previous crops in the continental United States sugar-producing areas to help alleviate the inventory situation in such areas.

Situation indicated for 1956. The effective inventory of sugar on January

1, 1955, was approximately 396,000 tons, or about 110,000 tons higher than a year earlier. The August 1955 crop estimate by the Department indicates a 1955 crop in the mainland sugarcane area of about 560,000 tons of sugar if the recovery of sugar per ton of cane approximates the average recovery for the past three years. A crop of this size, together with the effective inventory of 396,000 tons on January 1, 1955, and 1955 marketings within the present quota of 500,000 tons, would result in an effective inventory of about 456,000 tons on January 1, 1956. This would exceed the average for the six-year period, 1950 through 1955, by approximately 236,000 tons and would exceed the average of the five-year period 1950 through 1954, by approximately 271,000 tons. If the upward trend in yields of sugar per planted acre achieved during the past few years continues for the 1955 crop, production would exceed that based on the August Crop Report. Clearly, restrictions are required for the 1956 crop to prevent the further accumulation of stocks greater than those needed to fill the quota and provide a normal carryover inventory.

Public hearing. An informal public hearing was held in New Orleans on July 13, 1955, for the purpose of receiving information and recommendations for establishing farm proportionate shares for the 1956 crop. To provide a basis for discussion at the hearing, the Department issued a press release on June 28, 1955, suggesting that the provisions of the 1956-crop determination be similar to those issued for the 1955 crop. In addition, the Department asked for views on the quantity of sugar which should be considered as a normal inventory, taking into consideration the probable effective inventory on January 1, 1956, and freeze and other possible damage to the 1956 crop. It was pointed out that while the normal carryover inventory should be established at a level which would provide for deficiencies, it should, nevertheless, be low enough to prevent the accumulation of future abnormally high surpluses of sugar in the area. The hearing was attended by approximately 40 persons from Louisiana and Florida. Testimony was presented by four persons with one individual testifying on behalf of growers producing a large percentage of the sugarcane in the area. In addition, two briefs were filed.

There was general concurrence with the Department's proposal relative to the establishment of proportionate shares. However, no recommendations were received with respect to the 1956 acreage objective in view of the uncertainty existing at the time of the hearing relative to the outcome of legislation then pending relative to amendments to the act. The briefs filed since the hearing include recommendations that the acreage level for 1956 not be reduced below the 1955 acreage level.

Determination. In determining the level of 1956 sugarcane acreage, the basic problem is to make available an acreage which will enable the area to fill

its quota and provide a normal carryover inventory. Accordingly, consideration must be given to the factors which affect production, such as variations in yields of sugar per acre and the possibilities of crop damage from freeze. In developing this determination, consideration has been given to the foregoing factors as well as to the testimony presented at the hearing, to the possibility of additional marketings, to the prospective sugar supply and inventory situation, and to experience under the current and previous proportionate share programs.

Although the carryover inventory resulting from the acreage provided for in this determination may be large and in excess of what may constitute a normal carryover under most conditions, it would be too drastic to attempt to reduce inventories to average conditions quickly. In the circumstances, therefore, this determination will permit the production of sufficient sugar to enable the area to fill its quota and provide a normal carryover.

The determination repeats in large part the provisions issued for the 1955 crop. Farm bases will be established generally from the proportionate shares established under the 1955-crop determination, thus reflecting the same weightings assigned to the standards of "ability to produce" and "past production" and the results obtained under the provisions relating to special classes of farms.

The adjustment factor of 0.87, which will be applied to farm bases for large farms, was obtained by subtracting the estimated 1956 acreage resulting from the provisions relating to small farms, new farms, appeals and minimum shares from the estimated total acreage required (including an allowance for deficit plantings within individual proportionate shares) and dividing the result by the total of the bases for the farms subject to the factor.

As was the case under the 1955 determination, new producers will be entitled to a proportionate share of 5 acres, which will also be the minimum proportionate share for all old producers.

Three new provisions have been incorporated in this determination. They relate to: (1) A limitation on the farm base of 125 percent of the 1955 acreage if such acreage is less than 80 percent of the 1955 proportionate share due to a cause other than drought, flood, storm, freeze, disease or insects; (2) the transfer of base acreage history to other land in cases where land previously devoted to the production of sugarcane is expropriated by a Federal or State agency; and (3) the basis upon which acreage history is to be divided in cases involving the transfer of the control of land.

The limitation under (1) above, will have the effect of reducing the farm base for a farm where for reasons within the control of the producer he did not utilize up to 80 percent of the 1955 proportionate share. The provision referred to under (2) above, permits a land owner to transfer within five years the proportionate share rights attached to his land to other land under his control

when the original land is expropriated by a Federal or State Agency. Under the provision referred to in (3), above, the base acreage history for part of a farm involved in a transfer will be established on the basis of the relationship between the sugarcane acreage on the part to be transferred and the acreage of the entire farm during the crop years 1951 through 1955. Where an ownership tract is subdivided, the relationship between the sugarcane cropland acreage on each of the parts of the subdivision and the sugarcane cropland of the whole tract will be used. In any case involving a subdivision or combination where the county committee determines that the use of cropland acreage results in the establishment of an inequitable base, the base may be adjusted in a manner that will result in equity. Although a recommendation was received suggesting that the division of a farm's proportionate share be accomplished by agreement between the parties involved, the use of this method where acreage records are available would be contrary to the provisions of the act.

The provisions relating to share tenant and sharecropper protection remain unchanged from last year's determination. However, guides have been added to assist the State Committee in determining whether reductions in the number of share tenants or sharecroppers are justifiable. At the public hearing it was unanimously recommended that provision be made to permit the giving of special consideration by the State Committee to producers who are located in one isolated mill district and who are thus limited to marketing sugarcane to one sugar mill because of relatively high transportation charges to other mills. In this area, sugarcane is produced for both sugar and sirup. Because of the marketing of sugarcane for sirup, certain producers have not utilized fully their proportionate shares. This has reduced seriously the cane supply for the processing facility and it is alleged that unless larger supplies are obtained, processing may be discontinued. Although extensive effort has been devoted to developing a special provision of the determination to give effect to this recommendation, no satisfactory legal basis has been found to justify the establishment of disproportionately large shares for certain of these producers.

It is believed that this determination, with its various special provisions, provides an equitable basis for establishing proportionate shares. Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 302, 61 Stat. 930; 7 U. S. C. 1132)

Issued this 10th day of October 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-8309; Filed, Oct. 12, 1955; 8:51 a. m.]

Subchapter H—Determination of Wage Rates
[Sugar Determination 864.3]

PART 864—WAGES; SUGARCANE; LOUISIANA

FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN HARVESTING OF 1955 CROP AND PRODUCTION AND CULTIVATION DURING CALENDAR YEAR 1956

Pursuant to the provisions of section 301 (c) (1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, and consideration of the evidence obtained at the public hearing held in Thibodaux, Louisiana, on July 29, 1955, the following determination is hereby issued:

§ 864.3 *Fair and reasonable wage rates for persons employed in Louisiana in the harvesting of the 1955 crop of sugarcane and production and cultivation of sugarcane during the calendar year 1956*—(a) *requirements.* A producer of sugarcane in Louisiana shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in the harvesting of the 1955 crop of sugarcane and the production and cultivation of sugarcane during the calendar year 1956 shall have been paid in accordance with the following:

(1) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates as agreed upon between the producer and the worker, but not less than the rates specified below. Wage rates applicable to the harvesting of the 1955 crop shall be effective on the date of publication of this section in the FEDERAL REGISTER and wage rates applicable to production and cultivation of sugarcane during the calendar year 1956 shall be effective on January 1, 1956.

(i) *For work performed on a time or piecework basis.*

<i>Class of Worker or Operation</i>	<i>Rate</i>
Harvest of 1955 crop:	<i>per hour</i>
Cutters, toppers, strippers, scrapers.....	\$0.475
Loaders, spotters, ropemen, grabmen.....	.550
Cutters and loaders, pilers, holt operators.....	.500
Tractor drivers, truck drivers.....	.575
Teamsters.....	.550
Operators of mechanical loading or harvesting equipment.....	.625
All other harvesting workers.....	.425
Cutting top and bottom:	<i>per ton</i>
Large barrel varieties ¹	\$1.600
Small barrel varieties ²	1.200
Production and cultivation, calendar year 1956:	<i>per hour</i>
Tractor drivers.....	\$0.500
All other production and cultivation workers.....	.400

¹ Large barrel varieties: Co. 293, C. P. 29/103; C. P. 29/116; C. P. 32/243; C. P. 30/13; C. P. 36/105; C. P. 29/120; C. P. 43/47; C. P. 44/101; C. P. 44/155; and N. Co. 310.

² Small barrel varieties: All other.

(ii) *Workers between 14 and 16 years of age when employed on a time basis.* For workers between 14 and 16 years of age, the wage rate per hour (maximum

employment is 8 hours per day for such workers without deduction from Sugar Act payments to the producer) shall be not less than three-fourths of the applicable hourly wage rate for adults provided under subdivision (i) of this subparagraph.

(iii) *Other piecework rates.* The piecework rate for any operation specified in subdivision (i) of this subparagraph, when performed on a unit basis other than a ton, or the piecework rate for any operation not specified shall be that as agreed upon between the producer and the worker: *Provided,* That for such agreed upon piecework rate the hourly rate of earnings of each worker, for the time involved, shall be not less than the applicable hourly rate specified in subdivisions (i) and (ii) of this subparagraph.

(2) *Compensable working time.* For work performed under subparagraph (1) of this paragraph, compensable working time includes all time which the worker spends in the performance of his duties except time taken out for meals during the work day. Compensable working time commences at the time the worker is required to start work and ends upon completion of work in the field. However, if the producer requires the operator of mechanical equipment, driver of animals, or any other class of worker to report to a place other than the field, such as an assembly point, tractor shed, etc., located on the farm, time spent in transit to and from the field is compensable working time. Any time spent in performing work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(3) *Equipment necessary to perform work assignment.* The producer shall furnish without cost to the worker any equipment required in the performance of any work assignment. However, a charge may be made for equipment furnished any worker for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Equipment includes, but is not limited to, hand and mechanical tools and special wearing apparel, such as boots and raincoats, required to discharge the work assignment.

(b) *Subterfuge.* The producer shall not reduce the wage rates to workers below those determined herein through any subterfuge or device whatsoever.

(c) *Claim for unpaid wages.* Any person who believes he has not been paid in accordance with this section may file a wage claim with the local County Agricultural Stabilization and Conservation Office against the producer on whose farm the work was performed. Detailed instructions and wage claim forms are available at that office. Such claim must be filed within two years from the date the work with respect to which the claim is made was performed. Upon receipt of a wage claim the county office shall thereupon notify the producer against whom the claim is made

concerning the representation made by the worker. The county ASC Committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the State Agricultural Stabilization and Conservation Office, 1517 Sixth Street, Alexandria, Louisiana, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC Committee is not acceptable, either party may file an appeal with the Director of the Sugar Division, Commodity Stabilization Service, U. S. Department of Agriculture, Washington 25, D. C. All such appeals shall be filed within 15 days after receipt of the recommended settlement from the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Director of the Sugar Division, his decision shall be binding on all parties insofar as payments under the act are concerned.

STATEMENT OF BASES AND CONSIDERATIONS.

(a) *General.* - The foregoing determination establishes fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the harvesting of the 1955 crop of sugarcane and in the production and cultivation of sugarcane during the 1956 calendar year, as one of the conditions with which producers must comply to be eligible for payments under the act.

(b) *Requirements of the act and standards employed.* Section 301 (c) (1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i. e., cost of living, prices of sugar and by-products, income from sugarcane, and cost of production) and the differences in conditions among various producing areas.

(c) *1955 harvest and 1956 production and cultivation wage determination.* This determination differs from the wage determination applicable to the harvesting of the 1954 crop and the production and cultivation of sugarcane during the calendar year 1955 in the following respects: (1) Wage rates on a time basis for the several classes of workers or operations are increased on the average by about five percent, and are expressed on an hourly basis instead of on a 9-hour-day basis: (2)

piecework rates for hand harvesting of sugarcane are increased on the average by about 10 percent and the number of hand operations covered is one operation instead of five which were applicable to prior crops; (3) the wage-price escalator provision is eliminated; and (4) the provision requiring producers to furnish workers the customary perquisites has also been eliminated. Further, minor revisions in language have been made and an additional variety of sugarcane has been added to the large barrel category for piecework rate purposes.

A public hearing was held in Thibodaux, Louisiana on July 29, 1955 at which interested persons offered testimony with respect to fair and reasonable wage rates for work performed during the 1955 harvest season and for production and cultivation work during the calendar year 1956. Representatives of the Labor Committee of the American Sugar Cane League and the Louisiana Farm Bureau testified for producers, while workers' views were presented by representatives of the United Packinghouse Workers of America, CIO, and the National Agricultural Workers' Union, American Federation of Labor.

Representatives of producers recommended that no changes be made in the 1955-56 wage determination, except that an additional large barrel variety of sugarcane be included for piecework rate purposes. Representatives of workers recommended a minimum wage of \$1.00 per hour for unskilled workers; the maintenance of existing differentials for higher skilled jobs; and the elimination of the wage-price escalator. One of the representatives recommended that the perquisite provision be eliminated.

Consideration has been given to the recommendations made at the public hearing, to the returns, costs, and profits of sugarcane producers obtained by survey in a recent prior year and restated for the current year in terms of price and production conditions likely to prevail, to information obtained as a result of investigations of labor conditions in the production and harvesting of sugarcane in Louisiana and to other pertinent factors.

The increases in time and piecework rates provided in this determination are within producers' ability to pay as indicated by an analysis of costs, returns, and profits of sugarcane production. The analysis indicates that the average sugarcane producer has operated at a profit during recent years and it is expected that 1955 crop operations will also be profitable. Further, there have been substantial gains in labor productivity on sugarcane farms, many of which are associated with the marked improvement in yields of recent years, and there is evidence that additional gains may be achieved. The rates provided in this determination are lower than prevailing wages being paid generally for work on sugarcane farms. During each of the preceding three years actual wages paid to workers have exceeded wage rates under applicable determinations by about 15 percent.

The wage rates on a time basis provided by this determination are expressed in terms of an hourly wage rather than the 9-hour-day basis used in prior years. Recent investigations indicate that many producers have adopted the hourly basis. This change is in keeping with the generally accepted expression of minimum wage rates and it will provide a better basis for producers to appraise labor costs in relation to wages and man-hour inputs.

A wage-price escalator provision has been included in wage determinations since 1949. Most producers have reported that wage increases have been made when the average price of raw sugar increased above the base price range although compensating downward adjustments in wages have not been made when the raw sugar price declines. Further, since the average prevailing wage paid in recent years has been in excess of the determination minimum rates the action of the wage-price escalator has largely been nullified. The elimination of the wage-price escalator is not expected to have any appreciable effect on wage rates.

Approximately 90 percent of the 1954 crop of sugarcane in Louisiana was mechanically harvested. Investigation of the use of piecework rates in Louisiana indicates that such rates are used primarily by producers who do not mechanically harvest their sugarcane. Most producers who use the piecework rate system of payment hire workers for the operation of cutting sugarcane top and bottom. Very few producers employ workers to strip sugarcane and to load sugarcane by hand. The piecework rates specified in this determination are for the operations most commonly used and reflect to a closer degree the average wage levels which have been paid in recent years. The piecework method of payment may be used for other hand harvesting operations and, in such cases, the piecework rate is to be as agreed upon between the producer and worker. However, such rates are subject to a minimum hourly guarantee of earnings to workers.

Determinations in prior years have specified that producers must furnish workers in addition to cash wages the perquisites which customarily have been furnished. Currently the items of perquisites furnished to workers vary significantly from farm to farm. The perquisite requirement tends to perpetuate inequities among both producers and workers. Representatives of producers have indicated that those perquisites required to obtain and retain labor would continue to be furnished to workers in the absence of a requirement in the determination. However, the elimination of the provision will afford an opportunity for a reevaluation and appropriate adjustments in the perquisite system.

After consideration of all the factors the wage rates and other provisions of the determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. 1131)

Issued this 10th day of October 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-3308; Filed, Oct. 12, 1955; 8:50 a. m.]

Subchapter I—Determination of Prices
[Sugar Determination 874.8]

PART 874—SUGARCANE: LOUISIANA
1955 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948, as amended (herein referred to as "Act"), after investigation, and due consideration of the evidence presented at the public hearing held in Thibodaux, Louisiana, on July 29, 1955, and September 7, 1955, the following determination is hereby issued:

§ 874.8 *Fair and reasonable prices for the 1955 crop of Louisiana sugarcane.* A producer of sugarcane in Louisiana who is also a processor of sugarcane (hereinafter referred to as "processor") shall have paid, or contracted to pay, for sugarcane of the 1955 crop grown by other producers and processed by him, prices determined in accordance with the following requirements:

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

(1) "Price of raw sugar" means the price of 96° raw sugar quoted by the Louisiana Sugar Exchange, Inc., except that if the Director of the Sugar Division determines that such price does not reflect the true market value of sugar, because of inadequate volume, failure to report sales in accordance with the rules of such Exchange or other factors, he may designate the price to be effective under this determination, which he determines will reflect the true market value of sugar.

(2) "Price of blackstrap molasses" means the price per gallon of blackstrap molasses quoted by the Louisiana Sugar Exchange, Inc., except that if the Director of the Sugar Division determines that such price does not reflect the true market value of blackstrap molasses, because of inadequate volume, failure to report sales in accordance with the rules of such Exchange or other factors, he may designate the price to be effective under this determination, which he determines will reflect the true market value of blackstrap molasses.

(3) "Standard sugarcane" means sugarcane, free of trash, containing 12 percent sucrose in the normal juice with a purity of at least 76.00 but not more than 76.49.

(4) "Net sugarcane" means the quantity of sugarcane obtained by deducting the weight of trash from the combined weight of sugarcane and trash delivered by a producer.

(5) "Salvage sugarcane" means sugarcane containing either less than 9.5 per-

cent sucrose in the normal juice or less than 68 purity in the normal juice.

(6) "Trash" means green or dried leaves, loose sugarcane tops, attached sugarcane tops at or above the green leaf roll, dirt and all other extraneous material which is representative of the quantity of sugarcane from which the sample for trash determination is taken.

(b) *Basic price.* (1) The basic price for standard sugarcane shall be not less than \$1.06 per ton for each one cent per pound of the average price of raw sugar determined in accordance with either of the following as agreed upon:

(i) The simple average of the daily prices of raw sugar for the week in which the sugarcane is delivered; or

(ii) The simple average of the weekly prices of raw sugar for the period October 7, 1955, through April 26, 1956; *Provided*, That the average price of raw sugar as determined under this subdivision (i) of this subparagraph or this subdivision may be reduced by not more than the following:

(a) 0.022 cent for all mills except those located in the areas defined in (b) and (c) below.

(b) 0.097 cent for mills located north of Bayou Goula between the Atchafalaya and Mississippi Rivers and southeast of New Iberia west of the Atchafalaya River; or

(c) 0.147 cent for mills located north and west of New Iberia west of the Atchafalaya River.

(2) The basic price for salvage sugarcane shall be as agreed upon between the processor and the producer, subject

to the approval of the State Administrative Officer of the Louisiana State Agricultural Stabilization and Conservation Office (hereinafter referred to as "State Officer.")

(c) *Conversion of net sugarcane to standard sugarcane.* Net sugarcane (except for salvage sugarcane) shall be converted to standard sugarcane as follows:

(1) By multiplying the quantity of net sugarcane by the applicable quality factor in accordance with the following table:

Percent sucrose in normal juice of net sugarcane:	Standard sugarcane quality factor ¹
9.5	.60
10.0	.70
10.5	.79
11.0	.89
11.5	.95
12.0	1.03
12.5	1.05
13.0	1.10
13.5	1.15
14.0	1.23
14.5	1.25

¹ The quality factor for sugarcane of intermediate percentages of sucrose in normal juice shall be interpolated and for sugarcane having more than 14.5 percent sucrose in the normal juice shall be computed in proportion to the immediately preceding interval.

and,

(2) By multiplying the quantity determined pursuant to subparagraph (1) of this paragraph by the applicable purity factor in the following table:

STANDARD SUGARCANE PURITY FACTOR¹

Purity of normal juice		Percent sucrose in normal juice																																																																																																																																																						
		At least 0.50	0.70	0.90	10.10	10.20	10.30	10.40	10.50	10.60	10.70	10.80	10.90	11.00	11.10	11.20	11.30	11.40	11.50	11.60	11.70	11.80	11.90	12.00	12.10	12.20	12.30	12.40	12.50	12.60	12.70	12.80	12.90	13.00	13.10	13.20	13.30	13.40	13.50	13.60	13.70	13.80	13.90	14.00	14.10	14.20	14.30	14.40	14.50	14.60	14.70	14.80	14.90	15.00	15.10	15.20	15.30	15.40	15.50																																																																																													
At least—	But not more than—	0.50	0.60	0.70	0.80	0.90	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00	3.10	3.20	3.30	3.40	3.50	3.60	3.70	3.80	3.90	4.00	4.10	4.20	4.30	4.40	4.50	4.60	4.70	4.80	4.90	5.00	5.10	5.20	5.30	5.40	5.50	5.60	5.70	5.80	5.90	6.00	6.10	6.20	6.30	6.40	6.50	6.60	6.70	6.80	6.90	7.00	7.10	7.20	7.30	7.40	7.50	7.60	7.70	7.80	7.90	8.00	8.10	8.20	8.30	8.40	8.50	8.60	8.70	8.80	8.90	9.00	9.10	9.20	9.30	9.40	9.50	9.60	9.70	9.80	9.90	10.00	10.10	10.20	10.30	10.40	10.50	10.60	10.70	10.80	10.90	11.00	11.10	11.20	11.30	11.40	11.50	11.60	11.70	11.80	11.90	12.00	12.10	12.20	12.30	12.40	12.50	12.60	12.70	12.80	12.90	13.00	13.10	13.20	13.30	13.40	13.50	13.60	13.70	13.80	13.90	14.00	14.10	14.20	14.30	14.40	14.50	14.60	14.70	14.80	14.90	15.00	15.10	15.20	15.30	15.40	15.50

¹ Factors applicable to higher sucrose and purity of the normal juice than shown in this table shall be determined by the same method of calculation used to compute the factors specified and shall be furnished by the Louisiana State A&C Office, Alexandria, Louisiana upon request.

(d) *Molasses payment.* For each ton of net sugarcane (except salvage sugarcane) there shall be paid an amount equal to the product of 7.2 and one-half of the average price per gallon of blackstrap molasses in excess of 6 cents. The average price of blackstrap molasses shall be either the simple average of the daily prices for the week in which the sugarcane is delivered, or the simple average of the weekly prices of blackstrap molasses for the period October 7, 1955 through February 23, 1956, as agreed upon between the processor and the producer.

(e) *General.* (1) The sucrose and purity of the normal juice shall be determined by acceptable methods of analysis on sugarcane as delivered, such methods to be subject to the approval of the State Officer.

(2) Because of decreased boiling house efficiency deductions may be made from the payment for frozen sugarcane accepted by the processor provided such deductions are at rates not in excess of 1.5 percent of the payment, computed without regard to the molasses payment, for each 0.1 cc. of acidity above 2.50 cc. of N/10 alkali per 10 cc. of juice but not in excess of 4.75 cc. (intervening fractions are to be computed to the nearest multiple of 0.05 cc.) Frozen sugarcane testing in excess of 4.75 cc. of acidity shall be considered as having no value. Sugarcane shall not be considered as frozen, even after being subjected to freezing temperature, unless and until there is evidence of damage having taken place because of the freeze, such evidence to be certified by the State Officer.

(3) In the event a general freeze causes abnormally low recoveries of raw sugar by a processor, in relation to the sucrose and purity tests of sugarcane, payment for such sugarcane may be made as mutually agreed upon between the producer and the processor, subject to approval by the State Officer: *Provided*, That the payment for each ton of net sugarcane shall be not less than an amount equal to the total returns from raw sugar and molasses actually recovered from such sugarcane, determined on the basis of the simple average of the weekly price of raw sugar for the period October 7, 1955 through April 26, 1956 and the simple average of the weekly prices of blackstrap molasses for the period October 7, 1955 through February 23, 1956, less an amount not to exceed \$3.00 per gross ton of sugarcane for processing and less actual costs of hoisting, field weighing and transporting such sugarcane.

(4) A processor who paid the costs for hoisting and weighing sugarcane of the 1954 crop shall also pay such costs with respect to the 1955 crop: *Provided*, That nothing in this subparagraph shall be construed as prohibiting negotiations with respect to such costs, any change to be approved by the State Officer.

(5) A processor who made allowances to producers for transporting sugarcane from the customary delivery points to the mill for the 1954 crop, shall also make such allowances for the 1955 crop: *Provided*, That nothing in this subparagraph shall be construed as requiring the processor to make allowances to pro-

ducers in excess of the actual costs or rates charged by a commercial carrier for the customary method of transportation: *Provided further* That where the only available practicable means of transportation is by railroad and the distance to the nearest mill is in excess of 50 miles or where, because of unusual circumstances, the cost of transporting sugarcane is in excess of customary allowances, such costs may be shared by the processor and the producer by agreement, subject to the approval of the State Officer.

(6) If a processor and the producers delivering sugarcane to such processor mutually agree upon a plan for improving harvesting and delivery operations, there may be deducted from the price per ton of sugarcane an amount equal to one-half of the cost of such plan. Such deduction may not be made until the plan has been approved by the State Officer.

(7) The processor shall not reduce the returns to the producer below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes fair and reasonable prices to be paid for sugarcane of the 1955 crop by a producer who processes sugarcane grown by other producers. It establishes the minimum requirements with respect to prices for sugarcane which must be met by such producer as one of the conditions for payment under the act.

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

(c) *1955 price determination.* The 1955 price determination is the same as the 1954 determination except that (1) the raw sugar pricing period used as the basis for computing the payment for sugarcane delivered by producers has been extended to cover a period of approximately seven months; (2) the area freight rate differentials have been readjusted to compensate processors for an increase in freight rates on raw sugar; (3) the definition of standard sugarcane has been changed by lowering the purity factor and (4) the molasses payment to producers is based on 7.2 gallons per ton of sugarcane to reflect the most recent 5-year average recovery. Minor changes in language also have been made in certain provisions of the determination.

A public hearing was held in Thibodaux, Louisiana, on July 29, 1955, regarding fair and reasonable prices for the 1955 crop of sugarcane. At this hearing a representative of the Louisiana Grower-Processor Committee stated that the Committee was not prepared to offer recommendations because of unresolved

problems relating to marketing allotments and other considerations involving the 1955 crop. This representative requested a recess in the hearing until a later date. The hearing was reconvened on September 7, 1955, and testimony was presented by one processor representative and two producer representatives. The processor representative recommended that the raw sugar pricing period used as the basis for payments for sugarcane be extended through April 1956, that an adjustment be made in the raw sugar freight differential to compensate processors for increases in raw sugar freight costs, and that producers share in the average cost of storing raw sugar which is not marketable during the calendar year 1955. A producer representative recommended that no change be made in the determination except that the raw sugar pricing period be extended through April 1956. Another producer representative recommended that the standard sugarcane purity factor be revised downward by 1.25 points in relation to normal juice sucrose, that the normal juice sucrose quality factors be revised to reflect a closer relationship to sugar recoveries at low sucrose levels, that no change be made which would require producers to bear any portion of the increases in freight rates on raw sugar, and that processors be required to continue to absorb all costs of storing raw sugar which is not marketable in the year in which produced.

Consideration has been given to the recommendations made at the public hearing, to information obtained as a result of investigations, to the returns, costs and profits of producing and processing sugarcane obtained by survey for recent years and restated in terms of prospective conditions for the 1955 crop and to other pertinent factors.

Analysis of the economic position of producers and processors indicates that a close relationship is expected to exist in the sharing of costs and returns with respect to the 1955 crop. The changes in the freight and purity provisions of this determination will not appreciably affect the distribution of total returns between producers and processors. Because of the expected equitable relationship the recommendation of processors that producers absorb a portion of the storage expense on raw sugar which is not marketable during the calendar year 1955 has not been adopted.

An examination of the standard sugarcane purity factor scale as related to normal juice sucrose of sugarcane indicates that during recent years changes in sugarcane varieties and in methods of harvesting have resulted in a sucrose-purity relationship which does not appear to be equitable to producers. Accordingly, the former purity scale has been adjusted downward in relation to the normal juice sucrose scale. Prior determinations defined standard sugarcane as sugarcane containing 12.0 percent sucrose in normal juice with a purity of at least 76.50, but not more than 76.99. This determination defines standard sugarcane as containing 12.0 percent sucrose in normal juice with a purity of at least 76.00 but not more than 76.49. Sucrose-purity relation-

ships at other levels have also been adjusted.

Freight rates on sugarcane and raw sugar were increased substantially during 1954. Processors recommended that the raw sugar freight differentials applicable to certain mill areas under prior determinations be increased to recognize the raw sugar freight rate increase. The freight allowances provided in this determination reflect the increase in freight rates on raw sugar and maintain the customary differentials heretofore established.

Recent determinations have provided for a raw sugar pricing period from approximately the first week in October to the last week of February. In view of the large quantities of raw sugar which cannot be marketed until 1956, processors and producers believed that a longer pricing period will be required. The pricing period recommended by both groups has been adopted.

On the basis of analysis of all pertinent factors the provisions of this determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing price determination is fair and reasonable and will effectuate the price provisions of the Act.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. 1131)

Issued this 10th day of October, 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-8310; Filed, Oct. 12, 1955; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Supp. 30]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

MAINTENANCE REQUIREMENTS

The purpose of this supplement is to revise § 42.32-2 (b) by removing the restrictive language with respect to the maintenance of air carrier aircraft by persons other than air carriers. As a result of this revision, the requirements relative to the maintenance of air carrier aircraft will be identical with the general requirements for maintenance of aircraft set forth in §§ 18.10 and 18.11 of this subchapter.

Section 42.32-2 (b) is revised to read as follows—and subparagraphs (1) and (2) of paragraph (b) are deleted.

§ 42.32-2 *Arrangements acceptable to the Administrator (CAA policies which apply to § 42.32 (a))* * * *

(b) The inspection, maintenance, overhaul, and repair of the air carrier's aircraft, including airframes, powerplants, propellers, and appliances is performed, inspected, and/or approved by an appropriately rated certificated repair station, appropriate certificated air carrier, or manufacturer in accordance with §§ 18.10 (b) (d) or (e) 18.11 (a) (2), (3) or (4) and 18.11 (b) (2) (3), or (4). *Provided*, That maintenance, minor repairs, and minor alterations

may be performed and/or approved by a certificated mechanic in accordance with §§ 18.10 (a) and 18.11 (a) (1) of this subchapter.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies secs. 601, 605, 62 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 555)

This supplement shall become effective November 1, 1955.

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

[F. R. Doc. 55-8283; Filed, Oct. 12, 1955; 8:45 a. m.]

[Supp. 2]

PART 52—REPAIR STATION CERTIFICATES LISTING OF SUPERVISORY PERSONNEL

Currently, Civil Aeronautics Manual 52 requires a listing on Form ACA-394 of the names of the management officials, the chief inspector, inspectors, and technical supervisors. In addition, a roster of and employment summaries for all supervisory and inspection personnel are required. The purpose of this supplement is (1) to require only the listing on Form ACA-394 of the name of the individual responsible for the overall management of the repair station and the name(s) of the individual(s) responsible for the release of items from the repair station, and (2) to require employment summaries for only those individuals responsible for the release of items from the repair station. As a result of these changes, an applicant for a repair station certificate need not submit a roster of and employment summaries for all supervisory and inspection personnel; and the holder of a certificate need not amend the original application whenever changes occur in station personnel.

This revision is a relaxation of requirements and is minor in nature. Therefore, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary and not required.

The following revisions are hereby adopted:

1. Section 52.5-1 is revised by changing paragraph (b) (1) (i) and (ii) and paragraph (c) (2) to read as follows: and by deleting subparagraph (4) of paragraph (c)

§ 52.5-1 *Procedure for applying for a repair station certificate (CAA rules which apply to § 52.5)* * * *

(b) *Application file.* (1) * * *

(i) An executed application for a Certificated Repair Station, Form ACA-394. Item 8a of this form shall include only the name of the individual responsible for the overall management of the repair station. Item 8b of this form shall include only the name(s) of the individual(s) responsible for the release of items from the repair station.

(ii) Employment summaries, providing the information in numerical sequence as required by § 52.24-1 for the chief inspector or other individual(s) having technical responsibility for final release of items from the repair station. If the management official retains the privilege of final airworthiness determi-

nation, an employment summary shall be included for such official.

(c) *Modifications or amendments to certificate.* * * *

(2) Changes in personnel involving officials responsible for overall management and individuals responsible for release of items from the repair station.

2. Section 52.24-1 is revised by deleting the last sentence of paragraph (b) and adding a new paragraph (c) to read as follows:

§ 52.24-1 *Records of supervisory and inspection personnel (CAA rules which apply to §§ 52.5 and 52.24)* * * *

(c) *Maintenance of records.* The roster and employment summaries required by paragraph (a) of this section and any changes made in accordance with paragraph (b) of this section shall be submitted to the local Aviation Safety Agent for personnel evaluation and shall thereafter be retained in the repair station administrative office. The current roster and employment summaries shall be made available for inspection by any authorized representative of the Administrator or Board on request.

(Sec. 205, 52 Stat. 934, 49 U. S. C. 425. Interpret or apply secs. 601, 607, 52 Stat. 1007, 1011, as amended; 49 U. S. C. 551, 557)

This supplement shall become effective November 1, 1955.

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

[F. R. Doc. 55-8282; Filed, Oct. 12, 1955; 8:45 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 136]

PART 603—RESTRICTED AREAS

ALTERATIONS

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

Part 603 is amended as follows:

1. In § 603.15, the Camp Hale, Colorado, temporary area (R-482) published on September 13, 1955 in 20 F. R. 6899, is amended by changing the "Time of Designation" column to read: "September 13, to June 30, 1956."

2. In § 603.18, the Oak Hill, Florida, area (R-68), amended on April 9, 1955 in 20 F. R. 2301, is rescinded.

(Sec. 205, 52 Stat. 934, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on October 15, 1955.

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

[F. R. Doc. 55-8281; Filed, Oct. 12, 1955; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 16—LAND TRANSPORTATION RADIO SERVICES

RECAPITULATION OF REGULATIONS

Because of the number of outstanding amendments to Part 16 since it was last recapitulated in the FEDERAL REGISTER (March 21, 1953, 18 F. R. 1616) Part 16 is recapitulated as of September 1, 1955, to read as set forth below.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Subpart A—General Information

- Sec. 16.1 Basis and purpose.
16.2 General limitations on use.
16.3 Cooperative use of facilities.
16.4 General citizenship restrictions.
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16.255 Limitations on installation and use.
16.256 Amortization period.
16.257 Modification of licenses to shift frequencies.

Subpart G [Reserved]

Subpart H—Railroad Radio Service

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16.355 Relay stations.
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Subpart I—Taxicab Radio Service

- 16.401 Eligibility.
16.402 Frequencies available for Base Stations and Mobile Stations.
16.403 Special limitations.
16.404 Frequencies available for Base, Mobile and Operational Fixed Stations.

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Subpart K—Automobile Emergency Radio Service

- 16.501 Eligibility.
16.502 Permissible communications.
16.503 Frequencies available for base and mobile stations.
16.504 Frequencies available for Base, Mobile and Operational Fixed Stations.

AUTHORITY: §§ 16.1 to 16.504 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082, as amended; 47 U. S. C. 301, 303.

SUBPART A—GENERAL INFORMATION

§ 16.1 *Basis and purpose.* (a) The basis for the rules following in this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party. The rules in this part are issued pursuant to the authority contained in Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of the rules and regulations in this part is to prescribe the conditions under which parts of the radio spectrum may be employed for radiocommunication and control facilities in certain land transportation operations.

§ 16.2 *General limitations on use.* The radio facilities authorized under this part shall not be used to render a com-

munications common carrier service or to carry program material of any kind for use in connection with radio broadcasting.

§ 16.3 *Cooperative use of facilities.* (a) A person who is engaged in any one of the transportation operations for which a radio service is available may receive radiocommunication service from a base station licensed to another person operating transportation facilities in the same service or from a non-profit corporation or association licensed in the same service and organized for the sole purpose of furnishing such a radiocommunication service. The rendition of such service, however, will not be required of the base station licensee without his consent except as provided in § 16.252. Such cooperative arrangements will be governed by the following:

(1) Persons who are to receive mobile radiocommunication service from a base station licensed to another person may, themselves, be the licensees of the radio units to be installed in their respective vehicles: *Provided*, That prior to receiving an authorization for the mobile units the person from whom the service is to be received files a request for authority to render such communication service to each person who is to receive service. The request must be notarized but may be in letter form submitted in duplicate. Upon approval of the request the Commission will designate the persons to whom service may be rendered on the base station authorization.

(2) The licensee of a base station may install licensed mobile units in the vehicles of other persons engaged in the same type of transportation: *Provided*, That in each case such persons shall enter into a written agreement verifying that the licensee has the sole right of control of the mobile radio units, that the vehicle operators shall operate the radio units subject to the orders and instructions of the base station operator and that the licensee shall at all times have such access to and control of the mobile equipment as will enable him to carry out his responsibilities under the license. A copy of the agreement with vehicle owners required hereby shall be kept with the station records and held available for inspection by the Commission representatives.

(b) All cooperative arrangements entered into under the provisions of this section shall be governed by the following requirements as to costs and charges:

(1) The arrangement must be established on a non-profit, cost-sharing basis by written contract between the parties and a copy of the contract must be kept with the records of the base station and held available for inspection by Commission representatives.

(2) Contributions to capital and operating expenses may be accepted only on a cost-sharing, non-profit basis, said costs to be prorated on an equitable basis among all persons who are parties to the cooperative arrangement. Records which reflect the cost of the service and its non-profit, cost-sharing nature shall be maintained by the base station licensee and held available for inspection

by Commission representatives. An audited financial statement reflecting the non-profit, cost-sharing nature of the arrangement shall be submitted annually to the Commission's Washington office no later than three months after the close of the licensee's fiscal year.

§ 16.4 *General citizenship restrictions.* A station license may not be granted to or held by—

- (a) Any alien or the representative of any alien;
- (b) Any foreign government or the representative thereof;
- (c) Any corporation organized under the laws of any foreign government;
- (d) Any corporation of which any officer or director is an alien;
- (e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by Aliens or their representatives; a foreign government or representative thereof; or any corporation organized under the laws of a foreign country;
- (f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license; or
- (g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by Aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign government—if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§ 16.5 *Transfer and assignment of station authorization.* A station authorization, the frequencies authorized to be used by the grantee of such authorization, and the rights therein granted by such authorization shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such authorization, to any person, unless the Commission shall, after securing full information, decide that the said transfer is in the public interest. Requests for authority to assign a station authorization may be submitted in accordance with § 16.56 (b) while a request for authority to transfer control of a corporation, as by sale of controlling stock interest, shall be submitted in accordance with § 16.56 (d)

§ 16.6 *Definition of terms.* For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2 of this chapter, Frequency Allocations and Treaty Matters; General Rules and Regulations.

(a) *Assigned frequency.* The frequency appearing on a station authorization, from which the carrier frequency may deviate by an amount not to exceed that permitted by the frequency tolerance.

(b) *Authorized bandwidth.* The frequency band, specified in kilocycles and centered on the carrier frequency, con-

taining those frequencies upon which a total of 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power.

(c) *Base station.* See paragraph (i) of this section, Land station.

(d) *Control station.* An operational fixed station, the transmissions of which are used to automatically control the emissions or operation of another radio station at a specified location.

(e) *Fixed service.* A service of radio communication between specified points.

(f) *Harmful interference.* Any radiation or any induction which endangers the functioning of a radionavigation service or of a safety service or obstructs or repeatedly interrupts a radio service operating in accordance with the regulations in this part. (For purposes of this definition only, a safety service is any radio service whose operation is directly related, whether permanently or temporarily, to the safety of human life and the safeguarding of property.)

(g) *Motor Carrier Radio Service.* A radiocommunication service for use in connection with the operation of a motor carrier land transportation system.

(h) *Motor Carrier.* Any streetcar, bus, truck or other land motor vehicle operated over public streets or highways by a common or contract carrier and used for the transportation of passengers or property (freight) for compensation: *Provided, however,* That motor vehicles used as taxicabs, livery vehicles or school buses, and motor vehicles used for sight-seeing or special charter purposes, shall not be included within the meaning of this term as used in the Motor Carrier Radio Service.

(i) *Land station.* A station in the mobile service not intended for operation while in motion. (Of the various types of land stations, only the Base station is pertinent to this part, and will be used interchangeably with Land stations.)

(j) *Landing area.* A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used, or approved for use for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

NOTE: Consideration of aeronautical facilities not in existence at the time of the filing of the application for radio facilities will be given only when proposed airport construction or improvement plans are on file with the CAA as of the filing date of the application for such radio facilities.

(k) *Mobile service.* A service of radiocommunication between mobile and land stations, or between mobile stations.

(l) *Mobile station.* A station in a mobile service intended to be used while in motion or during halts at unspecified points.

(m) *Operational fixed station.* A fixed station, not open to public correspondence, operated by, and for the sole use of those agencies operating their own radiocommunication facilities in the Public Safety, Industrial, Land Trans-

portation, or Aviation Services. (This term includes all stations licensed in the fixed service under this part.)

(n) *Person.* An individual, partnership, association, joint stock company, trust, or corporation.

(o) *Railroad Radio Service.* The term "Railroad Radio Service" as used in this part means a radiocommunication service for use in connection with the operation and maintenance of a railroad common carrier.

(p) *Fixed relay station.* An operational fixed station in the fixed service, established to receive radio signals directed to it from any source and to retransmit them automatically on a fixed service frequency for reception at one or more fixed points.

(q) *Mobile relay station.* A base station in the mobile service, authorized primarily to retransmit automatically on a mobile service frequency communications originated by mobile stations. (Authorized in the railroad radio service only.)

(r) *Station authorization.* Any construction permit, license, or special temporary authority issued by the Commission.

(s) *Taxicab Radio Service.* The term "Taxicab Radio Service" as used in this part, means a radiocommunication service for use in connection with the transportation facilities of a taxicab common carrier.

(t) *Telemetering.* Automatic radiocommunication, in a fixed or mobile service, intended to indicate or record a measurable variable quantity at a distance.

(u) *Common Carrier.* As used in the Motor Carrier Radio Service, a person who holds himself out to the general public to engage in the transportation of passengers or property without discrimination, for compensation as a regular occupation or business.

(v) *Automobile Emergency Radio Service.* The term "Automobile Emergency Radio Service" as used in this part means a radiocommunication service for use in connection with the dispatching of emergency road service vehicles by associations of owners of private automobiles and public garages.

(w) *Antenna structure.* The term "antenna structure" includes the radiating system and its supporting structures.

(x) *Contract carrier.* As used in the Motor Carrier Radio Service, a person who under individual contracts or agreements engages in the transportation of passengers or property for compensation as a regular occupation or business.

(y) *Urban area.* As used in the Motor Carrier Radio Service, one or more contiguous, incorporated or unincorporated, cities, boroughs, towns, or villages, having aggregate population of 2,500 or more persons.

§ 16.8 *Policy governing the assignment of frequencies.* (a) The frequencies which may be assigned to stations operating in the Land Transportation Radio Services are listed in the applicable subpart of this part. Each frequency or band of frequencies, available for assignment to stations in these services is available on a shared basis only, and will

not be assigned for the exclusive use of any one applicant. All applicants for, and licensees of, stations in these services shall cooperate in the selection and use of the frequencies assigned in order to minimize interference and thereby obtain the most effective use of the authorized facilities. In the event that two or more licensees are unable to make an equitable division of transmission time the Commission, at its discretion, may specify a time sharing arrangement. The use of any of these frequencies may be restricted to one or more geographical areas.

(b) Outside the continental limits of the United States and waters adjacent thereto, frequencies above 152 Mc, listed elsewhere in this part as available for assignment to Base Stations or Mobile Stations in particular Services are also available for assignment to Operational Fixed Stations in the same Service on condition that no harmful interference be caused to mobile service operations.

(c) Frequencies assigned to Federal Government radio stations under Executive order of the President may be authorized for use by stations licensed under this part upon appropriate showing by the applicant that such assignment is necessary for inter-communication with Federal Government stations or required for coordination with activities of the Federal Government, provided the Commission, determines, after consultation with the appropriate government agency or agencies, that such assignment is necessary.

(d) The following criteria shall govern the authorization and use of frequencies within the band 72-76 Mc to and by fixed stations:

(1) All authorizations are subject to the condition that no harmful interference will be caused to television reception on Channels 4 and 5.

(2) The applicant agrees to eliminate any harmful interference caused by his operation to TV reception on either Channel 4 or 5 that might develop by whatever means are found necessary within 90 days of the time knowledge of said interference is first brought to his attention by the Commission. If said interference is not cleared up within the 90-day period, operation of the fixed station will be discontinued.

(3) Vertical polarization is used.

(4) Whenever it is proposed to locate a 72-76 Mc fixed station less than 80, but more than 10 miles from the site of a TV transmitter operating on either Channel 4 or 5, or from the post office of a community in which such channels are assigned but are not in operation, the fixed station shall be authorized only if:

(i) There are fewer than 100 family dwelling units¹ located within a circle centered at the location of the proposed fixed station² the radius of which shall be determined by use of the chart entitled, "Chart for Determining Radius From Fixed Station in 72-76 Mc Band to Interference Contour Along Which 10

Percent of Service From Adjacent Channel Television Station Would Be Destroyed." Two charts are provided, one for Channel 4 and one for Channel 5: *Provided, however* That the Commission may, in a particular case, authorize the location of a fixed station within a circle as determined under subdivision (i) of this subparagraph containing 100 or more family dwelling units upon a showing that:

(a) The proposed site is the only suitable location.

(b) It is not feasible, technically or otherwise to use other available frequencies.

(c) The applicant has a plan to control any interference that might develop to TV reception from his operations.

(d) The applicant is financially able and agrees to make such adjustments in the TV receivers affected as may be necessary to eliminate interference caused by his operations.

(5) All applications seeking authority to operate with a separation of less than 10 miles will be returned without action.

SUBPART B—APPLICATIONS, AUTHORIZATIONS, AND NOTIFICATIONS

§ 16.51 *Station authorization required.* No radio transmitter shall be operated in the Land Transportation Radio Services except under and in accordance with a valid station authorization granted by the Federal Communications Commission.

§ 16.52 *Procedure for obtaining a radio station authorization and for commencement of operation.* (a) Persons desiring to install and operate radio transmitting equipment should first submit an application for a radio station authorization in accordance with § 16.56 (a)

(b) When construction permit only has been issued for a base, fixed or mobile station and installation has been completed in accordance with the terms of the construction permit and the applicable rules of the Commission, the permittee shall proceed further as follows:

(1) Notify the Engineer-in-Charge of the local radio district of the date on which the transmitter will first be tested in such manner as to produce radiation, giving name of the permittee, station location, call sign, and frequencies on which tests are to be conducted. This notification shall be made in writing at least two days in advance of the test date. FCC Form 456 may be used for this purpose. No reply from the radio district office is necessary before the tests are begun.

(2) After testing, but on or before the date when the station is first used for operational purposes, mail to the Commission in Washington, D. C., an application on FCC Form 400 for license or modification of license, as appropriate in the particular case. The station may thereafter be used as though licensed, pending Commission action on the license application.

(c) When a construction permit and license for a new base, fixed or mobile station are issued simultaneously the licensee shall notify the Engineer-in-

Charge of the local radio district of the date on which the transmitter will be placed in operation, giving name of licensee, station location, call sign, and operating frequencies. This notification shall be made in writing on or before the day on which operation is commenced. FCC Form 456 may be used for this purpose.

(d) When a construction permit and modification of license for a base, fixed or mobile station are issued simultaneously, operation may be commenced without notification to the Engineer-in-Charge of the local radio district, except where operation on a new, or different frequency results by reason of such modification, in which event the notification procedure set forth in paragraph (c) of this section must be observed.

§ 16.53 *Special temporary authority.* (a) (1) In cases of emergency found by the Commission involving danger to life or property, or due to damage to equipment, temporary authorization for the construction and operation of a radio station may be granted for the duration of such emergency. Requests for such temporary authorization may be filed without regard to the provisions of § 16.56 in letter form or by telegram, but shall contain the following information:

(i) Name, address, and citizenship status of applicant;

(ii) Statement of facts upon which the request for emergency authorization is based, including estimated duration of emergency, and explanation why a formal application could not have been submitted in time to get a regular license;

(iii) Class of station and nature of service;

(iv) Location of station including, when appropriate, geographical coordinates;

(v) Equipment to be used, specifying manufacturer, model number and number of units, frequencies desired, plate power input to final radio frequency stage, and type of emission.

If any of the foregoing information is presently on file with the Commission, such information may be included by reference. The applicant may be required, whenever such action may be considered necessary by the Commission, to supplement the information enumerated by filing as soon as practicable a formal application on the prescribed form.

(2) In cases where an urgent need is shown for operation of an authorized station for a limited time only, in a manner other than that specified in the existing authorization, but not in conflict with the rules, or

(3) For the purpose of conducting a field survey to determine necessary data in connection with the filing of formal applications for installation of a radio system in some service under this part. In this case, the authority, if issued, will be for developmental operation only, and the applicable sections of Subpart E of this part shall also apply to the grant.

(b) An application for special temporary authority other than that to which paragraph (a) (1) of this section applies, may be filed as an informal ap-

¹ As defined by the U. S. Bureau of Census.

² Family dwelling units 70 or more miles distant from the TV antenna site are not to be counted.

plication in the manner prescribed by § 16.56 (g) and shall contain the following information:

- (1) Name, address, and citizenship status of applicant.
- (2) Need for special action.
- (3) Type of operation to be conducted.
- (4) Purpose of operation.
- (5) Time and date of operation desired.
- (6) Class of station and nature of service.
- (7) Location of station.
- (8) Equipment to be used, specifying manufacturer.
- (9) Frequency(s) desired.
- (10) Plate power input to final radio frequency stage.
- (11) Type of emission.

§ 16.54 *Filing of applications.* (a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to the Land Transportation Radio Services are discussed in § 16.56, and may be obtained from the Washington, D. C., office of the Commission, or from any of its engineering field offices. Concerning matters where no standard form is applicable, the procedure outlined in § 16.56 (g) should be followed.

(b) Any application for radio station authorization, and all correspondence relating thereto, shall be submitted to the Commission's office at Washington 25, D. C., and should be directed to the attention of the Secretary.

(c) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed.

(d) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(e) Applications involving operation at temporary locations:

(1) When a base station or a fixed station is to remain at a single location for less than one year, the location is considered to be temporary. An application for authority to operate at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, a state or states, "Gulf Coast area", "Eastern U. S." etc.

(2) When a base station or fixed station authorized to operate at temporary locations remains at a single location for more than one year, an application for modification of the station authorization to specify the permanent location shall be filed within thirty days after expiration of the one year period.

§ 16.55 *Who may sign applications.* One copy of each application for an authorization shall be signed under oath or affirmation by the applicant if the applicant be an individual, or any one of

the partners if an applicant be a partnership, by an officer if the applicant be a corporation, or by a member who is an officer if the applicant be an unincorporated association: *Provided, however,* That applications may be signed by the attorney for an applicant in case of (a) physical disability of the applicant, or (b) his absence from the continental United States. If it be made by a person other than the applicant, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the applicant.

§ 16.56 *Standard forms to be used.*

(a) A separate application shall be submitted on FCC Form 400 for the following:

(1) New station authorization for a base or fixed station.

(2) New station authorization for any required number of mobile units (including hand-carried or pack-carried units) to be operated in the same service.

Note: An application for mobile units may be combined with an application for a single base station for such mobile units as will operate with that base station only.

(3) License for any class of station upon completion of construction or installation in accordance with the terms and conditions set forth in the construction permit.

(4) Modification of a combined construction permit and station license for changes outlined in § 16.64 (a).

(5) Modification of construction permit.

(6) Modification of station license.

Any of the foregoing applications will, upon approval and authentication by the Commission, be returned to the applicant as a specifically designated type of authorization.

(b) When the holder of a station authorization desires to assign to another person the privilege to construct or use a radio station, he shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 400 prepared by and in the name of the person to whom the station is being assigned.

(c) A separate application may be submitted on FCC Form 400-A for certain changes to authorized stations as specified in § 16.64 (b)

(d) A separate application shall be submitted on FCC Form 703 whenever it is proposed to change the control of a corporate permittee or licensee.

(e) FCC Form 456 "Notification of Completion of Radio Station Construction" may be used to advise the Engineer-in-Charge of the local district office that construction of the station is complete and that operational tests will begin.

(f) Application for renewal of station license shall be submitted on FCC Form

405-A. Unless otherwise directed by the Commission, each application for renewal of license shall be filed during the last 60 days of the license term. In any case in which the licensee has, in accordance with the Commission's rules made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(g) *Informal applications:*

(1) An application not submitted on a standard form prescribed by the Commission is considered to be an informal application. Each informal application shall be submitted in duplicate, normally in letter form, and with the original signed under oath or affirmation. Each application shall be clear and complete within itself as to the facts presented and action desired.

(2) A request for special temporary authorization must include full particulars as to the purpose for which the request is made and such request should be submitted at least 10 days prior to the date of the proposed operation. A request received within less than 10 days may be accepted upon due showing of sufficient reason for the delay in submitting the request. The information necessary to Commission action on requests for Special Temporary Authority is set forth in § 16.53 of this subpart.

§ 16.58 *Supplemental information to be submitted with application.* Each application for station authorization shall be accompanied by such supplemental information listed below as may be required:

(a) Any statements or showings required by the applicable subpart of this part, in connection with the use of the frequency requested.

(b) Statements justifying the need when more frequencies are desired than are normally assigned to a single applicant under the applicable subpart of this part.

(c) Statement describing the type of emission to be used if it cannot be described as "8A3" or "40F3" pursuant to Subpart C of this part.

(d) Description of the antenna system, on FCC Form 401-A in quadruplicate, in all cases when:

(1) The antenna structure proposed to be erected will exceed an over-all height of 170 feet above ground level: *Provided, however,* That FCC Form 401-A is not required when the antenna is mounted on top of an existing man-made structure and does not increase the over-all height of such man-made structure by more than 20 feet; or

(2) The antenna structure proposed to be erected will exceed an over-all height of one foot above the established airport (landing area) elevation for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area: *Provided, however,* That FCC Form 401-A is not required when the antenna does not exceed 20 feet above the ground or is mounted on top of an existing man-made structure or natural formation and does not increase the

over-all height of such man-made structure or natural formation by more than 20 feet.

(e) A functional system diagram and a detailed description of the manner in which the interrelated stations will operate when the station is, or will be, part of a system involving two or more stations at different fixed locations.

(f) Copies of all agreements and statements which may be required under § 16.3 if operation is desired in connection with any cooperative or joint use of the proposed radio communication facilities.

(g) Statements required by the Rules in connection with developmental operation. See §§ 16.202, 16.203, 16.207.

(h) Description of any equipment, proposed to be used, which does not appear on the Commission's List of Equipments Acceptable for Licensing, and designated for use in the Public Safety, Industrial and Land Transportation Radio Services.

(i) Any statements or other data required under special circumstances as set forth in the applicable subpart of this part, or required upon request by the Commission.

§ 16.59 *Partial grant.* Where the Commission, without a hearing, grants an application in part, or with any privileges, terms or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 20 days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action and set the application for hearing.

§ 16.60 *Defective applications.* (a) An application which is not prepared in accordance with the Commission's rules or other requirements will be considered defective and will be returned to the applicant.

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) Applications which are not in accordance with the Commission's rules, regulations or other requirements will be considered defective unless accompanied by a petition to amend any rule or regulation with which the application is in conflict.

§ 16.61 *Amendment or dismissal of applications.* Any application may be amended or dismissed without prejudice upon request of the applicant prior to the time the application is granted or designated for hearing. Each amendment to, or request for dismissal of an application shall be signed, authenticated, and submitted in the same manner and with the same number of copies as required for the original application. All subsequent correspondence or other material which the applicant desires to have incorporated as a part of an application already filed shall be submitted

in the form of an amendment to the application.

§ 16.62 *Construction period.* (a) Each radio station construction permit issued by the Commission will specify the date of grant as the earliest date of commencement of construction and installation, and a maximum of eight months thereafter as the time within which construction shall be completed and the station ready for operation, unless otherwise determined by the Commission in any particular case.

(b) In cases where the station is not ready for operational use on or before the expiration date of the construction permit, application for extension of time to construct shall be filed on FCC Form 400-A.

§ 16.63 *License term.* (a) For all stations in the Land-Transportation Radio Services, except those engaged in developmental operation the license period shall be as follows:

(1) Each station license will be issued for a term of from one to five years from the effective date of grant, the term varying as may be necessary to permit the orderly scheduling of renewal applications.

(2) Each station license normally will be renewed, upon proper application, for a term of four years from the effective date of renewal.

(b) Instruments of authorization for stations engaged in developmental operation will be made upon a temporary basis for a specific period of time, but in no event to extend beyond one year from date of grant.

§ 16.64 *Changes in authorized stations.* Authority for certain changes in authorized stations must be obtained from the Commission before these changes are made, while other changes do not require prior Commission approval. The following paragraphs describe the conditions under which prior Commission approval is or is not necessary.

(a) Proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of construction permit and/or license be submitted to the Commission and, except as set forth in paragraph (b) of this section, shall be on Form 400 and shall be accompanied by exhibits and supplementary statements as required by § 16.58.

(b) Any of the following changes to authorized stations may be made upon approval by the Commission of a "Request for Amendment of Radio Station Authorization" submitted on FCC Form 400-A.

(1) Change in presently authorized location of transmitter control point.

(2) Addition or deletion of control point(s) for presently authorized transmitter.

(3) Reduction in antenna height. If painting and/or lighting of the antenna supporting structure is required, FCC Form 401-A must also be submitted.

(4) A reduction in the over-all number of transmitters authorized for mobile use.

(5) An increase in the over-all number of transmitters authorized for mobile

use. This form may be used only when adding mobile transmitters which are included in the Commission's "List of Equipments Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services.

(6) An extension of the time limit specified in a construction permit.

(c) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes is the substitution of various makes of transmitting equipment at any station provided the particular equipment to be installed is included in the Commission's "List of Equipments Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services and provided the substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

§ 16.65 *Discontinuance of station operation.* In case of permanent discontinuance of operation of a station in this service, the licensee shall forward the station license to the Washington, D. C. office of the Commission for cancellation. A copy of the request for cancellation of the license shall be forwarded to the Commission's Engineer in Charge of the district in which the station is located. For purposes of this rule, a station which is not operated for a period of one year is considered to have been permanently discontinued.

SUBPART C—TECHNICAL STANDARDS

§ 16.101 *Frequencies.* The frequencies available for use in these services are listed in the applicable subpart of this part. The separation shown between assignable frequencies in the various bands does not necessarily indicate the actual amount of separation required for satisfactory operation of two or more systems within the same geographical area. Accordingly, grants of adjacent channel assignments in all bands will be in the discretion of the Commission.

§ 16.102 *Frequency stability.* (a) The carrier frequency of each authorized transmitter in these services shall be maintained within the following percentage of the assigned frequency, except as provided in paragraph (b) of this section:

Frequency range:	Frequency tolerance (percent)
Below 50 Mc.....	0.01
From 50-220 Mc.....	0.05
Above 220 Mc.....	(1)

¹ To be specified in the authorization.

(b) For transmitters authorized to operate with a maximum plate power input to the final radio frequency stage of 3 watts or less, the frequency may be maintained as shown in the table below in lieu of the requirements in paragraph (a) of this section:

Frequency range:	Frequency tolerance (percent)
Below 50 Mc.....	0.02
From 50-220 Mc.....	.01

§ 16.103 *Types of emission.* (a) Except as provided in paragraph (b) of this section, stations in these services will be authorized to use only A3 or F3 emission for radiotelephony. The authorization to use A3 or F3 emission will be construed to include the use of tone signals or signaling devices whose sole function is to establish and maintain communication between stations.

(b) Other types of emission not described in paragraph (a) of this section may be authorized upon a satisfactory showing of need therefor. An application requesting such authorization shall fully describe the emission desired, shall indicate the bandwidth required for satisfactory communication, and shall state the purpose for which such emission is required. For information regarding the classification of emissions and the calculation of the bandwidth, reference should be made to Part 2 of this subchapter.

§ 16.104 *Emission limitations.* (a) Each authorization issued to a station operating in these services will show, as the prefix to the emission classification, a figure specifying the maximum authorized bandwidth in kc to be occupied by the emission. The specified band shall contain those frequencies upon which a total of 99 percent of the radiated power appears extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power. Any radiation in excess of the limits specified in paragraph (c) of this section is considered to be an unauthorized emission.

(b) The emission prefix figures referred to in paragraph (a) of this section for the types of emission covered by § 16.103 (a) are listed in the table below:

Type of emission:	Authorized bandwidth (Kc.)
A-3.....	8
F-3.....	40

(c) For purpose of demonstrating compliance with paragraph (a) of this section, the following limits apply:

(1) Any emission appearing on any frequency removed from the carrier frequency by at least 50 percent, but not more than 100 percent, of the maximum authorized bandwidth shall be attenuated not less than 25 db below the unmodulated carrier.

(2) Any spurious or harmonic emission appearing on any frequency removed from the carrier frequency by at least 100 percent of the maximum authorized bandwidth shall be attenuated below the unmodulated carrier by not less than the amount indicated in the following table:

Maximum authorized plate power input to the final radio frequency stage	Attenuation (db)
3 watts or less.....	40
Over 3 watts and including 150 watts.....	60
Over 150 watts and including 600 watts.....	70
Over 600 watts.....	80

(d) When an unauthorized emission results in harmful interference, the Commission may, in its discretion, require appropriate technical changes in equipment to alleviate the interference.

§ 16.105 *Modulation requirements.* (a) The maximum frequency required for satisfactory radiotelephone intelligibility in these services is considered to be 3000 cycles per second, and the transmission of higher frequencies is unauthorized.

(b) When amplitude modulation is used for telephony, the modulation percentage shall be sufficient to provide efficient communication and shall be normally maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) When phase or frequency modulation is used for telephony, the deviation arising from modulation shall not exceed plus or minus 15 kc from the unmodulated carrier.

(d) Each transmitter authorized or installed after July 1, 1950 shall be provided with a device which will automatically prevent modulation in excess of that specified in paragraphs (b) and (c) of this section which may be caused by greater than normal audio level: *Provided, however,* That this requirement shall not be applicable to transmitters authorized to operate with a maximum plate power input to the final radio frequency stage of 3 watts or less.

(e) This section which may be caused by greater than normal audio level: *Provided, however,* That this requirement shall not be applicable to transmitters authorized to operate with a maximum plate power input to the final radio frequency stage of 3 watts or less.

§ 16.106 *Power and antenna height.* (a) The power which may be used by a station in these services shall be no more than the minimum required for the satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception. In cases of harmful interference, the Commission may order a change in power or antenna height, or both.

(b) Except where the power that may be used on a designated frequency is specifically limited to a lower value, plate power input to the final radio frequency stage will not be authorized in excess of the following tabulation:

Frequency:	Maximum plate power input to the final radio stage (watts)
30-100 Mc.....	500
100-220 Mc.....	120
Above 220 Mc.....	(1)

(1) To be specified in authorization.

(c) The plate power input to the final r. f. stage under actual operation shall not exceed by more than 10 percent the plate power input shown in the Radio Equipment List, Part C, for transmitters included in this list, or the manufacturer's rated plate power input for the particular transmitter specifically listed on the authorization.

§ 16.107 *Transmitter control requirements.* (a) Each transmitter shall be so installed and protected that it is not accessible to or capable of operation by persons other than those duly authorized by the licensee.

(b) A control point is an operating position which meets all of the following conditions:

- (1) The position must be under the control and supervision of the licensee;
- (2) It is a position at which the monitoring facilities required by this section are installed; and

(3) It is a position at which an operator responsible for the operation of the transmitter is stationed.

(c) Each station shall be provided with a control point, the location of which will be specified in the license. It will be assumed that the location of the control point is the same as that of the transmitting equipment unless the application includes a request for a different location. Authority must be obtained from the Commission for the installation of additional control points.

(d) A dispatch point is a position from which messages may be transmitted under the supervision of a control point operator. Dispatch points may be installed without authorization from the Commission.

(e) At each control point the following facilities shall be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmitter is radiating; or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter control circuits have been placed in a condition to produce radiation: *Provided, however* That the provisions of this subparagraph shall not apply to hand-carried or pack-carried transmitters;

(2) Equipment to permit the operator to aurally monitor all transmissions originating at dispatch points under his supervision;

(3) Facilities which will permit the operator either to disconnect the dispatch point circuits from the transmitter or to render the transmitter inoperative from any dispatch point under his supervision; and

(4) Facilities which will permit the operator to turn the transmitter carrier on and off at will.

§ 16.108 *Transmitter measurements.*

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter, authorized to operate with a plate input power to the final radio frequency stage in excess of three watts, is maintained within the tolerance prescribed in this part. This determination shall be made, and the results thereof entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequency or the stability thereof;

(3) At intervals not to exceed six months, for transmitters employing crystal-controlled oscillators;

(4) At intervals not to exceed one month, for transmitters not employing crystal-controlled oscillators.

(b) The licensee of each station shall employ a suitable procedure to determine that the plate power input to the final radio frequency stage of each base station or fixed station transmitter, authorized to operate with a plate power input to the final radio frequency stage in excess of three watts, does not exceed the maximum figure specified on the current instrument of authorization. Where the transmitter is so constructed that a direct measurement of plate cur-

rent in the final radio frequency stage is not practicable, the plate power input may be determined from a measurement of the cathode current in the final radio frequency stage. When the plate input to the final radio frequency stage is determined from a measurement of the cathode current, the required record entry shall indicate clearly the quantities that were measured, the measured values thereof, and the method of determining the plate power input from the measured values. This determination shall be made, and the results thereof entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may increase the transmitter power input;

(3) At intervals not to exceed six months.

(c) The licensee of each station shall employ a suitable procedure to determine that the modulation of each transmitter, authorized to operate with a plate power input to the final radio frequency stage in excess of three watts, does not exceed the limits specified in this part. This determination shall be made and the results thereof entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the modulation characteristics;

(3) At intervals not to exceed six months.

(d) The determinations required by paragraphs (a), (b) and (c) of this section may, at the option of the licensee, be made by any qualified engineering measurement service, in which case, the required record entries shall show the name and address of the engineering measurement service as well as the name of the person making the measurements.

(e) In the case of mobile transmitters, the determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench: *Provided*, The measurements are made under load conditions equivalent to actual operating conditions: *And provided further* That after the installation the transmitter is given a routine check to determine that it is capable of being received satisfactorily by an appropriate receiver.

§ 16.109 *Acceptability of transmitters for licensing.* (a) From time to time the Commission will publish a list of equipment entitled "Radio Equipment List, Part C, List of Equipment Acceptable for Licensing." Copies of this list are available for inspection at the Commission's Offices in Washington, D. C. and at each of its field offices. This list will include type approved and type accepted equipment and equipment which was included in this list on May 16, 1955. Such equipment will continue to be included on the list unless it is removed therefrom by Commission action.

(b) Except for transmitters used at developmental stations, each transmitter utilized by a station authorized for oper-

ation under these rules must be of a type which is included on the Commission's current "List of Equipment Acceptable for Licensing" and designated for use in this service or be of a type which has been type accepted by the Commission for use in this service. Until January 1, 1965, however, equipment presently in use may continue to be used by the licensee, his successors, or assigns in business provided the operation of such equipment does not result in harmful interference due to the failure of such equipment to comply with the current technical standards of the rules.

§ 16.110 *Type acceptance of equipment.* (a) Any manufacturer of a transmitter to be built for use in this service may request "type acceptance" for such transmitter following the type acceptance procedure set forth in Part 2 of this chapter.

(b) Type acceptance for an individual transmitter may also be requested by an applicant for a station authorization by following the type acceptance procedure set forth in Part 2 of this chapter. Such transmitters, if accepted, will not normally be included on the Commission's "Radio Equipment List, Part C, List of Equipment Acceptable for Licensing" but will be individually enumerated on the station authorization.

(c) Additional rules with respect to type acceptance are set forth in Part 2 of this chapter. These rules include information with respect to withdrawal of type acceptance, modification of type accepted equipment and limitations on the findings upon which type acceptance is based.

SUBPART D—STATION OPERATING REQUIREMENTS

§ 16.151 *Permissible communications.*

(a) Except as provided in § 16.502, stations licensed under this part may transmit the following types of communications:

(1) Any communication related directly to the safety of life or the protection of important property.

(2) Communications required for the efficient operation of the transportation system, as described in the application for authorization and defined in the rule of eligibility for the particular service; subject to the condition that harmful interference is not caused to safety communications of stations licensed under this part, and further subject to the condition that the transmission of each message shall be accomplished as quickly as possible and without superfluous language.

(b) A station licensed under this part may communicate with other stations without restriction as to type, service, or license when the communications to be transmitted are related directly to the safety of life or protection of important property.

(c) For transmission of all communications other than those described in paragraph (a) (1) of this section, a station licensed under this part shall communicate only as follows:

(1) Each unit of a mobile station is authorized primarily to communicate with other units of the mobile station, and with associated base stations. Sec-

ondarily, each unit of a mobile station is authorized to communicate with associated fixed stations.

(2) Each base station is authorized primarily to communicate with the units of an associated mobile station. Secondly, each base station may communicate with an associated base station, fixed stations, or fixed receiver when:

(i) The messages to be transmitted are of immediate importance to mobile units; or

(ii) Wireline communication facilities between such points are inoperative, economically impracticable, or unavailable from communications common carrier sources;

(3) Each fixed station is authorized primarily to communicate with associated fixed stations and fixed receivers. Secondly, each fixed station is authorized to communicate with units of an associated mobile station, and, subject to the limitations of subparagraph (2) of this paragraph, with associated base stations.

(4) Subject to the other conditions of this paragraph, stations licensed under this part may communicate with stations of other licensees and with U. S. Government stations in those cases which require cooperation or coordination of activities: *Provided, however*, That where communication is desired with stations authorized to operate under the authority of a foreign jurisdiction, prior approval of this Commission must be obtained.

(d) All communications, regardless of their nature, shall be restricted to the minimum practicable transmission time, and a standard uniform operating procedure shall be employed by each licensee. Continuous radiation of an unmodulated carrier is prohibited, except when necessary for test purposes, or when specifically authorized in writing by the Commission.

(e) The licensee of any station in these services may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication without regard to the limitations of this section: *Provided, That*:

(1) As soon as possible after the beginning of such emergency use, notice be sent to the Commission in Washington, D. C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the emergency and the use to which the station is being put;

(2) The emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available, and the Commission in Washington, D. C., and the Engineer in Charge be notified immediately when such special use of the station is terminated; and

(3) The Commission may at any time order the discontinuance of such special use of the authorized facilities.

(f) Tests may be conducted by any licensed station, as required for proper station and system maintenance, but such tests shall be kept to a minimum

and precautions shall be taken to avoid interference to other stations.

§ 16.152 *Station identification.* (a) A base station or mobile in the Land Transportation Service must be identified at the end of each transmission, except, that in event of a continued exchange of communications, identifications shall be made at the end of a series of such transmissions or at the end of each 15-minute period if the exchange continues without substantial interruption.

(b) Identification shall be by assigned call letters unless a different method is specifically authorized by the Commission. Licensees may submit to the Commission's Engineer in Charge of the local area a proposal for special mobile unit designations and, upon receipt from the Commission of a notification or authorization, may identify individual mobile units by this method in lieu of the use of assigned call letters. However, this authority will not be granted in those cases where there is a possibility of harmful international interference, such as might be caused by stations operating on frequencies below 50 Mc. or stations operating in areas within 50 miles of an international boundary, or in those instances where it appears to the Engineer in Charge that the proposed method of identification will not serve to clearly distinguish the mobile units of the applicant from the mobile units of other licensees in the area.

(c) Stations in the Railroad Radio Service may be identified, in lieu of the use of assigned call letters, by the name of the railroad and the train number, caboose number, engine number or name of fixed wayside station; or, if that is not practicable, by such other number or name as may be specified by the railroad concerned for the use of employees of the railroad to identify the fixed point or mobile unit. Where identification is made other than by train number, caboose number or engine number, a list of such identification shall be maintained by the railroad. An abbreviated name or initial letters of the railroad may be used where such name or initial letters are in general usage. In those cases where it is shown that no difficulty would be encountered in identifying the transmissions of a particular station, as for example where stations of one licensee are located in a yard isolated from other radio installations, approval may be given to a request of the licensee for permission to omit station identification.

§ 16.153 *Suspension of transmissions required.* The radiations of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the station authorization until such deviation is corrected, except for transmissions concerning the immediate safety of life or property, in which case the transmissions shall be suspended as soon as the emergency is terminated.

§ 16.154 *Operator requirements.* (a) All transmitter adjustments or tests during or coincident with the installation, servicing, or maintenance of a radio station, which may affect the proper op-

eration of such station, shall be made by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment: *Provided, however,* That only persons holding a first or second class commercial radiotelegraph operator license shall perform such functions at radiotelegraph stations transmitting by any type of the Morse Code.

(b) Except under the circumstances specified in paragraph (a) of this section, only a person holding a commercial radiotelegraph operator license or permit of any class issued by the Commission shall operate a station during the course of normal rendition of service when transmitting radiotelegraphy by any type of the Morse Code.

(c) Except under the circumstances specified in paragraphs (a) and (b) of this section, except as limited by paragraphs (g) through (j) of this section, an unlicensed person may operate a mobile station during the course of normal rendition of service when transmitting on frequencies above 25 Mc. after being authorized to do so by the station licensee.

(d) Except under the circumstances specified in paragraphs (a) and (b) of this section, except as limited by paragraphs (g) through (j) of this section, only a person holding a commercial radio operator license or permit of any class issued by the Commission shall operate a mobile station during the course of normal rendition of service when transmitting on frequencies below 25 Mc. *Provided, however,* That an unlicensed person, after being authorized to do so by the station licensee, may operate such a mobile station during the course of normal rendition of service when transmitting on frequencies below 25 Mc. while it is associated with and under the operational control of a base station.

(e) Except under the circumstances specified in § 16.354 and in paragraphs (a) and (b) of this section and except as limited by paragraphs (g) through (j) of this section, base stations and fixed stations shall be operated in accordance with the following when transmitting during the course of normal rendition of service:

(1) From a control point, only a person holding a commercial radio operator license or permit of any class issued by the Commission shall operate a base station or fixed station.

(2) From a dispatch point, an unlicensed person may operate a base station or fixed station after being authorized to do so by the station licensee: *Provided, however,* That such operation shall be under the direct supervision and responsibility of a person who (i) holds a commercial radio operator license or permit of any class issued by the Commission, and who (ii) is on duty at a control point meeting the requirements of Subpart C of this part.

(f) Except under the circumstances specified in paragraph (a) of this section, except as limited by paragraphs (g) through (j) of this section, no per-

son, whether or not a licensed operator, is required to be in attendance at a station when transmitting during the course of normal rendition of service and when either (1) transmitting for telemetering purposes or (2) retransmitting by self-actuating means a radio signal received from another radio station or stations.

(g) The provisions of this section authorizing certain unlicensed persons to operate certain stations when transmitting during the course of normal rendition of service, shall be applicable only to stations in the domestic service except that the provisions of paragraph (e) (2) of this section shall be applicable to stations in either the domestic or international service. For the purposes of this section, a station in the domestic service is one which is located within the United States, its territories or possessions and which, when communicating with other stations, is in communication exclusively with one or more other United States stations which are also located in the United States, its territories or possessions; a station in the International service is one which is not in the domestic service as just defined.

(h) The provisions of this section authorizing certain unlicensed persons to operate mobile stations shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them (including all transmitter units thereof) or for the proper functioning and operation of those stations (including all transmitter units thereof) in accordance with the terms of the licenses of those stations.

(i) Notwithstanding any other provisions of this section, unless the transmitter is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, such transmitter shall be operated by a person holding a first or second class commercial radio operator license (either radiotelephone or radiotelegraph as may be appropriate for the type of emission being used), issued by the Commission.

(j) Any reference in this section to a commercial radio operator license or permit of any class issued by the Commission shall not be construed to include Aircraft Radiotelephone Operator Authorizations.

§ 16.155 *Posting of operator license.* (a) The original license of each base or fixed station operator, other than an operator exclusively performing service and maintenance duties, shall be posted or kept immediately available at the place where he is on duty as an operator: *Provided, however,* That if an operator who is on duty holds a restricted radiotelephone operator permit of the card form (as distinguished from such document of the diploma form) or holds a valid license verification card (FCC Form 758-F) attesting to the existence of any other valid commercial radio operator license, he may have such permit or verification card, as the case may be, in his personal possession in lieu of complying with the above requirement.

(b) Whenever a licensed operator is required for a mobile station, the original license of each such operator, other than an operator exclusively performing service and maintenance duties, shall be kept in his personal possession whenever he performs the duties of an operator at such station: *Provided*, That in lieu of an original license of the diploma form (as distinguished from such document of the card form) he may have in his personal possession a valid verification card attesting to its existence.

(c) The original license of every station operator who exclusively performs service and maintenance duties at that station shall be posted at the transmitter involved whenever the transmitter is in actual operation while service or maintenance work is being performed by him or under his immediate supervision and responsibility. *Provided*, That in lieu of posting his license, he may have on his person his license or a valid verification card.

§ 16.156 *Transmitter identification card and posting of station license.* (a) The current authorization for each mobile station shall be retained as a permanent part of the station record, but need not be posted. A Transmitter Identification Card (FCC Form No. 452-C, Revised) properly executed shall be affixed to each mobile transmitter or associated control equipment. When the transmitter is not in view from the control position or is not readily accessible for inspection, the identification card should be affixed to the control equipment at the transmitter operating position. The following information shall be entered on the card by the permittee or licensee:

- (1) Name of permittee or licensee;
- (2) Station call signal assigned by the Commission;
- (3) Exact location or locations of the transmitter records;
- (4) Frequency or frequencies on which the transmitter to which attached is adjusted to operate; and
- (5) Signature of the permittee or licensee, or a designated official thereof.

(b) The current authorization for each base or fixed station shall be posted at the principal control position of that station, except that in the Railroad Radio Service a licensee may post a full size photocopy in lieu of the original license. At all other control points listed on the station authorization, a photocopy of the authorization shall be posted. In addition, a Transmitter Identification Card (FCC Form No. 452-C, Revised) properly executed shall be affixed to each transmitter operated at a fixed location, when such transmitter is not in view from the control position or is not readily accessible for inspection.

(c) In lieu of the Transmitter Identification Card, FCC Form 452-C, Revised, as required by paragraphs (a) and (b) of this section, a permittee or licensee may at his option employ a plate of metal or other substantial material which shall bear the title "Radio Transmitter Identification," and shall clearly display all the information required to be shown on the FCC Form 452-C, Revised, with the exception of the signature.

§ 16.157 *Inspection of stations.* All stations and records of stations in these services shall be made available for inspection at any time while the station is in operation or shall be made available for inspection upon reasonable request of an authorized representative of the Commission.

§ 16.158 *Inspection and maintenance of tower marking and associated control equipment.* The licensee of any radio station which has an antenna structure required to be painted or illuminated pursuant to the provisions of section 303 (q) of the Communications Act of 1934, as amended, and/or Part 17 of this subchapter, shall operate and maintain the tower marking and associated control equipment in accordance with the following:

(a) The tower lights shall be observed at least once each 24 hours, either visually or by observing an automatic and properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or, alternatively, there shall be provided and properly maintained an automatic alarm system designed to detect any failure of the tower lights and to provide indication of such failure to the licensee.

(b) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within thirty minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Airways Communication Station or office of the Civil Aeronautics Administration. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

(c) All automatic or mechanical control devices, indicators, and alarm systems associated with the tower lights shall be inspected at intervals not to exceed three months, to insure that such apparatus is functioning properly.

(d) All lighting shall be exhibited from sunset to sunrise unless otherwise specified in the instrument of station authorization.

(e) A sufficient supply of spare lamps shall be maintained for immediate replacement purposes at all times.

(f) All towers shall be cleaned or repainted as often as is necessary to maintain good visibility.

§ 16.159 *Answers to a notice of violation.* Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act or treaty to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 3 days from such receipt, send a written answer to the office of the Commission originating the official notice. If an answer cannot be sent, or an acknowledgment made within such 3-day period, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. The reply shall set forth

the steps taken to prevent a recurrence of improper operation.

§ 16.160 *Station records.* Each licensee in these services shall maintain station records in accordance with the following:

(a) For all stations, the results and dates of the transmitter measurements required by § 16.108, and the name of the person or persons making the measurements.

(b) For all stations, when service or maintenance duties are performed which may affect their proper operation, the responsible operator shall sign and date an entry in the station record concerned, giving:

- (1) Pertinent details of all duties performed by him or under his supervision;
- (2) His name and address; and
- (3) The class, serial number, and expiration date of his license: *Provided, however* That the information called for under subparagraphs (2) and (3) of this paragraph, so long as it remains unchanged, is not required to be repeated in the case of a person who is regularly employed on a full-time basis at the station.

(c) For base stations and fixed stations at which licensed operators are required, the name or names of persons responsible for the operation of the transmitting equipment each day, together with the period of their duty.

(d) For base stations at which licensed operators are required when they communicate with other base stations or with fixed stations:

- (1) Call signal of other station;
- (2) Nature of such communications; and
- (3) Date, time, and approximate duration of each transmission.

(e) When a Base Station or Fixed Station has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

- (1) The time the tower lights are turned on and off each day, if manually controlled.
- (2) The time the daily check of proper operation of the tower lights was made.
- (3) In the event of any observed or otherwise known failure of a tower light:
 - (i) Nature of such failure.
 - (ii) Date and time the failure was observed or otherwise noted.
 - (iii) Date, time and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Airways Communication Station (Civil Aeronautics Administration) notified of the failure of any code or rotating beacon light not corrected within thirty minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Airways Communication Station (Civil Aeronautics Administration) that the required illumination was resumed.

(4) Upon completion of the three-month periodic inspection required by § 16.158:

- (i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators and alarm systems.
- (ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the

date such adjustments, replacements, or repairs were made.

(f) The records shall be kept in an orderly manner, and in such detail that the data required are readily available. Key letters or abbreviations may be used if proper meaning or explanation is set forth in the record.

(g) Each entry in the records of each station shall be signed by a person qualified to do so by reason of having actual knowledge of the facts to be recorded.

(h) No record or portion thereof shall be erased, obliterated or wilfully destroyed within the required retention period. Any necessary correction may be made only by the person originating the entry, who shall strike out the erroneous portion, initial the correction made and indicate the date of correction.

(i) Records required by this part shall be retained by the licensee for a period of at least one year.

SUBPART E—DEVELOPMENTAL OPERATION

§ 16.201 Eligibility. An authorization for developmental operation in any of the services under this part will be issued only to those persons who are eligible to operate stations in such service on a regular basis.

§ 16.202 Showing required. (a) Except as provided in paragraph (b) of this section, each application for developmental operation shall be accompanied by a showing that:

(1) The applicant has an organized plan of development leading to a specific objective.

(2) A point has been reached in the program where actual transmission by radio is essential to the further progress thereof.

(3) The program has reasonable promise of substantial contribution to the expansion or extension of the radio art, or is along lines not already investigated.

(4) The program will be conducted by qualified personnel.

(5) The applicant is legally and financially qualified, and possesses adequate technical facilities for conduct of the program as proposed; and

(6) The public interest, convenience, or necessity will be served by the proposed operation.

(b) The provisions of paragraph (a) of this section do not apply when an application is made for developmental operation solely for the reason that the frequency requested is limited to developmental use.

§ 16.203 Limitations on use. Stations used for developmental operation shall be constructed and used in such a manner as to conform with all of the technical and operating requirements of Subparts C and D of this part, unless deviation therefrom is specifically provided in the instrument of authorization.

§ 16.204 Frequencies available for assignment. Stations engaged in developmental operation may be authorized to use a frequency, or frequencies, available for the particular service in which they propose to operate. The number of channels assigned will depend upon the specific requirements of the devel-

opmental program and the number of frequencies available in the particular area where the station will be operated.

§ 16.205 Interference. The operation of any station engaged in developmental work shall be subject to the condition that no harmful interference is caused to the operation of stations licensed on a regular basis under any part of the Commission's rules.

§ 16.206 Special provisions. (a) The developmental program as described by the applicant in the application for authorization shall be substantially followed unless the Commission shall otherwise direct.

(b) Where some phases of the developmental program are not covered by the general rules of the Commission and the rules in this part, the Commission may specify supplemental or additional requirements or conditions in each case, as deemed necessary in the public interest, convenience, or necessity.

(c) The Commission may, from time to time, require a station engaged in developmental work to conduct special tests which are reasonable and desirable to the authorized developmental program.

§ 16.207 Authorization subject to change or cancellation. Supplementary statement required. Every application for authority to engage in developmental operation shall be accompanied by a statement signed by the applicant in which it is agreed that any authorization issued pursuant thereto will be accepted with the express understanding of the applicant that it is subject to change in any of its terms or to cancellation in its entirety at any time, upon reasonable notice but without a hearing, if, in the opinion of the Commission, circumstances should so require.

§ 16.208 Report of operation. A report on the results of the developmental program shall be filed with and made a part of each application for renewal of authorization, or in cases where no renewal is requested, such report shall be filed within 60 days of the expiration of such authorization. Matters which the applicant does not wish to disclose publicly may be so labeled; they will be used solely for the Commission's information, and will not be publicly disclosed without permission of the applicant. The report shall include comprehensive and detailed information on the following:

- (a) The final objective.
- (b) Results of operation to date.
- (c) Analysis of the results obtained.
- (d) Copies of any published reports.
- (e) Need for continuation of the program.

(f) Number of hours of operation on each frequency.

SUBPART F—MOTOR CARRIER RADIO SERVICE

§ 16.251 Eligibility for license. (a) Authorizations for stations in the Motor Carrier Radio Service will be issued only to:

(1) Persons primarily engaged in providing a common or contract motor carrier passenger transportation service between urban areas.

(2) Persons primarily engaged in providing a common or contract motor carrier passenger transportation service within a single urban area.

(3) Persons primarily engaged in providing a common or contract motor carrier property transportation service between urban areas.

(4) Persons solely engaged in providing a common or contract carrier transportation service limited to the local distribution or collection of property which is destined for or continued in intercity, interstate, or international shipment.

(5) A non-profit corporation or association organized for the purpose of furnishing a radiocommunication service on cost-sharing basis to persons all of whom are actually engaged in activities set forth in one of the preceding subparagraphs of this paragraph.

(b) For the purpose of establishing eligibility under paragraph (a) of this section, proof of the possession of a valid certificate of public convenience and necessity, or permit, issued by the Interstate Commerce Commission, or equivalent document issued by a state, territorial or local regulatory body, shall be submitted by each applicant or, in the case of a non-profit corporation or association for which provision is made in this section, the application shall be accompanied by a listing of all persons to whom radiocommunication service will be furnished together with proof of the possession of such certificate or permit by each such participant. Certificates, permits or similar documents to which reference is made for the purpose of establishing eligibility under the provisions of this section shall be identified by document title and number, together with the name of the issuing jurisdiction and date of issuance. In addition, applications submitted by common or contract motor carriers eligible under paragraph (a) (4) of this section shall be accompanied by supporting letters from the principal carriers served attesting to the extent, the need, and the importance of the service rendered.

§ 16.252 Frequencies available for base and mobile stations. (a) The following frequencies are available to the Motor Carrier Radio Service for assignment to Base Stations and Mobile Stations of common and contract carriers of passengers operating between urban areas:

Mc	Mc
43.70	43.80
43.74	43.84
43.78	43.93 ¹
43.82	44.02 ¹
43.85	44.05 ¹

¹The frequencies 43.93, 44.02, and 44.05 Mc are available on a shared basis with stations of common and contract carriers of property.

(b) The following frequencies are available to the Motor Carrier Radio Service for assignment to base stations and mobile stations of common and contract carriers of passengers within a single urban area.

Mc	Mc
44.45	44.54
44.50	44.58

(c) The following frequencies are available to the Motor Carrier Radio Service on a shared basis with other services, for assignment to base stations and mobile stations of common and contract carriers of passengers within a single urban area.

Mc	Mc
30.66	30.94
30.70	30.98
30.74	31.02
30.78	31.06
30.82	31.10
30.86	31.14
30.90	

(d) The following frequencies are available to the Motor Carrier Radio Service for assignment to Base and Mobile Stations of common or contract carriers of property operating between urban areas, (1) for communications with vehicles when such vehicles are themselves engaged in the transportation of property between urban areas regardless of the location of the vehicles at the time a particular communication takes place; or (2) for communications with vehicles used to supervise, tow, repair or maintain the vehicles referred to in subparagraph (1) of this paragraph.

Mc.	Mc.
43.98 ¹	44.22
44.02 ¹	44.26
44.06 ¹	44.30
44.10	44.34
44.14	44.38
44.18	44.42

¹The frequencies 43.98, 44.02 and 44.06 Mc are available on a shared basis with stations of common and contract carriers of passengers.

(e) Only those frequencies listed in paragraph (f) of this section are available to motor carriers of property who are eligible under the provisions of § 16.251 (a) (4) of this subpart.

(f) The following frequencies are available to all persons eligible in the Motor Carrier Radio Service on a shared basis with stations in the Railroad Radio Service, under the terms of a developmental authorization only:

Base and Mobile (Mc.)	Mobile Only (Mc.)
452.65	457.65
452.75	457.75
452.85	457.85
452.95	457.95

(g) Frequencies in the bands listed below are available for assignment to Base Stations and Mobile Stations in the Motor Carrier Radio Service on a shared basis with other services, under the terms of a developmental grant only: the exact frequency or the authorized channel will be specified in the authorization:

Mc.	Mc.
¹ 2450-2500	² 6425-6575
² 3500-3700	² 11700-12200

¹Use of frequencies in the band 2450-2500 Mc is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

²Subject to the proceedings in Docket No. 10797.

§ 16.253 *Frequencies available for operational fixed stations.* (a) Frequencies listed in this Section are available for assignment for fixed service operations

in this service on a limited basis; however, extensive licensing of point-to-point systems must await further development of the Commission's microwave program. Accordingly, requests for point-to-point facilities will be considered on a case-by-case basis. In general, requests for such point-to-point facilities should clearly establish either (1) that a number of fixed stations at permanent locations are required to provide communications between isolated establishments or from such establishments to points at which established communication facilities are available, or (2) that the use of a remotely located base station, with which a requested fixed control and fixed relay link is proposed to be used, is necessary to maintain communications with mobile units for the conduct of authorized communications. Point-to-point facilities will not be authorized for the transmission of any type of signal or communication between two locations within the same Standard Metropolitan Area except for the purpose of providing a fixed control and fixed relay link where the remote placement of a base station has been justified.

(b) Subject to the conditions that no harmful interference will be caused to reception of television channel No. 4 or 5, the following frequencies are available for assignment to operational fixed stations in the Motor Carrier Radio Service on a shared basis with other services:

Mc	Mc	Mc	Mc
72.02	72.52	73.62	74.42
72.06	72.86	73.66	74.46
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	75.42
72.26	73.06	73.86	75.46
72.30	73.10	73.90	75.50
72.34	73.14	73.94	75.54
72.38	73.18	73.98	75.58
72.42	73.22	74.02	75.62
72.46	73.26	74.06	75.66
72.50	73.30	74.10	75.70
72.54	73.34	74.14	75.74
72.58	73.38	74.18	75.78
72.62	73.42	74.22	75.82
72.66	73.46	74.26	75.86
72.70	73.50	74.30	75.90
72.74	73.54	74.34	75.94
72.78	73.58	74.38	75.98

(c) Frequencies in the bands listed below are available for assignment to Operational Fixed Stations in the Motor Carrier Radio Service on a shared basis with other services and under the terms of a developmental grant only: the exact frequency and the authorized bandwidth will be specified in the authorization:

Mc.	Mc.
¹ 890-940	6575-6875
952-960	9800-9900
1850-1990	12200-12700
2110-2200	16000-18000
¹ 2450-2500	26000-30000
2500-2700	

¹Use of frequencies in the bands 890-940, 2450-2500 and 17850-18000 Mc is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 Mc.

²Subject to the proceedings in Docket No. 10797.

§ 16.254 *Frequencies available for Base, Mobile and Operational Fixed Stations.* The frequency 27.255 Mc is available for assignment to Base, Mobile and Operational Fixed Stations in this service on a shared basis with other services, subject to no protection from interference due to the operation of industrial, scientific and medical devices on the frequency 27.12 Mc.

§ 16.255 *Limitations on installation and use.* Mobile units authorized in this service may be installed only in vehicles used for the carriage of passengers or property for compensation; or in vehicles used to supervise, tow, repair or maintain such vehicles or, in the case of a streetcar system, vehicles used in connection with the maintenance of associated trackage, right-of-way or electric power facilities. Common and contract motor carriers of property are limited to communications directly relating to the routing or rerouting of trucks.

§ 16.256 *Amortization period.* Persons authorized to operate in the Highway Truck Radio Service whose operations have not been transferred into the Special Industrial Radio Service in accordance with the proceedings in Dockets 9703 and 10742 and who are ineligible in the Motor Carrier Radio Service, may continue to operate until March 15, 1960. During this period, such persons will not be authorized, however, to expand their facilities or operations.

§ 16.257 *Modification of licenses to shift frequencies.* The common and contract carriers of property licensed in the Highway Truck Radio Service may apply for modification of their licenses to shift frequencies in order to conform with this subpart at any time after March 15, 1955, but shall do so not later than 60 days prior to the expiration of their current licenses. Pending such modification of licenses, operations on the frequencies assigned under the Highway Truck Radio Service rules shall be subject to the limitations on communications and use contained in § 16.252 (d)

SUBPART G [RESERVED]

SUBPART H—RAILROAD RADIO SERVICE

§ 16.351 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Railroad Radio Service:

(1) Persons regularly engaged in offering to the public a passenger or freight transportation service by railroad common-carrier.

(2) A non-profit organization or association organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in the activity set forth under subparagraph (1) of this paragraph.

(b) Each application for authority to operate in the Railroad Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section.

§ 16.352 *Frequencies available for base and mobile stations.* (a) Base and mobile radio stations used primarily for end to end, fixed point to train, or train to train communications in connection

with the operation of railroad trains over a track or tracks extending through yards and between stations upon which trains are operated by timetable, train order, or both, or the use of which is governed by block signals may use the following frequencies:

Mc.	Mc.	Mc.	Mc.
159.51	160.17	160.77	161.37
159.57	160.23	160.83	161.43
159.63	160.29	160.89	161.49
159.69	160.35	160.95	161.55
159.75	160.41	161.01	161.61
159.81	160.47	161.07	161.67
159.87	160.53	161.13	161.73
159.93	160.59	161.19	161.79
159.99	160.65	161.25	161.85
160.05	160.71	161.31	160.11

¹ Available for assignment in Chicago area only.

These frequencies may also be used on a secondary basis for intercommunication between adjacent base stations, provided interference is not caused to communications involving radio stations aboard railroad rolling stock.

(b) All frequencies in paragraph (a) of this section may also be assigned to base and mobile stations to be operated primarily within railroad yards, terminal areas, or to be used for communications which are of a practical necessity in connection with railroad operation and maintenance, provided, interference is not caused to stations eligible under the provisions of paragraph (a) of this section. However, each application requesting the assignment of 159.57, 159.81, 160.53, 161.01, 161.31 or 161.67 Mc. must outline circumstances which indicate that the proposed operation will not interfere with the use of the frequencies by stations authorized under paragraph (a) of this section.

(c) For the purpose of developmental operations, the following frequencies are available for assignment to Base Stations and Mobile Stations in the Railroad Radio Service, on a shared basis with stations in the Motor Carrier Radio Service:

Base and Mobile (Mc)	Mobile (Mc)
452.65	457.65
452.75	457.75
452.85	457.85
452.95	457.95

(d) Frequencies in the bands listed below are available for assignment to base and mobile stations for developmental operations in the Railroad Radio Service, on a shared basis with other services. The exact frequency, and the authorized bandwidth, will be specified in the authorization.

Mc.	Mc.
2450-2500	6425- 6575
3500-3700	11700-12200

Note: Use of frequencies in the band 2450 to 2500 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 16.353 Frequencies available for fixed stations. (a) Subject to the condition that no harmful interference will be caused to reception of television channel 4 or 5, the following frequencies are available for assignment to fixed stations in the Railroad Radio Service on a shared basis with other services:

Mc.	Mc.	Mc.	Mc.
72.02	72.82	73.62	74.42
72.08	72.88	73.68	74.48
72.10	72.90	73.70	74.50
72.14	72.94	73.74	74.54
72.18	72.98	73.78	74.58
72.22	73.02	73.82	74.62
72.26	73.06	73.86	74.66
72.30	73.10	73.90	74.70
72.34	73.14	73.94	74.74
72.38	73.18	73.98	74.78
72.42	73.22	74.02	74.82
72.46	73.26	74.06	74.86
72.50	73.30	74.10	74.90
72.54	73.34	74.14	74.94
72.58	73.38	74.18	74.98
72.62	73.42	74.22	75.02
72.66	73.46	74.26	75.06
72.70	73.50	74.30	75.10
72.74	73.54	74.34	75.14
72.78	73.58	74.38	75.18

(b) Frequencies in the bands listed below are available for assignment to fixed stations for developmental operations in the Railroad Radio Service on a shared basis with other services. The exact frequency, or the authorized channel, will be specified in the authorization.

Mc.	Mc.
890- 940	6575- 6375
952- 960	6800- 6900
1850-1990	12200-12700
2110-2200	16000-16000
2450-2600	20000-30000
2500-2700	

Note: Use of frequencies in the bands 890-940, 2450-2600 and 17850-18000 Mc. is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequencies 915, 2450 and 18000 Mc.

(c) Pursuant to the provisions of § 16.8, and for the specific purpose of transmitting hydrological or meteorological data, the frequencies listed in this paragraph are available for assignment to Operational Fixed stations in this Service: *Provided, however, That* harmful interference shall not be caused to Federal Government stations: *And provided further* That the hydrological or meteorological data is made available to interested government agencies. Notwithstanding the provisions of § 16.151, Operational Fixed stations authorized to operate on frequencies listed in this paragraph shall not communicate with or accept communications from any Mobile station or Base station unless written authorization to do so has been obtained from the Commission. Persons who desire to operate stations in accordance with the provisions of this paragraph should communicate with the Commission prior to filing formal application and request instructions concerning the procedure to be followed. The following frequencies are available for assignment:

Mc	Mc	Mc
¹ 40.68	171.025	² 408.050
169.425	171.075	² 400.150
169.475	171.125	² 405.250
169.525	171.175	² 400.350
169.575	171.225	² 412.450
170.225	171.875	² 412.550
170.275	171.925	² 412.650
170.325	171.975	² 412.750
170.375		

¹ Primarily for use by Fixed Relay Stations.

² Use of the frequency 40.68 Mc is limited to stations located in the States of Pennsylvania and West Virginia, and is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the same frequency.

§ 16.354 Operator requirements, fixed and base stations. (a) Notwithstanding the provisions of § 16.154 (e), the employees of Class I, II and III railroads of the United States may, without holding any class of commercial radio operator license issued by the Commission, operate fixed stations and base stations in the Railroad Radio Service when specifically authorized to do so by the station licensee: *Provided, however* That:

(1) The terms of this section shall apply only to the employees of those railroads which shall have adopted and published Railroad Radio General and Operating Rules in a form which has been approved by the Commission, and

(2) The terms of this section shall apply only to those railroad employees who shall have successfully passed an examination given by railroad examiners on the applicable Railroad Radio General and Operating Rules. The first such examination shall be given prior to the operation of any radio transmitting apparatus by the employee and re-examinations shall thereafter be given at intervals not in excess of two years.

(3) The terms of this section shall apply only to the employees of those railroads who maintain suitable records showing the name and position of each employee who has been examined with respect to the applicable Railroad Radio General and Operating Rules, the date of the employee's last successfully completed examination and the name of the railroad examiner. Such records shall be made available to duly accredited representatives of the Federal Communications Commission upon request.

(b) The provisions of this section authorizing certain unlicensed persons to operate fixed and base stations in the Railroad Radio Service shall not be construed to change or diminish in any respect the responsibility of station licensees to have and maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations (including all transmitter units thereof) in accordance with the terms of the licenses of those stations.

§ 16.355 Relay stations—(a) *General.* Relay stations are used to extend the range of communication between another radio station and the point with which it is desired to communicate. For the purposes of the rules in this part, there are two types of relay stations: Mobile relay stations and fixed relay stations. For definitions, see § 16.6.

(b) *Mobile relay stations.* The policies governing authorization and operation of this type of relay station are as follows:

(1) Each application for a new mobile relay station authorization shall be accompanied by a satisfactory showing that the applicant has a substantial requirement for prompt mobile-to-mobile communication over ranges greater than can be realized consistently by direct communication on the frequency presently assigned, or in the case of a proposed new radio system, on any available frequency. (Except for radio systems in railroad yard or terminal areas, range measurements obtained by use of

low-power transmitters of the hand-carried or pack-carried type will not be accepted in satisfaction of the requirements of this subparagraph.)

(2) A mobile relay station may be authorized to operate on any mobile service frequency available for assignment to base stations.

(3) Each mobile relay station shall be so designed and installed that it normally will be activated only by means of a coded signal or signals or such other means as will effectively prevent its activation by undesired signals: *Provided, however* That this requirement may be waived when both of the following conditions are met:

(i) The radio system is shown to be so designed that the mobile relay station normally is capable of activation only by signals received on frequencies above 50 Mc; and

(ii) The applicant for a mobile relay station authorization either verifies that no person having equal rights to the frequency in question is operating on the mobile relay station frequency within a radius of seventy-five miles of the proposed mobile relay station location or, alternatively, obtains and submits with the application the written consent of each such person to installation of the proposed mobile relay station and its operation on a regular basis for a trial period of one year from the date a station license is granted by the Commission.

In any event, a waiver granted under the provisions of this subparagraph may be cancelled after ninety days notice by the Commission if it develops that the mobile relay station is, in fact, consistently activated by undesired signals and thereby causes harmful interference to other licensees.

(4) Each mobile relay station shall be so designed and installed that it will be deactivated automatically when its associated receiver or receivers are not receiving a signal on the frequency or frequencies which normally activate it.

(5) Each mobile relay station required by the terms of subparagraph (3) of this paragraph to be activated by a coded signal shall be so designed and installed that it will be deactivated upon receipt or cessation of a coded signal or signals, and, in addition, shall be provided with an automatic time-delay or clock device which will deactivate the station not more than three minutes after its activation.

(6) A mobile station associated with one or more mobile relay stations may be authorized to operate on any available mobile service frequency.

(7) An operational fixed (control) station associated with one or more mobile relay stations may be assigned any frequency available for assignment to operational fixed stations or, at the option of the applicant, the mobile service frequency assigned to the associated mobile station. Use of the mobile service frequency by such operational fixed (control) stations is subject to the condition that harmful interference shall not be caused to stations of other licensees operating in the mobile service in

accordance with the table of frequency allocations as set forth in Part 2 of this chapter.

(8) In any radio system which employs more than one mobile relay station, where there is a requirement that stations in the vicinity of one mobile relay station be able to communicate automatically with stations in the vicinity of other mobile relay stations, any necessary circuits for interconnection of the mobile relay stations shall be provided by means of wire lines or radio stations operating on fixed service frequencies.

(9) A base station which is used intermittently as an operational fixed (control) station for one or more associated mobile relay stations of the same licensee will be authorized to operate only on the mobile service frequencies assigned to the associated mobile relay station and/or mobile station. Special authority for such dual station classification and use must be shown in the instrument of station authorization.

(c) *Fixed relay stations.* Fixed relay stations will be authorized to operate only on frequencies available for use by operational fixed stations.

§ 16.356 *Frequencies available for Base, Mobile and Operational Fixed Stations.* The frequency 27.255 Mc is available for assignment to Base, Mobile and Operational Fixed stations in this service on a shared basis with other services, subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 27.12 Mc.

SUBPART I—TAXICAB RADIO SERVICE

§ 16.401 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Taxicab Radio Service:

(1) Persons regularly engaged in furnishing to the public for hire a non-scheduled passenger land transportation service not operated over a regular route or between established terminals.

(2) A non-profit corporation or association organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in the activity set forth under subparagraph (1) of this paragraph.

(b) Each application for authority to operate in the Taxicab Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section.

§ 16.402 *Frequencies available for Base Stations and Mobile Stations.* (a) Not more than one Base Station frequency and one Mobile Station frequency will be assigned to a licensee, unless it clearly appears from a supplemental showing attached to the license application that the grant of an additional frequency or frequencies would be in the public interest by reason of a cooperative arrangement of local taxicab interest or other special circumstances.

(b) The following frequencies are available for assignment to Base Stations and Mobile Stations in the Taxicab Radio Service only:

<i>Base and Mobile (Mc)</i>	<i>Mobile (Mc)</i>
152.27	157.53
152.33	157.59
152.39	157.65
152.45	157.71

(c) The following frequencies are available for assignment to Base Stations and Mobile Stations for developmental operations in the Taxicab Radio Service only:

<i>Base and Mobile (Mc)</i>	<i>Mobile (Mc)</i>
452.05	457.05
452.15	457.15
452.25	457.25
452.35	457.35
452.45	457.45

(d) Frequencies in the bands listed below are available for assignment to base and mobile stations for developmental operations in the Taxicab Radio Service, on a shared basis with other services. The exact frequency, and the authorized bandwidth, will be specified in the authorization.

<i>(Mc)</i>	<i>(Mc)</i>
2450-2500	6425-6575
3500-3700	11700-12200

NOTE: Use of frequencies in the band 2450-2500 Mc is subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 2450 Mc.

§ 16.403 *Special limitations.* (a) All mobile units authorized in the Taxicab Radio Service shall be permanently installed in motor vehicles, and such installation shall be made only in vehicles used (1) for the carriage of passengers for hire, (2) by supervisory personnel in the discharge of their official duties, or (3) for the towing or repair of disabled motor vehicles of the licensee.

(b) Use of Mobile Station facilities by supervisory personnel shall be limited as follows:

(1) Communications addressed to other mobile units shall relate directly to safety of life or property, routing or re-routing of taxicabs to avoid hazards or abnormal traffic conditions, or enforcement of public laws and company instructions; and

(2) Communications addressed to the licensee's Base Station shall relate directly to safety of life or property or supervisory control of motor vehicles of the licensee.

(c) Each radio-equipped vehicle which is used by supervisory personnel in the discharge of their official duties shall be conspicuously and permanently marked with the name under which the licensee conducts his taxicab business.

(d) Mobile units installed in vehicles used by supervisory personnel in the discharge of their official duties may be authorized, upon application, to operate on Base Station frequencies.

§ 16.404 *Frequencies available for Base, Mobile and Operational Fixed Stations.* The frequency 27.255 Mc is available for assignment to Base, Mobile and Operational Fixed stations in this service on a shared basis with other services, subject to no protection from interference due to the operation of industrial,

scientific, and medical devices on the frequency 27.12 Mc.

SUBPART J [RESERVED]

SUBPART K—AUTOMOBILE EMERGENCY RADIO SERVICE

§ 16.501 *Eligibility.* (a) The following persons are eligible to hold authorizations to operate radio stations in the Automobile Emergency Radio Service:

(1) Associations of owners of private automobiles which provide private emergency road service.

(2) Public garages operating emergency road service vehicles.

(3) A non-profit corporation or association organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged in either of the activities set forth under subparagraphs (1) and (2) of this paragraph.

(b) Each application for authority to operate in the Automobile Emergency Radio Service shall be accompanied by a statement in detail sufficient to indicate clearly the applicant's eligibility under paragraph (a) of this section.

§ 16.502 *Permissible communications.* Stations licensed under this subpart may transmit only the following types of communications:

(a) Any communication related to the safety of life or the protection of important property.

(b) Communications required for dispatching repair trucks to disabled vehicles.

§ 16.503 *Frequencies available for base and mobile stations.* (a) The frequencies 35.70 and 35.98 Mc are primarily available for assignment to Base and Mobile stations operated by public garages. In addition, these frequencies may, at the discretion of the Commission, be assigned to Base and Mobile stations operated by or on behalf of associations of owners of private automobiles, upon a showing that: (1) The same applicant has previously held an authorization for the operation of a station or stations in the same area on that frequency, or (2) one or both of the frequencies specified in paragraph (b) of this section are currently assigned to stations operated in the same area by or on behalf of another such association with which the applicant is not directly affiliated.

(b) For the purpose of developmental operations, the following frequencies are available for assignment to base and mobile stations in the Automobile Emergency Radio Service which are to be operated only by or on behalf of associations of owners of private automobiles:

Base and Mobile (Mc)	Mobile (Mc)
452.55	457.55

§ 16.504 *Frequencies available for Base, Mobile and Operational Fixed Stations.* The frequency 27.255 Mc is available for assignment to Base, Mobile and Operational Fixed stations in this service on a shared basis with other services,

subject to no protection from interference due to the operation of industrial, scientific, and medical devices on the frequency 27.12 Mc.

[F. R. Doc. 55-8294; Filed, Oct. 12, 1955; 8:47 a. m.]

PART 20—DISASTER COMMUNICATIONS SERVICE

RECAPITULATION OF REGULATIONS

Because of the number of outstanding amendments to Part 20 since it was last recapitulated in the FEDERAL REGISTER (March 6, 1951, at page 2079), Part 20 is recapitulated as of September 1, 1955, to read as set forth below.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

Subpart A—General Information

- 20.1 Basis and purpose.
- 20.2 Disaster defined.
- 20.3 Disaster communications service and station defined.
- 20.4 Associated station defined.
- 20.5 Portable station defined.
- 20.6 Disaster communications defined.
- 20.7 Competent local authority defined.
- 20.8 Antenna structure defined.
- 20.9 Aircraft landing area defined.

Subpart B—Station License or Authorization

- 20.11 Eligibility.
- 20.12 Organization of networks.
- 20.13 Applications.
- 20.14 Limitation on antenna structures.
- 20.15 License term.

Subpart C—Use of Stations

- 20.21 Activation of stations.
- 20.22 Points of communications.
- 20.23 Limitations on use.
- 20.24 Permissible communications.
- 20.25 Station identification.
- 20.26 Radio station log.

Subpart D—Operating Requirements

- 20.29 Limitations on use of frequencies.
- 20.30 Liaison with licenses in the Industrial Radiolocation Service.
- 20.31 Assigned frequencies and authorized emissions.
- 20.32 Transmitting power.
- 20.33 Equipment requirements.
- 20.34 Operator requirements.
- 20.35 Availability of station and operator licenses.

AUTHORITY: §§ 20.1 to 20.35 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 301, 48 Stat. 1081; 47 U. S. C. 301.

SUBPART A—GENERAL INFORMATION

§ 20.1 *Basis and purpose.* (a) The basis of this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party. This part is issued pursuant to authority contained in Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of this part is to provide for the licensing or authorizing of radio stations to provide essential communications incident to or in connection with disasters or other incidents which

involve loss of communication facilities normally available or which require the temporary establishment of communication facilities beyond those normally available.

§ 20.2 *Disaster defined.* As used in this part, the terms "disaster" or "disaster or other incident" are defined as meaning an occurrence of such nature as to involve the health or safety of a community or large area, or the health or safety of any group of individuals in an isolated area to whom no normal means of communications are available, and include, but are not limited to, floods, earthquakes, hurricanes, explosions, aircraft or train wrecks, and consequences of armed attack.

§ 20.3 *Disaster communications service and station defined.* (a) The disaster communications service is defined as a service of fixed, land, and mobile stations licensed, or authorized, to provide essential communications incident to or in connection with disasters or other incidents which involve loss of communications facilities normally available or which require the temporary establishment of communications facilities beyond those normally available.

(b) A disaster station is defined as any government or non-government radio station able to function as a fixed, land, or mobile station and authorized, if government, by its controlling federal government agency or licensed, if non-government, by the Federal Communications Commission to operate in the Disaster Communications Service. A single disaster station may consist of more than one unit, each capable of being operated independently as a fixed, land, or mobile station.

§ 20.4 *Associated station defined.* For the purposes of this part, a disaster station is considered to be associated with a licensed station in some other service when both stations are licensed to the same licensee at the same location and both stations are included in at least one coordinated disaster communications plan of the area concerned. A portable station or a mobile station in the Disaster Communications Service will be considered to be associated with the station in the other service which is located at its base of operations.

§ 20.5 *Portable station defined.* For the purposes of this part, a portable station is defined as a land station in the Disaster Communications Service which is capable of being moved from place to place and is in fact, from time to time, moved to and operated at unspecified fixed locations for the purpose of communicating with other fixed, land, or mobile stations.

§ 20.6 *Disaster communications defined.* Disaster communications are defined as:

(a) Communications essential to the establishment and maintenance of communication channels to be used in connection with disasters or other incidents involving loss of communications facilities normally available or which demand the temporary establishment of communications facilities beyond those normally available, including communications

necessary or incidental to drills and simulated disaster relief activity on the part of persons or organizations participating in the use of such communication channels; or

(b) Communications or signals essential to the public welfare, or that of any segment of the public, including communications directly concerning safety of life, preservation of property, maintenance of law and order, and alleviation of human suffering and need, in the case of any actual or imminent disaster or other such incident.

§ 20.7 *Competent local authority defined.*¹ For the purposes of this part, competent local authority is defined as meaning that authority within a community or larger area which is so designated in the coordinated disaster communications plan for the area concerned, including any alternate authority who may be so designated in such plan. In the absence of the specifically designated authority, the individual in charge of the net control station, or his representative, for the organized disaster station network established in accordance with the coordinated disaster communications plan, shall be considered as competent authority for the activation of the stations of that network.

§ 20.8 *Antenna structure defined.* The term "antenna structure" includes the radiating system and its supporting structures.

§ 20.9 *Aircraft landing area defined.* An aircraft landing area means any locality, either on land or water, including airports and intermediate landing fields, which is used, or approved for use, for landing and take-off of aircraft whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

SUBPART B—STATION LICENSE OR AUTHORIZATION

§ 20.11 *Eligibility.* (a) A license for a station to be operated in the Disaster Communications Service may be granted to any person eligible to hold a station license under the provisions of the Communications Act of 1934, as amended; *Provided*, That the station or proposed station is shown to constitute an element of a bona fide disaster communications network organized or to be organized and operated in accordance with a locally or regionally coordinated disaster communications plan under responsible leadership and direction.¹

(b) Authorization for a United States Government station to operate in the Disaster Communications Service will be granted by the appropriate United States Government agency controlling that station.

§ 20.12 - *Organization of networks.*
(a) Local disaster communications networks may be organized by any respon-

sible local group or groups that may be in a position to provide such service. In any particular area there may be several such networks and each network may be independent of the others. Whenever there is more than one network in the same area, however, they must all share the available frequencies in an efficient and orderly manner, under a single coordinated disaster communications plan. Any particular network shall be organized and set up along such lines and in accordance with such disaster communications plan that an inspection of the written records of the network will show that there is in fact a local disaster network of definitely identified stations with appropriate and responsible leadership and rules for self government that provide for an orderly and efficient service. The various networks in adjacent areas shall establish proper liaison arrangements, which will become a part of their respective disaster communications plans, to provide for efficient use of the available frequencies and that, in case of need, communications may be handled on an inter-area basis.

(b) Each disaster communications network shall establish a basic operating procedure for the type or types of transmission to be employed; which operating procedure shall be based on a generally understood procedure in common use in other services for the types of communications and the types of transmissions to be employed.

§ 20.13 *Applications.* (a) Application for construction permit and new license for a station to be operated in the Disaster Communications Service shall be submitted on FCC Form No. 525, signed by the applicant and countersigned by the competent local authority in charge of the disaster communications network in which the station is, primarily, intended to be operated. To facilitate a determination of eligibility, such application shall be accompanied by a statement describing in detail the purpose of the proposed station which shall include a copy of the locally coordinated disaster communications plan under which the station is intended to be operated unless such information has already been submitted to the Commission, in which case the application shall clearly identify that plan and the competent local authority under whose direction the station is proposed to be operated. In cases where a description of the station's antenna is required to be submitted on FCC Form No. 401-A, in accordance with the provisions of § 20.14, such form shall be submitted concurrently with the application for construction permit and license.

(b) A single application for construction permit and station license may be filed to cover all transmitter units normally located or based at one specified fixed location. Separate applications must, however, be filed to cover each separate disaster station, as defined in § 20.3.

(c) Unless otherwise directed by the Commission, application for modification of station license in the Disaster Communications Service shall be submitted on FCC Form No. 525 in the same

manner as application for construction permit and new license, whenever the license or the basic location of a licensed station is proposed to be changed.

(d) Application for renewal of station license shall be submitted on FCC Form No. 405-A. Unless otherwise directed by the Commission, each application for renewal of license shall be filed during the last 60 days of the license term. In any case in which the licensee has, in accordance with the Commission's rules made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

§ 20.14 *Limitation on antenna structures.* (a) No new antenna structure shall be erected for use by any station licensed or proposed to be licensed in the Disaster Communications Service, and no changes shall be made in any existing antenna structure for use or intended to be used by any station licensed or proposed to be licensed in the Disaster Communications Service so as to increase its over-all height above ground level, without prior approval by the Commission, in any case when either (1) the antenna structure proposed to be erected will exceed an over-all height of 170 feet above ground level, except in the case where the antenna is mounted on top of an existing man-made structure and does not increase the over-all height of such man-made structure by more than 20 feet, or (2) the antenna structure proposed to be erected will exceed an over-all height of one foot above the established elevation of any landing area for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area, except in the case where the antenna structure does not exceed 20 feet in over-all height above the ground or is mounted on top of an existing man-made structure or natural formation and does not increase the over-all height of such man-made structure or natural formation more than 20 feet as a result of such mounting. Application for Commission approval, when such approval is required, shall be submitted, in triplicate, on FCC Form 401-A.

(b) In cases where FCC Form 401-A is required to be filed, further details as to whether an aeronautical study and/or obstruction marking may be required, and specifications for obstruction marking when required, may be obtained from Part 17 of this subchapter, "Construction, Marking and Lighting of Antenna Towers and Supporting Structures" Information regarding requirements as to inspection of obstruction marking, recording of information regarding such inspection, and maintenance of antenna structures is also contained in Part 17 of this subchapter.

§ 20.15 *License term.* A license to operate a radio station in the Disaster Communications Service will be issued for a term of from one to five years from the effective date of grant as the Commission may determine in each case to permit the orderly scheduling of renewals, and for a renewal term of four years from the effective date of renewal.

¹ Duly designated civil defense officials will be considered competent local authority in the organization or operation of disaster communications radio networks and stations, and in the coordination of disaster communications plans.

SUBPART C—USE OF STATIONS

§ 20.21 *Activation of stations.* (a)

All stations in the Disaster Communications Service are authorized to be operated on the frequencies and with the types of emission specified by this part only when competent local authority either (1) determines that an impending or actual disaster or other such incident warrants their activation, or (2) schedules training operations, practice drills or tests to keep the networks and associated stations alert and efficient.

(b) Except during scheduled training operations, practice drills or tests, the scene of disaster frequency shall be used only (1) by the station or stations actually located in the disaster area and those stations with which the station or stations actually in such disaster area are in direct communication, or (2) as a notification frequency, for the transmission of any authorized emission including automatic alarm signals, when a disaster is imminent or has occurred, or (3) in an impending disaster situation, as a calling frequency for preliminary contacts in establishing or alerting nets, or (4) as a calling frequency for non-net stations seeking contact with the control station of a net for disaster-related communications.

(c) Nothing in this section shall be deemed to prevent any radio station from operating on the scene of disaster frequency, using such equipment and such power as may be available or necessary, and communicating in accordance with the provisions of paragraph (b) of this section at any time the safety of life or property within the area of responsibility of that station is in danger as a result of an impending or actual disaster or other such incident.

§ 20.22 *Points of communications.*

All stations in the Disaster Communications Service, when activated in accordance with the provisions of § 20.21 are authorized to communicate with each other, with stations in the Amateur Radio Service, and with stations of the United States Government which are authorized by their controlling federal government agencies to communicate with stations in the Disaster Communications Service; and are further authorized to communicate with any station in any service licensed by the Federal Communications Commission whenever such station is authorized to communicate with stations in the Disaster Communications Service by the provisions of the Commission's rules governing the class of station concerned or in accordance with the provisions of § 2.405 of this chapter.

§ 20.23 *Limitations on use.* (a) Stations operating in the Disaster Communications Service are authorized to transmit and to receive only those types of communications set forth in § 20.24 for:

(1) Liaison purposes for the coordination of the activities of various local or larger mutual aid organizations, between established individual or network stations authorized to operate in other services and engaged in disaster com-

munications on their own regularly assigned service frequencies; or

(2) Direct operation as a part of a disaster communications network established for the purpose of providing disaster communications for an organization or organizations having no other frequencies available or none satisfactory for the distances or locations to be covered.

(b) Stations operating in the Disaster Communications Service are authorized to retransmit, by automatic means, authorized disaster communications being transmitted by other stations of the same disaster communications network, and to originate and transmit, by automatic means, distinctive signals, on the scene of disaster frequency only, for the alerting of the disaster communications network and/or for the actuation of selective signaling, calling or alerting devices: *Provided*, That when such automatic transmission or retransmission is employed, such stations shall not emit radio-frequency energy except when actually transmitting authorized disaster communications.

(c) Nothing in this section shall be construed to prevent the operation of a station in the Disaster Communications Service for the purpose of brief tests or adjustments during or coincident with the installation, servicing or maintenance of such station: *Provided*, That the transmissions of that station during such tests or adjustments shall not cause harmful interference to the conduct of communications by any other station.

(d) A station in the Disaster Communications Service shall not be used to transmit or to receive messages for hire, nor for communications for material compensation, direct or indirect, paid or promised.

§ 20.24 *Permissible communications.* Stations in the Disaster Communications Service are authorized to transmit and to receive only the following types of disaster communications:

(a) Communications when there is no impending or actual disaster:

(1) Necessary drills and tests to insure the establishment and maintenance of efficient networks of stations in the Disaster Communications Service and other authorized services. These drills and tests may include the prearranged exchange of communications by stations of established networks with stations outside any established network where the purpose of such exchange is to provide training and practice in the establishment and maintenance of liaison and coordination between such networks and non-network stations. Such drills and tests shall not be permitted, in any way, to interfere with communications in connection with any actual or impending disaster or other such incident.

(b) Communications when there is an impending or actual disaster:

(1) Communications directly concerning:

(i) The activation of a disaster network, or

(ii) The establishment and maintenance of liaison and coordination between:

(a) The stations of one network and the stations of any other network, or

(b) Any network station and any non-network station of any agency possessed of its own system of radiocommunication which is actually engaged in averting or overcoming the effects of the disaster, or

(c) Any non-network station of one agency possessed of its own system of radiocommunication which is actually engaged in averting or overcoming the effects of the disaster and any non-network station of any other agency possessed of its own system of radiocommunication which is actually engaged in averting or overcoming the effects of the disaster.

(2) Communications directly concerning the conduct of service by an activated disaster network.

(3) Communications directly concerning safety of life, preservation of property, maintenance of law and order, and alleviation of human suffering and need by authorized government and relief agencies.

(4) Communications directly concerning the accumulation and dissemination of public information regarding safety of life, preservation of property, maintenance of law and order, or alleviation of human suffering and need by authorized government or relief agencies.

(5) Communications directly concerning the transaction of business essential to the public welfare.

(6) Communications concerning personal matters of individuals directly affected by the disaster.

(c) The order of priority of communications when there is an impending or actual disaster shall be as determined by the competent local authority activating the station or network, or his authorized representative.

§ 20.25 *Station identification—(a) Call signs.* Disaster stations licensed by the Commission will be assigned distinctive call signs, consisting of four letters and one digit, in accordance with the table of geographical assignment of call signs contained in § 2.303 of this chapter. Stations of the United States Government authorized to operate in the Disaster Communications Service will be assigned appropriate call signs by their cognizant United States Government agencies from the call signs available to such agencies.

(b) *Use of call signs—(1) Radiotelegraph.* When transmitting by radiotelegraphy, each disaster station shall transmit the call sign of the station being called followed by its own call sign at the beginning of each series of communications with the called station, at least once each fifteen minutes of such operation, and when terminating communications with the called station. One-way transmissions intended for several stations shall be identified in the same manner except that a general call may be used in place of the call signs of the several stations intended to receive the transmissions. Test transmissions of a station making adjustments shall be identified by the transmission of the station call sign at the beginning and end of the test period and at least each 30 seconds during such period.

(2) *Radiotelephone.* When transmitting by radiotelephony, each disaster station shall identify itself and the sta-

tion or stations being called in the same manner prescribed in this section for identification during radiotelegraph transmissions, except that, if there is no possibility of confusion, the name, location, or other designation of the station may be used in lieu of the call sign when that name, location, or other designation is the same as that of an associated station in some other service and is authorized to be used by such associated station when identifying itself on its regularly assigned frequencies.

(3) *Multiple units.* When two or more separate units of a station are operated at different locations, each unit shall separately identify itself by the addition of a unit name, number or other designation at the end of its call sign or other authorized means of identification. When transmitting by radiotelegraphy, such additional identification shall be separated from the call sign by use of the "slant" or fraction bar.

(4) *Additional identifications.* A list of all general or collective call signs, unit designators, and other authorized substitutes for or additions to assigned call signs used in each disaster station network shall be maintained at the control station of such network, and shall be made available for inspection upon reasonable request from any authorized representative of the federal government.

(c) *Automatic operation.* Stations which are entirely automatic in their operation, including automatic modulation of the carrier, shall be exempt from the requirements of paragraph (b) of this section.

§ 20.26 *Radio station log.* (a) The licensee of each radio station licensed in the Disaster Communications Service shall keep an accurate log of all operations in the 1750-1800 kc. band, which shall include the following:

(1) Name and address of the disaster station licensee, station call sign used in the disaster communications service, date of expiration of the disaster station license, and d. c. plate power input to the vacuum tube or tubes supplying energy to the transmitting antenna system. This information need be entered only once in the log unless there is a change in any of the above items. Each change shall be entered with the date the change is made.

(2) Date and time of beginning and end of each period during which the disaster station is operated.

(3) Signature of each licensed operator who manipulates the key of a manually operated radiotelegraph transmitter or the signature of each licensed operator who operates a transmitter using any other type of emission, and the name (or signature) of any person not holding an operator license who transmits by voice over the facilities of that station other than by automatic relay of the signal of another station or stations. The signature of the operator shall be entered with the date and time at both the beginning and the end of each period during which he is manning the controls of the disaster station and at least once on each page additional to the first page covering the period for which he is the responsible operator. The signature of

any additional operator who operates the station during the regular watch of another operator shall be entered in the proper space for that additional operator's transmissions.

(4) Upon the completion of each period of operation for drill, training, liaison or test purposes and each period of operation in connection with an impending or actual disaster, there shall be entered in the log a summary of such operation describing its nature and giving pertinent details.

(5) There shall be no erasures, obliterations or destruction of any part of the disaster station log. Corrections shall be made by striking out erroneous portions and initialing and dating the correction.

(b) The current portion of the log of a licensed disaster station shall be kept at the location of the control position of such station. Other portions of the log shall be retained by the licensee for a period of at least one year, at such place as he may deem appropriate and advisable: *Provided*, That the log of a disaster station shall be made available for inspection upon reasonable request by any authorized representative of the federal government: *And provided further* That those portions of any disaster station log covering operation of such station in connection with any actual disaster shall not be destroyed unless prior approval for such destruction shall have been received from the Commission.

(c) Stations which are entirely automatic in their operation, including automatic modulation of the carrier, shall be exempt from the requirements of paragraph (a) (2) (3) and (4) of this section, with respect to all operation of such stations which is adequately recorded in the log of any other station of the same disaster network.

SUBPART D—OPERATING REQUIREMENTS

§ 20.29 *Limitations on use of frequencies.* (a) The assigned frequencies in the band 1750-1800 kc are available to stations in this Service upon a shared basis with stations in the Industrial Radiolocation Service also assigned frequencies within that band: *Provided however* That, except when transmitting in connection with an actual or imminent disaster in any area, stations in the Disaster Communications Service shall not cause harmful interference to stations in the Industrial Radiolocation Service between the times at New Orleans, Louisiana, of sunrise and sunset.¹ *And provided further* That stations in the Industrial Radiolocation Service shall not cause harmful interference to stations in the Disaster Communications Service between the times

at New Orleans, Louisiana, of sunset and sunrise,² or at any time during an actual or imminent disaster in any area.

(b) During the periods specified in paragraph (a) of this section when stations in the Disaster Communications Service shall not cause harmful interference to stations in the Industrial Radiolocation Service, the operation of a disaster station for the purpose of drills or tests shall not be permitted if the licensee of such station has reason to believe or has been informed that such operation might reasonably be expected to cause harmful interference to stations in the Industrial Radiolocation Service,³ except by mutual agreement between the licensees in both Services through the channels of liaison prescribed in § 20.30.

§ 20.30 *Liaison with licensees in the Industrial Radiolocation Service.* To carry into effect the requirements of § 20.29, and of § 11.611 of this chapter, "Rules Governing Industrial Radio Services", including a positive means whereby operation in the Industrial Radiolocation Service can be suspended to protect stations in this Service against harmful interference during operation in connection with an actual or imminent disaster or during other hours when stations in this Service have priority on the use of frequencies in the 1750-1800 kc band, there shall be established an adequate and reliable system of notification and liaison between licensees in this Service and licensees in the Industrial Radiolocation Service. The extent and division of responsibility for various phases of the notification and liaison system shall be as follows:

(a) Organization and establishment of a system of liaison within the Industrial Radiolocation Service; the devising of a system for the receipt and distribution of notification information; and the installation, operation and maintenance of such a system shall be the responsibility of licensees in the Industrial Radiolocation Service authorized to operate in the band 1750-1800 kc.

(b) Organization and establishment of a system of liaison within the Disaster Communications Service; and the devising of a method for the dispatch of notification information to the person or persons designated by licensees in the Industrial Radiolocation Service shall be the responsibility of licensees in the Disaster Communications Service authorized to operate in the band 1750-1800 kc.

(c) The responsibility for the initiation of liaison between licensees in the Industrial Radiolocation Service and the licensees in the Disaster Communications Service shall be the responsibility of the former.

¹The average times of sunrise (SR) and Sunset (SS) at New Orleans, Louisiana, based on Central Standard Time, are as follows:

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
SR-----	7:00	6:45	6:15	5:30	5:15	5:00	5:15	5:30	5:45	6:00	6:30	6:45
SS-----	5:15	6:45	6:15	6:30	6:45	7:00	7:00	6:45	6:00	5:30	5:00	6:00

²Stations in the Industrial Radiolocation Service are authorized to use frequencies in the 1750-1800 kc band under the condition, among others, that such use shall be limited to locations within 150 miles of the shoreline of the Gulf of Mexico.

(d) Once initiated, the maintenance, review and improvement of liaison between licensees in the two Services shall be the joint responsibility of both groups.

(e) Issuance of notification to suspend operation in the Industrial Radiolocation Service due to an impending or actual disaster shall be the responsibility of licensees in the Disaster Communications Service. Such notification shall be by those means which have been mutually agreed upon as sufficiently adequate, prompt and reliable to effectuate the purpose of this section. Any desired communication method or combination of methods may be utilized, and may be supplemented as necessary in case of failure of the agreed-upon method of notification.

(f) When stations in the Industrial Radiolocation Service have discontinued transmitting to protect disaster communications in connection with an imminent or actual disaster, and when the point has been reached where there is no reasonable possibility that radiolocation transmissions will cause harmful interference to the disaster communications, it shall be the responsibility of licensees in the Disaster Communications Service to communicate this information promptly to the licensees in the Industrial Radiolocation Service so that they may resume operation at will.

(g) The notification and liaison procedure hereby required to be established shall be limited to that geographical area within which there is a reasonable anticipation, determined by actual tests whenever practicable, that harmful interference may be caused by a licensee in the Industrial Radiolocation Service to licensees in the Disaster Communications Service.

§ 20.31 *Assigned frequencies and authorized emissions.* (a) The following frequencies in the frequency band 1750-1800 kc are assigned, on a nonexclusive basis, to all stations in the Disaster Communications Service. The selection and use of these frequencies shall be in accordance with a coordinated local area and adjacent area disaster communications plan² the specific types of emission herein indicated and the other applicable provisions of this part:

Channel No.	Channel width	Assigned frequency	Authorized emission
(1) Radiotelegraph channels			
1	1 kc.	1750.5 kc.	0.5 A1
2	1 kc.	1751.5 kc.	0.5 A1
3	1 kc.	1752.5 kc.	0.5 A1
4	1 kc.	1753.5 kc.	0.5 A1
5	1 kc.	1754.5 kc.	0.5 A1
6	1 kc.	1755.5 kc.	0.5 A1
7	1 kc.	1756.5 kc.	0.5 A1
8	1 kc.	1757.5 kc.	0.5 A1
(2) Scene of Disaster channel			
9	7 kc.	1761.5 kc.	0.5 A1, 2.5 A2, or 6 A3

²Duly designated civil defense officials will be considered competent local authority in the organization or operation of disaster communications radio networks and stations, and in the coordination of disaster communications plans.

(3) Radiotelephone channels

10	7 kc.	1763.5 kc.	G A3
11	7 kc.	1775.5 kc.	G A3
12	7 kc.	1782.5 kc.	G A3
13	7 kc.	1789.5 kc.	G A3
14	7 kc.	1796.5 kc.	G A3

(b) In the foregoing table, a figure specifying the maximum authorized bandwidth in kilocycles to be occupied by the emission is shown as a prefix to the authorized emission classification. The specified bandwidth shall contain those frequencies upon which a total of 99 percent of the radiated power appears, and shall include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power. Any radiation in excess of the limits specified is considered to be an unauthorized emission.

(c) When an unauthorized emission results in harmful interference, the Commission may, in its discretion, require appropriate technical changes in equipment to alleviate the interference.

§ 20.32 *Transmitting power.* The transmitting equipment of a radio station in the Disaster Communications Service shall be adjusted in such a manner as to produce the minimum radiation necessary to carry out the communications desired when such station is operating in the frequency band 1750-1800 kilocycles. No station in the Disaster Communications Service shall be operated on these frequencies using a direct current plate power input to the vacuum tube or tubes supplying energy to the antenna in excess of 500 watts, except when operating on the scene of disaster frequency in accordance with the provisions of § 20.21 (c).

§ 20.33 *Equipment requirements.* (a) All stations in the Disaster Communications Service, except those intended only for the transmission of an automatic alarm or alerting signal, shall be capable of both transmitting and receiving on the scene of disaster frequency.

(b) The carrier frequency of each licensed station in the Disaster Communications Service shall be maintained within 0.015 percent of the assigned frequency.

(c) When the radio frequency carrier of a station in the Disaster Communications Service is amplitude modulated, such modulation shall not exceed 100 percent on negative peaks.

(d) The licensee of each station in the Disaster Communications Service which is utilized for the transmission of Type A-1 or Type A-3 emission shall use adequately filtered direct-current plate power supply for the transmitter to minimize modulation from that source.

§ 20.34 *Operator requirements.* (a) Except under the conditions specified in paragraph (d) of this section, one or more licensed radio operators of the class or grade specified in paragraph (b) of this section shall be on duty at the place where the transmitting apparatus of each licensed disaster station is located, or at the control position of such station if the control position is located at a place other than the location of the transmitting apparatus, and in actual

charge thereof whenever it is being operated for the purpose of transmitting disaster communications, as defined in § 20.6, or is otherwise placed in a condition so as to produce radiation of radio frequency energy. No person shall manipulate the radiotelegraph key of a licensed disaster station for the purpose of manually transmitting radiotelegraph signals except under and in accordance with the authority of an operator license granting appropriate radiotelegraph operating privileges in accordance with the provisions of paragraph (b) of this section.

(b) Disaster stations licensed by the Federal Communications Commission may be operated, when properly transmitting in accordance with the provisions of this part, by the holders of:

(1) Any amateur radio operator license issued by the Federal Communications Commission which authorizes the holder thereof to operate an amateur radio station in the amateur segments of the 1800-2000 kc. frequency band; or

(2) Any commercial radio operator license issued by the Federal Communications Commission: *Provided*, That the holder of such commercial radio operator license shall perform or be responsible for only those operating duties and responsibilities at a disaster station which he is authorized, under the authority of such license, to perform or be responsible for at some other class of station licensed by the Commission when using the same type of emission and method of operation on a frequency or frequencies below 25 mc.

(c) When a station of the United States Government is authorized by the appropriate United States Government agency concerned to be operated in the Disaster Communications Service, the operator requirements for that station will be determined by the authorizing agency.

(d) Stations which are entirely automatic in their operation, including automatic modulation of the carrier, shall be exempt from the provisions of paragraph (a) of this section during the course of the normal rendition of the service of such stations: *Provided*, That all adjustments or tests during or coincident with the installation, servicing or maintenance of such stations shall be performed only by or under the immediate supervision and responsibility of a duly licensed operator whose license authorizes him to operate the station under those conditions in accordance with the provisions of paragraph (b) of this section: *And provided further*, That the station shall be so designed and installed as to be inaccessible to unauthorized personnel and incapable of any unauthorized transmission.

§ 20.35 *Availability of station and operator licenses.* (a) The original station license for a station in the Disaster Communications Service, or a photocopy thereof, shall be permanently attached to each transmitter of such station if the transmitter is readily accessible; or permanently posted at the control position of such station if the control position is located at a place other than the location of the transmitter.

(b) The original radio operator license or verification card (FCC Form No. 758-F) of the operator controlling the emissions of a licensed station in the Disaster Communications Service shall be carried on his person or kept immediately available at the place where he is operating the station.

(c) Whenever the original station license is not posted in accordance with the provisions of paragraph (a) of this section, or whenever the original operator license is not readily available at the place where the operator is on duty, such original license shall be made available for inspection upon reasonable request from any authorized representative of the federal government.

[F. R. Doc. 55-8295; Filed, Oct. 12, 1955; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53921]

PART 1—CUSTOMS DISTRICTS AND PORTS APPRAISER'S HEADQUARTERS TRANSFERRED

Effective November 1, 1955, the appraiser's headquarters in Customs Collection District No. 7 (St. Lawrence) shall be transferred from Ogdensburg, New York, to Rouses Point, New York.

Accordingly, § 1.6 of the Customs Regulations is amended by substituting "Rouses Point, N. Y." for "Ogdensburg, N. Y." in the column headed "Location of Headquarters" and substituting "Route 9-B" for "127 North Water St." in the column headed "Address of Appraiser of Merchandise" both opposite "St. Lawrence."

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

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: October 5, 1955.

DAVID W KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8301; Filed, Oct. 12, 1955; 8:49 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Cor- poration, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1955 CCC Peanut Bulletin 721 (Peanuts-55)-1, Amdt. 2]

PART 446—PEANUTS

SUBPART—1955 CROP PEANUT PRICE SUPPORT PROGRAM

MINIMUM MOISTURE CONTENT

The regulations issued by Commodity Credit Corporation with respect to the 1955 crop peanut price support program (20 F. R. 5615) are amended by the addition of a provision establishing a minimum moisture content for peanuts eligible for price support.

The regulations in §§ 446.701 to 446.719, inclusive, are hereby amended

by the addition of the following sentence at the end of § 446.707 (a) "Peanuts which have been mechanically dried must contain at least 5 percent moisture when received in the warehouse to be pledged as collateral for a loan to the cooperative or when placed under a farm storage loan, and must not show evidence of damage from the drying process, including (but not limited to) slippage of the skin."

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; sec. 201, 68 Stat. 899; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421)

Issued this 7th day of October 1955.

[SEAL] EARL M. HUGHES,
Executive Vice President.
Commodity Credit Corporation.

[F. R. Doc. 55-8313; Filed, Oct. 12, 1955; 8:51 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 4, further amended]

PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950—)

LUMP-SUM DEATH PAYMENT; PERSONS EQUITABLY ENTITLED

Regulations No. 4, as amended (20 CFR, Cum. Supp., 404.1 et seq.), are further amended as follows:

1. Subparagraph (2) of § 404.340 (a) is amended by substituting a semicolon for the period at the end thereof.

2. Section 404.340 (a) is amended by adding at the end thereof a new subparagraph, designated as (3), to read as follows:

§ 404.340 *Lump-sum death payment; to persons equitably entitled.* (a) When payment is made to persons equitably entitled. * * *

(3) A home for the aged or sick exempt from the payment of taxes under section 501 (c) of the Internal Revenue Code of 1954, paying the expenses of, or furnishing goods and services in connection with, the burial of an inmate or guest, but only if the home was not under an express contractual obligation to pay, or provide, for such burial (see paragraph (b) (2) of this section)

3. The foregoing amendments shall be effective on the date filed with the FEDERAL REGISTER.

(Sec. 205, 49 Stat. 624, as amended, sec. 1102, 49 Stat. 647, sec. 218, 64 Stat. 514; 42 U. S. C. 405, 418, 1302. Interprets or applies sec. 202, 49 Stat. 623, as amended; 42 U. S. C. 402)

[SEAL] W L MITCHELL,
*Acting Commissioner of
Social Security.*

Approved: October 7, 1955.

HEROLD C. HUNT,
*Acting Secretary of Health, Edu-
cation, and Welfare.*

[F. R. Doc. 55-8302; Filed, Oct. 12, 1955; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Parts 220, 221,
225]

PRODUCTION OF DISTILLED SPIRITS AND BRANDY; WAREHOUSING OF DISTILLED SPIRITS

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

In order to effect administrative decisions (a) by eliminating requirements for the weighing, prior to shipment, of packages transferred in sealed conveyances between internal revenue bonded warehouses and by transferring to proprietors the responsibility for weighing and recording the weights thereof of all packages transferred whether in sealed or unsealed conveyances, (b) by eliminating the requirement that packages be weighed prior to the dumping of spirits into tanks for gauging for either taxpayment or bottling in bond, (c) by providing for recoopering and repairing of packages under general supervision of an internal revenue officer, (d) by permitting taking of samples of spirits under general supervision of an internal revenue officer, (e) by transferring to warehousemen the responsibility for performing and recording certain original gauges of containers filled from storage tanks, (f) by modifying the requirements for the preparation of Form 52C, (g) by authorizing the storekeeper-gaugers to approve applications to change the kind of cooerage, (h) by providing that warehousemen shall furnish storekeeper-gaugers in charge with advance schedules of planned operations, (i) by authorizing the transfer of spirits by pipeline to the bottling-in-bond department for regaugo therein, (j) by providing for affixing brand labels or State stamps to bottled spirits (bearing all mandatory information) after removal from the premises where the spirits were bottled, (k) by removing restrictions as to bottle sizes for bottled-in-bond spirits to be exported, (l) by requiring the warehouseman to prepare Form 1620 when spirits

are returned to the storage portion of the warehouse from the bottling-in-bond department, (m) by correcting discrepancies in Part 225 with respect to the preparation of Form 1520, the use of facsimile signature stamps on wholesale liquor dealer's stamps, and an incomplete cross reference, and (n) by modifying the degree of supervision to be exercised by internal revenue officers over various warehouse activities such as the transfer of spirits from one storage tank to another, transfer of spirits between warehouse buildings on the same premises, pipeline removals, filling of tank cars and tank trucks, and the transfer of rum for denaturation, 26 CFR (1954) Parts 220, 221, and 225 are amended as follows:

PARAGRAPH 1. 26 CFR (1954) Part 220, Production of Distilled Spirits, is amended as follows:

(A) Section 220.595 is amended by placing a period after the phrase "transferred in sealed conveyances" in the third sentence, which begins "If the applicant" and striking the remainder of the sentence.

(B) Section 220.611 is amended as follows:

(1) By changing the headnote to read: "Certificate of removal."

(2) By inserting in the first sentence, immediately after the phrase "removal of the spirits" the phrase "in containers other than packages"

(3) By inserting immediately after the second sentence the following new sentence: "If the spirits are transferred in packages the distiller shall certify on all copies of Form 236 as to the accuracy of the description of the packages and the removal thereof, and if the spirits are contained in a conveyance sealed with Government cap seals the storekeeper-gauger will note on Form 236 the serial numbers of the cap seals used."

(4) By striking from the third sentence, which begins "He will retain" the word "He" and inserting in lieu thereof the words "The storekeeper-gauger"

(C) Section 220.612 is amended by placing a period after the phrase "transferred in sealed conveyances" in the third sentence, which begins "If the applicant" and striking the remainder of the sentence.

(D) Section 220.619 is amended as follows:

(1) By changing the headnote to read: "Certificate of removal."

(2) By inserting in the first sentence, immediately after the phrase "removal of the spirits" the phrase "in containers other than packages"

(3) By inserting immediately after the second sentence the following new sentence: "If the spirits are transferred in packages the distiller shall certify on all copies of Form 236 as to the accuracy of the description of the packages and the removal thereof, and if the spirits are contained in a conveyance sealed with Government cap seals the storekeeper-gauger will note on Form 236 the serial numbers of the cap seals used."

(4) By striking from the third sentence, which begins "He will retain" the word "He" and inserting in lieu thereof the words "The storekeeper-gauger"

PAR. 2. 26 CFR (1954) Part 221, Production of Brandy, is amended as follows:

(A) Section 221.595 is amended by placing a period after the phrase "transferred in sealed conveyances" in the third sentence, which begins "If the applicant" and striking the remainder of the sentence.

(B) Section 221.611 is amended as follows:

(1) By changing the headnote to read: "Certificate of removal."

(2) By inserting in the first sentence, immediately after the phrase "removal of the brandy", the phrase "in containers other than packages"

(3) By inserting immediately after the second sentence the following new sentence: "If the brandy is transferred in packages the distiller shall certify on all copies of Form 236 as to the accuracy of the description of the packages and the removal thereof, and if the brandy is contained in a conveyance sealed with Government cap seals the storekeeper-gauger will note on Form 236 the serial numbers of the cap seals used."

(4) By striking from the third sentence, which begins "He will retain", the word "He" and inserting in lieu thereof the words "The storekeeper-gauger"

(C) Section 221.612 is amended by placing a period after the phrase "transferred in sealed conveyances" in the third sentence, which begins "If the applicant", and striking the remainder of the sentence.

(D) Section 221.619 is amended as follows:

(1) By changing the headnote to read: "Certificate of removal."

(2) By inserting in the first sentence, immediately after the phrase "removal of the brandy" the phrase "in containers other than packages"

(3) By inserting immediately after the second sentence the following new sentence: "If the brandy is transferred in packages the distiller shall certify on all copies of Form 236 as to the accuracy of the description of the packages and the removal thereof, and if the brandy is contained in a conveyance sealed with Government cap seals the storekeeper-gauger will note on Form 236 the serial numbers of the cap seals used."

(4) By striking from the third sentence, which begins "He will retain", the word "He" and inserting in lieu thereof the words "The storekeeper-gauger"

PAR. 2. 26 CFR (1954) Part 225, Warehousing of Distilled Spirits, is amended as follows:

(A) Section 225.244 is amended as follows:

(1) By changing the headnote to read: "Reports."

(2) By striking from the first sentence the phrase "complete Form 52C and"

(3) By striking from the first sentence the phrase "on such form" and inserting in lieu thereof "on Form 52C prepared"

(B) By inserting a new section, reading as follows, immediately after § 225.351.

§ 225.351a *Proprietor's schedule of operations.* The proprietor shall furnish daily to the storekeeper-gauger in charge a schedule of operations for the

next succeeding work day. This schedule shall show activities which would require the immediate supervision or attention of a storekeeper-gauger, such as, the approximate number of containers of spirits to be received and withdrawn (identify kinds of withdrawals) the quantity of spirits to be bottled in bond, bulk regauged and tarryment operations, the time and approximate number of packages to be recovered, number and quantity of samples to be taken, number of containers to be filled from storage tanks or consolidation tanks, and repairs which will involve the breaking or replacing of seals or the manipulation of Government locks.

(C) Section 225.353 is amended by inserting in the first sentence, immediately after the phrase "equipped for locking" the parenthetical phrase "(if required by this part)"

(D) Section 225.358 is amended to read as follows:

§ 225.358 *Supervision of operations.* In all instances where immediate supervision by the storekeeper-gauger of any operation is not required by this part the storekeeper-gauger shall, from time to time, make spot checks of the operations being conducted by the warehouseman to satisfy himself of the propriety of the operation. Where the storekeeper-gauger finds significant discrepancies in entries or records made by the warehouseman, the marks or brands required to be placed on any container, or finds any operation being conducted contrary to the provisions of this part, the warehouseman shall take such corrective action as may be required by the storekeeper-gauger.

(60A Stat. 644; 26 U. S. C. 5241)

(E) By inserting a new section, reading as follows, immediately after § 225.353:

§ 225.358a *Inspection of packages in storage.* The assistant regional commissioner will, from time to time, assign internal revenue officers for the purpose of inspecting packages of distilled spirits to determine the extent of tampering or losses through theft.

(F) Section 225.378 is amended by striking from the last sentence the word "immediate"

(G) Section 225.380 is amended as follows:

(1) By striking the word "storekeeper-gauger" in the two places it appears in the first sentence and inserting in lieu thereof in each instance the word "warehouseman"

(2) By striking in the first sentence the phrase "immediate vicinity so the transfer" and inserting in lieu thereof the phrase "immediate vicinity and so located that the transfer"

(3) By inserting immediately after the first sentence the following new sentences: "If weighing is not required the warehouseman may elect to weigh the packages and enter the receiving gross weights on Form 1520 or 1619. When conveyances are received upon which the Government cap seals are not intact, or if packages bear evidence of damage in transit, the warehouseman

will weigh each package under the supervision of the storekeeper-gauger. The warehouseman shall report the receipt of packages in unsealed conveyances to the storekeeper-gauger who shall inspect such packages and supervise the weighing thereof."

(H) Section 225.381 is amended to read as follows:

§ 225.381 *Examination of packages.* Where packages of spirits are received bearing evidence of having sustained unusual losses in transit, or where material discrepancies are found by the comparison of the shipping weight with the receiving weight, the storekeeper-gauger will (a) examine the condition of the cooperage of each such package and (b) gauge each such package and enter the details thereof in the appropriate columns on Form 1520 or 1619, as the case may be, and in the loss column enter the difference in weight between the amount shipped and the amount received. The storekeeper-gauger will note on the reverse of the Form 1520 or 1619 the condition of the cooperage and whether in his opinion the loss was occasioned by theft, accident, or other determinable cause. In the event the loss sustained from any package appears to have been the result of theft, such package will be detained and a report made to the assistant regional commissioner in accordance with § 225.486.

(68A Stat. 604; 26 U. S. C. 5011)

(I) Section 225.406 is amended to read as follows:

§ 225.406 *Facilities for recooling.* The proprietor shall provide a suitable enclosed area, in which the repair or recooling of all packages, involving exposure of spirits, shall be conducted. The proprietor shall lock the enclosure when spirits are exposed therein unless the employee responsible for recooling activities is present: *Provided*, That locking of the enclosure is not required if the spirits have been deposited in locked containers. The facilities to be used must be so arranged and the work so performed that supervision by storekeeper-gaugers can be performed readily and expeditiously and unnecessary loss or wastage of spirits or unauthorized commingling will be prevented.

(68A Stat. 633, 634, 643; 26 U. S. C. 5193, 5194, 5231)

(J) Section 225.407 is amended to read as follows:

§ 225.407 *Gauging.* Distilled spirits may be drawn into packages from storage tanks in accordance with this part. If the distilled spirits in the tank are found to be other than a whole degree of proof, adjustment to a whole degree shall be made by the proprietor before withdrawal into packages: *Provided*, That such adjustment will not be required when the packages are to be regauged prior to taxpayment. Where the proof is not adjusted to a whole degree, it shall be determined to the nearest tenth and rounded to a whole degree in accordance with Part 186 of this title and so recorded. Each package will be carefully gauged by the warehouseman, under the general supervision of the storekeeper-

gauger, and the details thereof will be entered by the warehouseman on Form 1520: *Provided*, That where the warehouseman has indicated that packages are to be taxpaid on the original gauge the storekeeper-gauger shall make such gauge and report the details thereof on Form 1520, noting thereon, "Taxpay on original gauge" Any cask or package which contains or has on its interior or exterior any substance that will prevent the correct ascertainment of tare shall not be used. The tare of the empty package will be determined and will be marked on the package and recorded on Form 1520. Weights shall be determined in pounds and one-half pounds.

(68A Stat. 633, 634; 26 U. S. C. 5193, 5194)

(K) Section 225.408 is amended by striking from the second sentence the word "immediate."

(L) Section 225.409 is amended by striking from the fifth sentence, which begins "All marking", the word "immediate"

(M) Section 225.410 is amended by changing the first sentence to read: "The date of original entry for deposit and the proof of distillation of the spirits shall be noted on each copy of Form 1520."

(N) Section 225.413 is amended by changing the third sentence, which begins "The storekeeper-gauger" to read: "The tare of the new package will be determined and will be marked on the package before transfer of the spirits."

(O) Section 225.414 is amended by striking the word "immediate"

(P) Section 225.415 is amended as follows:

(1) By striking the words "assistant regional commissioner" and inserting in lieu thereof the word "storekeeper-gauger"

(2) By placing a period after the phrase "spirits are stored" and striking the remainder of the sentence.

(Q) Section 225.416 is amended to read as follows:

§ 225.416 *Request to storekeeper-gauger* The request for permission to change the kind of cooperage must give the serial number of the package or packages, kind of original cooperage, kind of cooperage desired to be used, name of the distiller, registered number and location (city or town, and State) of the distillery at which the spirits were produced and the reason why the change is desired. Storekeeper-gaugers in charge may approve the request when internal revenue officers are available for necessary supervision.

(R) Section 225.417 is amended to read as follows:

§ 225.417 *Marking new packages.* Each new package will be given the same serial number, marks, and brands (except the tare and kind of cooperage) as the original package, and will contain only spirits from one package. The tare of the new package will be determined and will be marked on the new package before the transfer, and upon completion of the transfer the proprietor will prepare and sign a label to be affixed to the head of each new package in the manner

prescribed in this part for the affixing of wholesale liquor dealer's stamps. The label shall be in the following form:

The spirits contained in this package, serial No. -----, were transferred to new ----- barrel under date of ----- (Kind of cooperage) ----- by authority of letter dated ----- The package from which the spirits herein were transferred was a ----- barrel. (Kind of cooperage) ----- (Proprietor)

When such a change of package is made, the storekeeper-gauger will note the tare of the new package on Form 1520 or Form 1619 covering deposit of the spirits. If the new package should be transferred in bond the proprietor will make a notation on the transfer Form 1619 showing the date of the change of package and the tare of the new package.

(S) Section 225.433 is amended by striking from the first sentence the phrase "and the spirits shall be transferred under the supervision of the storekeeper-gauger" and inserting in lieu thereof the phrase "and may then effect the transfer"

(T) Section 225.485 is amended by striking the fifth sentence, which begins "A similar application"

(U) By inserting a new section, reading as follows, immediately after § 225.485:

§ 225.485a *Losses determined at time of recooling.* Where the warehouseman determines at the time of recooling that a package has sustained an unusual loss, and a report and determination of the loss is not required by the provisions of § 225.485, he shall make a report of gauge on Form 1698. A copy of the form will be securely attached to the package and two copies will be delivered to the storekeeper-gauger. When Form 1698 is prepared by the warehouseman for any package the new gross weight, date, and the serial number of the Form 1698 will be noted by the storekeeper-gauger on the deposit form.

(68A Stat. 604; 26 U. S. C. 5011)

(V) Section 225.536 is amended as follows:

(1) By inserting immediately after the word "removed" in item (d) the following phrase: "and specific information as to the location of the package or packages in the warehouse"

(2) By striking immediately before item (k) the word "and"

(3) By changing the period at the end of the last sentence to a comma and adding the following: "and (1) the approximate time the samples will be taken."

(W) Section 225.537 is amended by striking from the last sentence the phrase "(j) and (k)" and inserting in lieu thereof the phrase "and (j) through (l)"

(X) Section 225.540 is amended to read as follows:

§ 225.540 *Removal under supervision.* The removal of samples will be subject to the supervision of the storekeeper-gauger.

(68A Stat. 687; 26 U. S. C. 5373)

(Y) Section 225.541 is amended as follows:

(1) By changing the period at the end of the third sentence, which begins "The proprietor" to a semicolon and adding the following: "(i) the words "Subject to taxpayment" where the label is to be placed upon a sample taken subject to payment of tax."

(2) By changing the fourth and fifth sentences, which begin "Upon completion," and "Where the label" respectively, to read: "Such label and copy shall be signed and dated by the employee responsible for taking the sample and immediately above the signature there will appear the following statement: 'I certify that this sample was taken in the quantity and from the package described above and from no other package.' The employee shall affix the label to the sample container and give the copy to the storekeeper-gauger."

(Z) Section 225.542 is amended by striking from the last sentence the phrase "At the time of preparing Form 1520 or Form 1619 covering the" and inserting in lieu thereof the word "Upon"

(AA) Section 225.562 is amended as follows:

(1) By striking from the first sentence the words "to be"

(2) By striking the last sentence.

(BB) Section 225.563 is amended to read as follows:

§ 225.563 *Preparation of withdrawal reports by storekeeper-gauger.* When spirits are withdrawn from a storage tank in an internal revenue bonded warehouse into packages which are to be taxpaid on the original gauge, or when spirits are removed by pipeline or in tank cars or tank trucks, the storekeeper-gauger will prepare and complete the Form 1520 in accordance with the instructions in this part.

(68A Stat. 639, 649; 26 U. S. C. 5215, 5250)

(CC) Section 225.565 is amended to read as follows:

§ 225.565 *Withdrawal on original gauge.* Distilled spirits in packages, tank cars, or tank trucks may be withdrawn from an internal revenue bonded warehouse on the original gauge if such gauge was made by a storekeeper-gauger. Where the gauge was made pursuant to notification from the distiller or warehouseman, as the case may be, that the spirits would be taxpaid on the original gauge, and the deposit forms for such spirits bear the notification "Taxpay on the original gauge" the spirits must be taxpaid on the original gauge unless permission for a regauge is first obtained from the assistant regional commissioner.

(68A Stat. 647; 26 U. S. C. 5245)

(DD) Section 225.571 is amended to read as follows:

§ 225.571 *Weighing packages.* During the process of weighing, care will be taken to note the correct reading of the scale to the half pound and in case of doubt as to which graduation shall apply, the graduation denoting the lesser weight will prevail.

(68A Stat. 639; 26 U. S. C. 5212)

(EE) Section 225.572 is amended by striking the first and second sentences and inserting in lieu thereof the following new sentences: "The proof of spirits shall be determined in accordance with the instructions set forth in the Gauging Manual (Part 186 of this title). The storekeeper-gauger shall determine, or verify, as the case may be, the proof of all spirits gauged."

(FF) Section 225.573 is revoked.

(GG) Section 225.576 is amended by striking the second sentence, which begins "The spirits", and inserting in lieu thereof the following new sentence: "The spirits will be carefully gauged and the details entered on the report of gauge as provided in this part."

(HH) Section 225.580 is amended to read as follows:

§ 225.580 *Pipeline removals.* Pipelines used for the transfer of spirits to qualified establishments on the same or contiguous premises, or to tank cars or tank trucks for shipment, must conform to the requirements of § 225.124, except that the spirits may be transferred into or from a tank car or tank truck by means of a hose connection where the operation can be under the observation of an internal revenue officer. The valves on such pipelines shall be kept closed and locked, except during the transfer of spirits, which transfer shall be under the supervision of an internal revenue officer.

(68A Stat. 599, 634, 636; 26 U. S. C. 5006, 5194, 5195)

(II) Section 225.586 is amended to read as follows:

§ 225.586 *Proprietor's monthly report, Form 52C.* The proprietor of every internal revenue bonded warehouse shall render a monthly report of spirits removed from the warehouse on Form 52C, as provided in Subpart VV of this part.

(68A Stat. 637; 26 U. S. C. 5197)

(JJ) Section 225.590 is amended as follows:

(1) By inserting in the first sentence, immediately after the words "will be determined" the phrase "under the supervision of the storekeeper-gauger,"

(2) By striking the second sentence, which begins "The storekeeper-gauger"

(KK) Section 225.601 is amended by striking from the third sentence, which begins "If the", the words "entered in columns 11 and 12" and inserting in lieu thereof the words "shown on Form 1520"

(LL) Section 225.630 is amended as follows:

(1) By changing the comma following the phrase "stated on Form 179" in the second sentence, which begins "Where the spirits", to a period and striking the remainder of the sentence.

(2) By striking from the fourth sentence, which begins "Where the capacity", the phrase "a separate Form 1520 must be prepared for each such gauging tank listing the packages to be gauged therein, and"

(3) By striking from the last sentence the phrase "in accordance with §§ 225.632 to 225.636"

(MM) Section 225.632 is amended as follows:

(1) By changing the first sentence to read as follows: "If the spirits to be withdrawn are in packages, the storekeeper-gauger, upon receipt of the Form 179, will carefully examine each package and will verify the identity of the spirits."

(2) By inserting immediately after the second sentence, which begins "Where it is", the following new sentence: "The storekeeper-gauger will satisfy himself that each package which does not bear such evidence has been dumped into the gauging tank."

(3) By changing the tenth sentence, which begins "The spirits in" to read as follows: "The spirits in the gauging tank will be gauged with an official hydrometer and the details of the gauge and the number of the gauging tank shall be entered by the storekeeper-gauger on Form 1520, in quintuplicate."

(4) By inserting immediately after the tenth sentence the following new sentence: "A separate Form 1520 must be prepared by the storekeeper-gauger for each gauging tank."

(NN) Section 225.637 is amended by striking from the second sentence, which begins "The removal of", the word "immediate"

(OO) Section 225.675 is amended by placing a period after the phrase "provisions of §§ 225.642 and 225.643" in the first sentence and striking the remainder of the sentence.

(PP) Section 225.732 is amended as follows:

(1) By inserting in the first sentence immediately after the words "weighing of spirits" the words "prior to transfer or"

(2) By inserting in the third sentence, which begins "If the conveyance" immediately after the words "packages at the" the words "consignor and"

(QQ) Section 225.733 is amended by placing a period after the phrase "transferred in sealed conveyances" in the third sentence, which begins "If the applicant" and striking the remainder of the sentence.

(RR) Section 225.735 is amended to read as follows:

§ 225.735 *Transfers in packages.* When the proprietor of the shipping warehouse desires to make shipment of spirits in packages, he will prepare an original and five copies of Form 1619 filling in the heading and giving details as to serial numbers, date of original entry for deposit, original gauge and last gauge (if other than the original) and will identify any packages designated to be taxpaid on the original gauge by the notation "Taxpay on original gauge" In the case of blended brandies the proprietor shall also show on Form 1619 the date and serial number of the Form 1605 covering the blending of the brandies, the date of the original entry of the oldest brandy in the blend and the date of the original entry of the youngest brandy in the blend. The proprietor shall execute on the six copies of Form 236 a description of the packages to be transferred. If the proprietor elects to ship the packages in a Government-

sealed conveyance when the consignee-warehouseman has not previously requested a sealed conveyance as provided by § 225.733, he should indicate on Form 236 that the packages are to be transferred in sealed conveyances; otherwise the proprietor should indicate that the packages are to be shipped in unsealed conveyances. The weighing of packages is not required where the spirits are transferred in conveyances sealed with Government cap seals, or where the spirits are to be transferred to an internal revenue bonded warehouse operated by the consignor or an affiliate or subsidiary of the consignor in the immediate vicinity and so located that the transfer can be under observation by internal revenue officers; however, if the warehouseman elects to weigh such packages he will enter the shipping gross weights on Form 1619. Where packages are to be shipped in conveyances not sealed with Government cap seals the warehouseman will examine and weigh each package under the supervision of the storekeeper-gauger and enter the shipping gross weight on Form 1619. Where it is determined by the warehouseman or the storekeeper-gauger that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 225.480 to 225.495. Where a damaged package which has sustained an unusual loss from obvious cause other than theft or unauthorized voluntary destruction is found upon preparation for transfer, the package will be weighed and proofed and the apparent cause noted on Form 1619 in accordance with the applicable provisions of § 225.485. The quantity to be transferred shall not exceed the maximum stated in the application. Upon withdrawal for transfer to noncontiguous premises, the word "Transferred" followed by the date of transfer, the number of the receiving warehouse, and the State in which such warehouse is located, will be plainly and durably stenciled on the Government head of the package in letters and figures not less than one-half inch in height. These marks may be abbreviated as follows:

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Upon completion of the lading of the packages and the preparation of Forms 236 and 1619 the proprietor will deliver all copies of each form to the storekeeper-gauger. Forms 236 and 1619 will be disposed of in accordance with the provisions of § 225.750.

(68A Stat. 606, 647; 26 U. S. C. 5023, 5246)

(SS) Section 225.738 is amended as follows:

(1) By changing the first sentence to read as follows: "When the proprietor desires to transfer spirits in packages, tank cars, or tank trucks, to be filled from warehouse storage tanks, he will deliver a copy of Form 236 with a complete description of the spirits to the storekeeper-gauger in charge of the warehouse."

(2) By changing the third sentence, which begins "The storekeeper-gauger", to read: "The proof at which the spirits were distilled shall be noted on the original and five copies of Form 1520 covering the report of gauge."

(3) By inserting in the fourth sentence, which begins "The quantity" immediately after the words "six copies of Form 1520" the parenthetical phrase "(except when Form 1520 was prepared by the proprietor as provided in § 225.-407)"

(TT) Section 225.747 is amended as follows:

(1) By striking the first and second sentences and inserting in lieu thereof the following new sentence: "Tank cars or tank trucks will be filled under the supervision of the storekeeper-gauger."

(2) By striking the fourth sentence, which begins "The officer" and inserting in lieu thereof the following new sentence: "The officer will enter, for each compartment of the conveyance, on Form 1520 (covering the gauge of the spirits) the level of the spirits above or below the full mark, and the temperature of the spirits at filling, for example: 'Filled two inches above full mark at 80° F'"

(UU) Section 225.750 is amended as follows:

(1) By changing the headnote to read: "Certificate of removal."

(2) By inserting in the first sentence immediately after the words "of the spirits" the phrase "in containers other than packages"

(3) By inserting immediately after the first sentence the following new sentence: "If spirits are transferred in packages the warehouseman shall certify on all copies of Form 236 as to the accuracy of the description of the packages and the removal thereof, and if the spirits are contained in a conveyance sealed with Government cap seals the storekeeper-gauger will note on Form 236 the serial numbers of the cap seals used."

(VV) Section 225.751 is amended as follows:

(1) By changing the headnote to read: "Receipt of spirits at warehouse."

(2) By striking the first three sentences and inserting in lieu thereof the following new sentences: "Upon receipt of the spirits at the receiving warehouse, losses or discrepancies will be ascertained and noted on Form 1520, 1619, or 1620, as the case may be, as provided in §§ 225.381, 225.382, and 225.384. The warehouseman will examine and weigh packages of spirits as provided in § 225.380 and will execute the certificate of receipt and deposit on Form 236. If the spirits are contained in a conveyance sealed with Government cap seals the storekeeper-gauger will indicate on all copies of Form 236 whether the conveyance was received with the seals intact and if the spirits are received in containers other than packages will execute the certificate of receipt and deposit."

(VW) Section 225.752 is amended by placing a period after the phrase "transferred in sealed conveyances" in the third sentence, which begins "If the ap-

plicant", and striking the remainder of the sentence.

(XX) Section 225.755 is amended as follows:

(1) By changing the headnote to read: "Certificate of removal."

(2) By inserting in the first sentence immediately after the words "of the spirits" the phrase "in containers other than packages"

(3) By inserting immediately after the first sentence the following new sentence: "If spirits are transferred in packages the warehouseman shall certify on all copies of Form 236 as to the accuracy of the description of the packages and the removal thereof, and if the spirits are contained in a conveyance sealed with Government cap seals the storekeeper-gauger will note on Form 236 the serial numbers of the cap seals used."

(YY) Section 225.756 is amended as follows:

(1) By changing the headnote to read: "Receipt of spirits at warehouse."

(2) By striking the first three sentences and inserting in lieu thereof the following new sentences: "Upon receipt of the spirits at the receiving warehouse, losses or discrepancies will be ascertained and noted on Form 1520, 1619, or 1620, as the case may be, as provided in §§ 225.381, 225.382, and 225.384. The warehouseman will examine and weigh packages of spirits as provided in § 225.380 and will execute the certificate of receipt and deposit on Form 236. If the spirits are contained in a conveyance sealed with Government cap seals the storekeeper-gauger will indicate on all copies of Form 236 whether the conveyance was received with the seals intact and if the spirits are received in containers other than packages will execute the certificate of receipt and deposit."

(ZZ) Section 225.935 is amended by striking from the first sentence the word "immediate"

(AAA) Section 225.951 is amended as follows:

(1) By changing the comma following the word "quadruplicate" in the first sentence to a period and striking the remainder of the sentence.

(2) By changing the second sentence, which begins "Upon receipt", to read: "Upon receipt of the application the storekeeper-gauger will satisfy himself that the spirits are eligible for bottling in bond and will inspect the packages."

(3) By striking from the fifth sentence, which begins "The packages", the words "and weighed"

(4) By striking the last sentence.

(BBB) Section 225.952 is amended to read as follows:

§ 225.952 *Gauge*. Packages of distilled spirits to be bottled in bond may be (a) dumped and gauged in the storage portion of the warehouse, (b) dumped in the storage portion of the warehouse and transferred to the bottling-in-bond department for gauging, or (c) removed to the bottling-in-bond department, dumped, and gauged. If the spirits are to be gauged and transferred to the bottling-in-bond department by pipeline, the packages will be dumped in the bulk gauge tank in the warehouse. The

storekeeper-gauger will make his gauge of the spirits, report the details thereof on Form 1520, in triplicate, and complete his report on Form 1515. The storekeeper-gauger will also enter on Form 1520 the number of the gauging tank. If the spirits are to be removed in packages to the bottling-in-bond department or are to be gauged after receipt by pipeline in the bottling-in-bond department, the storekeeper-gauger in the warehouse will complete his certificate of removal for bottling on Form 1515. When the spirits have been released for transfer to a bottling-in-bond department, all copies of the application and the Form 1520, if gauged in a warehouse gauging tank, will be furnished to the storekeeper-gauger assigned to the bottling-in-bond department in order that such officer may inspect the spirits prior to the bottling thereof. If the spirits are received in the bottling-in-bond department in packages, they will be dumped for bulk gauging in dumping and reducing or in bottling tanks. Where the spirits are transferred to the bottling-in-bond department by pipeline prior to gauging they will be deposited in dumping and reducing or in bottling tanks. The storekeeper-gauger will make his gauge, either by weight or by volume, and will report the gauge on Forms 1520 and 1515 in the same manner as if the spirits had been gauged in the warehouse. He will at that time return the original of the Form 1520 to the storekeeper-gauger in charge of the warehouse. When the bottling is completed, the storekeeper-gauger will enter the details of the cases on Form 1515, forward one copy, with the Form 1520 attached, to the assistant regional commissioner, deliver one copy of each form to the proprietor, return one copy of Form 1515 to the storekeeper-gauger in charge of the warehouse, and file the remaining copy of Form 1515 in the bottling-in-bond department. Spirits taxpaid from the bottling department shall be considered as constructively returned to the storage portion of the warehouse. The storekeeper-gauger shall account for, as deposited, on Forms 1621 and 1513, all spirits bottled. Prior to the removal of cases of distilled spirits from the bottling-in-bond department, the proprietor will prepare Form 1620, in triplicate, and submit it to the storekeeper-gauger for signature. One copy of the form will be forwarded to the assistant regional commissioner, one copy will be given to the warehouseman, and the remaining copy will be filed as a permanent record as provided in § 225.1102.

(68A Stat. 645; 26 U. S. C. 5243)

(CCC) Section 225.953 is amended by striking the period at the end of the second sentence and all of the third sentence, which begins "The proprietor", and inserting in lieu thereof the following: "and deliver all copies to the storekeeper-gauger in charge of the warehouse."

(DDD) Section 225.954 is amended as follows:

(1) By changing the first sentence to read: "Upon receipt of Form 1515 the storekeeper-gauger will examine the application and request for gauge."

(2) By striking from the last sentence the words "no discrepancies are found in the Form 1520 and"

(EEE) Section 225.955 is amended by changing the fifth sentence, which begins "Prior to" to read: "Prior to the removal of cases of spirits from the bottling-in-bond department, the proprietor will prepare Form 1620, in triplicate, and submit it to the storekeeper-gauger for signature."

(FFF) Section 225.960 is amended by inserting in the first sentence immediately after the words "tank for bottling in bond" the phrase "or which have been dumped in the warehouse but are to be gauged in the bottling-in-bond department"

(GGG) Section 225.966 is amended by striking from the first sentence the word "immediate"

(HHH) Section 225.972 is amended by striking from the last sentence the word "immediate"

(III) Section 225.974 is amended as follows:

(1) By inserting in the proviso of the first sentence, immediately after the phrase "brand labels or State stamps", the phrase "or the transfer in bond to another internal revenue bonded warehouse where brand labels or State stamps will be affixed"

(2) By inserting in the proviso of the third sentence, immediately after the phrase "provided in this section", the phrase "unless the cases are to be transferred to another internal revenue bonded warehouse prior to the affixing of the brand labels or State stamps,"

(3) By striking the last sentence and inserting in lieu thereof the following new sentences: "When spirits in cases temporarily sealed are returned to the bottling-in-bond department or are transferred in bond to another internal revenue bonded warehouse they must be kept apart from other spirits in the bottling-in-bond department until the work of attaching the brand label, or State stamp, or both, and permanent sealing of the cases has been completed; where the consignee warehouse does not have a bottling-in-bond department the assistant regional commissioner may authorize the labeling where space and facilities for such activities are available. The brand label to be affixed by the consignee warehouseman must be covered by an appropriate certificate of label approval or a certificate of exemption from label approval issued under the Federal Alcohol Administration Act."

(JJJ) Section 225.985 is amended by striking the first and second sentences and inserting in lieu thereof the following new sentence: "Distilled spirits shall be bottled in bond for export in bottles containing less than 5 wine gallons."

(KKK) Section 225.997 is amended by striking the word "quintuplicate" and inserting in lieu thereof the word "quadruplicate"

(LLL) Section 225.1016 is revoked.

(MMM) Section 225.1046 is amended as follows:

(1) By striking from the first sentence the words "and in no other"

(2) By inserting immediately after the first sentence the following new sentence: "When bottles containing

spirits are of sizes for which stamps in the exact denominations are not provided, the warehouseman will use stamps of the denomination nearest the actual quantity of spirits contained in the bottles, and will strike out the original denomination and print or write on the stamps the exact quantity of spirits contained in the bottles."

(NNN) Section 225.1103 is amended by changing the first sentence to read as follows: "When spirits are to be withdrawn, the storekeeper-gauger shall, upon presentation of the proper withdrawal form by the proprietor, secure from his file the Form 1520, 1619, or 1620, covering the deposit of the spirits, including blended brandy returned to the storage portion of the warehouse from the brandy-blending department, or spirits contained in consolidated packages, and except for packages transferred in bond shall verify the details of the entry gauge transcribed to the withdrawal form."

(OOO) Section 225.1120 is amended to read as follows:

§ 225.1120 *Record and report of removals from warehouse.* Every proprietor of an internal revenue bonded warehouse shall file with the assistant regional commissioner a monthly report, on Form 52C, of the total quantities of bulk and bottled-in-bond distilled spirits removed from the internal revenue bonded warehouse during the month, not later than the 10th day of the month succeeding that for which rendered. Every proprietor shall prepare a commercial record covering the physical removal of each lot of taxpaid distilled spirits which shall show (a) name and address of consignee, (b) date of removal, (c) kind of spirits, (d) name and registry number of the distiller, (e) number of packages and cases, (f) quantity of spirits (tax gallons) and (g) serial numbers of the cases or packages, unless serial numbers are shown on commercial papers attached thereto. Taxpaid removals of spirits shall be entered in commercial records before the close of the business day next succeeding the day on which the transactions occur. Form 52C will be provided by the proprietor at his own expense and shall, together with the commercial records, if any, be preserved on the premises of the warehouse for 2 years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue officers.

(63A Stat. 619, 637; 26 U. S. C. 5114, 5197)

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 908]

[Docket No. AO-243]

HANDLING OF MILE IN CENTRAL ARKANSAS MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of

1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was conducted at Little Rock, Arkansas, on January 4-12, 1955, pursuant to notice thereof which was issued December 15, 1954 (19 F. R. 8709), upon a proposed marketing agreement and order regulating the handling of milk in the Central Arkansas marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on July 15, 1955, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. Said decision containing notice of opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on July 20, 1955 (20 F. R. 5166).

Within the period reserved therefor, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

To the extent that suggested findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

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 justify the issuance of a milk marketing agreement or order;

3. If an order is issued what its provisions 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) Distribution of proceeds to producers; and

(e) Administrative provisions.

The hearing notice included proposals to include as part of the marketing area the counties of Howard, Sevier, Hempstead, Miller, Lafayette, Columbia, and Ouachita in Arkansas and Bowie in Texas. The record evidence indicates that marketing conditions in the aforementioned counties are not similar to the extent that it would be advisable to include them under an order with the Central Arkansas area. Decision on the material issues as they pertain to the

enumerated counties is reserved for later determination.

Findings and conclusions. The findings and conclusions with respect to the material issues for the area being considered, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

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

The marketing area specified in the proposed order, hereinafter known as the Central Arkansas marketing area, includes all of the territory within the boundaries of the counties of Pulaski, Jefferson, Faulkner, White, Clark and Garland. All of the counties are in the State of Arkansas. Approximately 1000 producers located in the State of Arkansas supply about 9 million pounds of milk per month to about 12 milk plants which distribute fluid milk to consumers in the proposed area. Milk from two major distributors in this group is distributed regularly in Tennessee. Nearly half of the Class I sales from one plant are to outlets in the Memphis, Tennessee marketing area. One of the plants also distributes milk in Oklahoma.

Local supplies of milk have been inadequate to meet Class I needs plus adequate reserves each month of the year for several years. Handlers who supplied fluid milk to the proposed marketing area have been required to make frequent imports of bulk Grade A milk from sources in Oklahoma, Illinois, Missouri, Tennessee, and Wisconsin. The record indicates that between 6 and 7 million pounds of supplemental milk was received by these handlers from sources other than producers during the year prior to the hearing. Thus milk was commingled with milk received from local producers and marketed to fluid outlets both in the State of Arkansas and elsewhere.

2. *Marketing conditions.* The issuance of a marketing agreement or order will tend to effectuate the declared policy of the act.

The Central Arkansas market is characterized by unstable marketing conditions. The conditions which have resulted in unrest and instability in this area are typical of those encountered in the fluid milk industry in the absence of a well-defined marketwide classified pricing plan.

The record discloses that a large proportion of the producers in the proposed marketing area are members of the Central Arkansas Milk Producers Association. The association has had contracts for the sale of its producers' milk for the past two or three years with all but one of the major handlers. These contracts covered most of the producer milk received by Little Rock handlers, and part of that received by handlers doing business in the surrounding areas which would be included under this proposed order.

Such contracts provided a base rating plan as a method for paying producers. Under this plan producers received a price equal to the average of Class I

prices in eight Federally regulated markets for all milk delivered during a six-month base forming period. Throughout the remainder of the year, they received such base price for all or a portion of their base milk. All excess milk, and at times some base milk, has been paid for at surplus prices. The proportion of base milk paid for at surplus prices has been the same for all handlers.

Under the foregoing arrangement, the handlers' costs of milk have not been dependent upon the utilization made of milk, and have varied from one handler to the next. Such variations in the average cost of milk are accounted for largely by differences in seasonal pattern of purchases from producers, and in part by differences in the proportion of milk purchased from outside sources at different prices. Under conditions such as these, any handler could obtain lower than average cost for producer milk used in Class I, even though prices were the same to all handlers, through regulating the amount of milk he accepted from producers at different seasons of the year.

Thus, each handler has the incentive to receive milk in such a way as to obtain as much of his milk as possible at surplus prices. To the extent a handler can use his excess milk for Class I sales, he stands to gain an advantage of 2 to 4 cents per quart of milk relative to his competition. It is possible to increase the use of excess milk for Class I sales by expanding Class I sales in the months of flush production, or by establishing a low wintertime base in relation to his bottled or Class I sales. The latter can be accomplished by receiving less milk from producers and by placing increased reliance during the fall and winter on milk from other sources. The net result of such competitive conditions is to interfere with the maximum production of milk at prevailing prices, and to weaken the incentive for handlers to maintain the dependable supplies of quality milk needed by the market. It has resulted also in competition for milk sales at price levels insufficient to assure orderly marketing of quality milk in the Central Arkansas area.

Producer representatives testified that efforts to get handlers to purchase milk on a utilization basis have failed. The uncertainty among handlers as to product cost of competitors, and the incentives to buy milk on a basis so as to avoid the Class I costs incident to the producer contract, have brought about substantial market instability. Two large handlers have given notice to the association of intention to cancel the contract, such cancellation to become effective 9 months after notice. The association was unable to obtain reinstatement of the contract.

Another unstabilizing element in the Central Arkansas market is the fact that one of the major handlers has been regulated at times under Order No. 76 regulating the handling of milk in the Fort Smith, Arkansas, area, while another has been subject to Order No. 18 regulating the handling of milk in the Memphis, Tennessee, area. The pricing, payment, and base rating provisions of these orders are somewhat different, and producers

claim that such variations have led to disturbances in the purchasing and marketing of producer milk in the area.

The hearing record indicates rather general agreement among various interests in the market that the instability and market chaos are such that an overall system of classification and pricing of milk should be adopted, and that for such a system to be effective it must be carried out under governmental authority.

The record indicates also that there is a lack of market statistics for this area. Such information is essential in achieving a level of Grade A milk production commensurate with consumer demand for Grade A fluid products at different seasons of the year. Some data are available from health authorities. The producers' association has partial figures on local milk supplies. This information, however, is not fully satisfactory to the needs of the market, since current monthly data are required by both handlers and producers to evaluate changes in supply and demand conditions for the purpose of arriving at appropriate prices.

It is concluded that the issuance of a marketing agreement and order for the Central Arkansas marketing area would contribute substantially to the improvement of many of the conditions complained of, and tend to effectuate the declared policy of the act; namely, to establish and maintain, by means of the regulatory provisions expressly provided for in the act for such purposes, such orderly marketing conditions in the area as will tend to establish prices to the producers of milk for the marketing area at a level as will reflect the factors set forth in Section 8 (c) (18) of the act, insure a sufficient quantity of pure and wholesome milk for the marketing area, and be in the public interest.

3. Order provisions—(a) Scope of regulation—Marketing area. The Central Arkansas marketing area should include all of the territory within the boundaries of the counties of Clark, Faulkner, Garland, Jefferson, Pulaski and White, all in the State of Arkansas. The largest urban centers in these counties are Little Rock, Hot Springs, Conway, Searcy, Pine Bluff and Arkadelphia.

The proposed area is served primarily by a group of about twelve handlers. These handlers distribute by far the largest share of their fluid milk sales either in the proposed area, or in marketing areas regulated under other Federal orders. A comparatively small percentage of their fluid milk sales outside the proposed area are in competition with unregulated handlers.

Because of the small proportion of the total milk sales by Central Arkansas handlers in competition with handlers who would be unregulated, it is considered unnecessary to include within the marketing area all of the counties proposed for regulation. It would be impossible to define a marketing area where no overlapping of sales would be involved. Extension of the marketing area to include the entire area in which regulated handlers distribute milk would bring handlers and areas dominated by somewhat different marketing conditions under uniform regulations with handlers

doing business primarily in the central part of the State. The evidence does not indicate that failure to bring under regulation areas not herein recommended will result in instability to market conditions in the proposed area, or that regulation on such a scale would solve more problems than it would create.

There is a large degree of competition of milk sales in the proposed area among handlers who would be regulated. Most of the handlers serving Pulaski County compete with each other throughout the metropolitan area of Little Rock. One or more of these handlers has substantial sales in each of the counties outside Pulaski, recommended for inclusion in the marketing area. Four distribute milk in Faulkner, two in Garland, three in Jefferson, three in White, and one in Clark.

State health regulations with respect to quality standards and labeling of Grade A milk apply uniformly throughout the proposed marketing area. No milk may be sold in the area for fluid consumption unless it meets the minimum Grade A standards of the state.

Several of the cities within the proposed area have health ordinances of their own, which have standards at least equal to those imposed by the state. State officials recognize the inspection services of these individual cities, but make periodic checks to verify the enforcement of such local ordinances.

The record indicates that milk sold throughout the area is of approximately equal minimum quality. Milk from the Little Rock market is accepted throughout the area. There is no evidence that milk from any of the local health jurisdictions has been refused under present ordinances or would not now be acceptable in all other such jurisdictions in the area as well as to the state authorities.

Designation of plants and milk to be subject to regulation. Provision should be made in the order to designate clearly what milk will be subject to pricing provisions of the order. For this reason, definitions of handlers, milk plants, producers, producer milk, and other source milk should be provided. Such definitions will permit unequivocal reference to these persons or items throughout the order.

The term "handler" should be used to designate the operator of a milk plant which supplies or distributes milk for fluid consumption in the marketing area. Handlers are the persons who should be required to report the sources and utilization of milk, the handling of which is to be regulated, and should be held responsible for paying for milk received from producers in accordance with the terms of the order. In case a person operates more than one plant which is subject to the order, he should be a handler with respect to the combined operations of such plants, unless the plants are operated on a completely independent basis, so far as Class I sales and procurement of producer milk are concerned. If the handler operates other plants in no way associated with the regulated market, he would not be a handler with respect to such plants.

Producer-handlers (who produce their own milk supply) and operators of approved plants which do not qualify as pool plants should be included as handlers in order to require such persons to report to the market administrator as necessary to verify their status.

A cooperative association which markets the milk of its producer members may, during periods of flush production, need to divert producers' milk from pool plants to nonpool plants for disposal as Class II milk. If such an association is defined as a handler for such milk, the producers whose milk is so diverted may continue to share in the overall utilization of milk under the order. The provisions of the order should be such that milk of such producers will be available for fluid use when needed in the regulated market in the fall months, or at other times.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area, which is received from dairy farmers at plants primarily engaged in distributing fluid milk on retail and wholesale routes in the marketing area, or in supplying bulk milk to such distributing plants. These plants should be defined as "pool plants." Each plant from which a substantial share of the milk is supplied to the marketing area should be fully subject to the pricing and pooling provisions of the order. This is necessary to assure the effectiveness of the order in achieving the objectives of the Agricultural Marketing Agreement Act. A plant not supplying such portions of its milk to the market should not be subject to pricing and pooling under the order.

As pointed out elsewhere herein, the order should provide for a marketwide pool. Such a pool is considered essential to the stable and orderly functioning of the market. Since the marketwide pool results in payment to all producers on an average utilization for the market, individual handlers are relieved of any responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. Whatever utilization of milk a handler may have, his rate of pay to producers will be the same as that of all other handlers in the market. Thus, it is possible that status with respect to the pool may become a determining factor in guiding a handler's operation.

The scope of pooling, or the rules for distributing the returns from Class I sales under the order, must be such that the differentials over manufacturing milk values paid by users of Class I milk will serve the purpose for which they are intended.

The premium, or differential, over the manufactured milk price paid for Class I milk is essential as an incentive to producers for producing milk of the quality required, and at the time needed by consumers. Extra costs are involved in providing sanitary surroundings for the dairy herd, and in maintaining milk production during the fall and winter months when feeding and housing costs increase. Extra costs are involved also in handling of milk for fluid use, since

it must be refrigerated, handled through sanitary utensils and facilities, and marketed promptly.

The extra costs thus involved for Grade A or fluid milk producers must be borne by that share of the milk which is marketed as Class I milk. Excess or reserve milk, although an essential part of a fluid milk business, cannot be expected to return more to producers than a manufactured milk value. The only outlet for reserve milk not needed for fluid use is in the form of manufactured products. Such products must be marketed in competition with similar products made from ungraded milk throughout the country.

Since the production of high quality milk involves extra expenses, it is important that the amount of milk produced under Grade A inspection be no more than the minimum necessary to provide the market with an adequate and dependable supply of quality milk. To encourage more than enough production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk not an essential part of the market supply would not result in extra value to consumers equal to the cost involved.

One of the primary problems, then, in defining pool plants is to establish rules which will provide for the sharing of Class I sales (Class I differentials) among the sources which are primarily associated with the Central Arkansas market and which are a regular part of the milk supply.

The Class I prices proposed herein are set as nearly as possible at the minimum levels considered necessary to encourage the required amount of milk production. The resulting returns should be distributed in such a way as to assure the market of the maximum dependable supply of quality milk which can be obtained at these prices. In order to do this, provision is made that equalization of market sales should be only to plants meeting reasonable performance standards with respect to supplying their producer milk to the market.

Plants only casually, or incidentally associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize their sales with all handlers in the market. If a milk plant were permitted to share, on a pro rata basis, the Class I utilization of the entire market, without being genuinely associated with the market, then the premiums or differentials paid by users of Class I milk would be subject to dissipation without accomplishing their intended purpose. If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all regulated handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be in compliance with the necessary health department standards.

The mere circumstance of having obtained health department approval, plus

the token shipment of milk, is not sufficient justification for equalizing the sales of such plant with the market. There are several different health authorities having jurisdiction in various parts of the marketing area. In the absence of pool plant performance standards, approval by any one of these authorities, or reciprocal acceptance of permits by them, might entitle a plant to participate in the equalization pool. There is no reason to assume that each of these health departments would refuse an application for approval because they had determined that the milk from an applicant plant was not entitled to pool with the market, or that the basis for such refusal would be uniform for each health authority, or that such standards as might be applied for this purpose would be appropriate to effectuate the declared policy of the act.

Since reserve milk is an essential part of any fluid milk business, there will always be some excess milk in the plants of handlers supplying other markets. This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the market may depend. If such plants were allowed to sell a token quantity of milk in the marketing area, and pool their surplus whenever Class I outlets were not available to them, the result would be that such handler could gain an advantage in paying producers through receipt of equalization payments from the pool.

The market, however, would gain no advantage from the payment of equalization to such handler. Such distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

Performance standards are necessary also to avoid unnecessary or undesirable extension of regulation. Full regulation of all supply plants might handicap the market in the business of securing supplemental milk supplies during the months of low production, since unregulated plants would be unlikely to sell one or two tankloads of milk, if such sales resulted in regulation under the proposed order. The record discloses that Central Arkansas handlers normally require supplemental supplies of milk to meet their Class I sales in the months of lowest production. Under the proposed order, an unregulated plant may supply some of this milk without incurring full regulation.

Performance standards should be flexible enough to allow a plant which is primarily associated with the market to maintain its association with the pool under the changing conditions which occur from year to year, and yet not permit the distribution of equalization payments to plants not part of the essential supply. The performance standards herein pro-

vided are such that these objectives should be accomplished.

Milk plants primarily associated with other Federally regulated markets, and subject to full regulation under another order, should be exempt from regulation under the Central Arkansas order.

All facilities, premises, and buildings of a milk plant should be considered as part of the same pool plant, regardless of health authority restrictions on the use of any portion thereof. This will enable the market administrator to enforce the order more fully, and assure the assignment of producer milk to all Class I milk disposition from the plant.

If a handler operating a dual plant is disposing of nothing but Class II products from the ungraded portion of his plant, this may have no effect on his milk cost, since the skim milk and butterfat he uses in the nonfluid portion of the plant will be assigned to the Class II dispositions involved. If any Class I disposition is made from any portion of a plant, it should be assigned first to producer milk to the extent producer milk is available. It is not feasible, or necessary, for a market administrator to attempt to follow milk or milk products through a plant to determine which product is used for which purpose. If Class I milk is to be disposed of from any portion of the plant, it is logical to assume that the plant operator would use his best quality product for such purposes to the extent it is available.

Because of the difference in marketing practices, and in demands for supplies of milk from plants which are primarily in the business of distributing Class I milk, as contrasted to supply plants which furnish bulk milk to distributing plants, two sets of performance standards have been provided. These standards, and reasons therefor, are as follows:

In order to qualify as a pool plant, a "distributing plant" should be required to distribute at least 10 percent of its milk from producers and other pool plants during the month as Class I milk on retail or wholesale routes to outlets in the marketing area. Distribution of milk through vendors or plant stores should be included to the extent that sales through such outlets are in the marketing area.

A distributing plant having more than 90 percent of its business outside the marketing area, or in other outlets, should not be considered as essentially associated with the market. It is not considered advisable to bring such a plant under full regulation, in order to control the minor share of its business which is in the marketing area. Full regulation, in such case, would not be necessary to accomplish the purposes of the order, and might well place such plant at a disadvantage in relation to its competitors in supplying the unregulated market.

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

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

Evidence in the record indicates that most plants doing business in the marketing area dispose of their milk in such a way as to exceed, by a considerable margin, the minimum performance standards necessary to qualify as pool plants under this order.

There are, at the present time, no "supply plants" primarily associated with the Central Arkansas market. However, in case a handler should desire to supply the market through use of a supply plant, and bring such plant under the pool, provision should be made in the order whereby this would be possible. The performance standards for supply plants to qualify for pool status should reflect the fact that Central Arkansas is typically a short market. Distributors need all of the milk available from producers in order to keep their Class I outlets fully supplied on an annual basis. In order to assure that all the producer milk which is pooled with the market will be available for Class I sale, percentage standards should be set at levels which require that the milk will be available. If conditions in the market should change so that Class I outlets are adequately supplied with producer milk, and the percentage standards proposed herein are not necessary to assure the availability of such producer milk for Class I sales, the standards should be subject to review.

Under present circumstances, it is concluded that a plant should dispose of at least 50 percent of its receipts of milk from producers in any month in the form of supplemental supplies of milk, skim milk or cream shipped to distributing plants, in order to qualify for pool status. Unless more than half of the milk from such plant is disposed of in this manner, a supply plant should not, under the present conditions in the area, be considered as primarily associated with the market.

It is recognized, however, that the demand for milk from supply plants is rather seasonal. The primary function of most supply plants, particularly those on the fringes of any milkshed, will be to furnish milk to distributing plants during the season of low production. In the months of flush production, supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the coun-

try for manufacture, and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the spring and summer to be manufactured, in order to maintain the eligibility of supply plants to pool.

In order to provide for handling the milk in the manner described, a supply plant should be allowed to remain in the pool throughout the year, if it qualifies under the foregoing standards during each of the months of August through January.

The order should provide a definition of "producer" in order to designate the dairy farmers whose milk is to be subject to the pricing provisions of the order. This definition should include any person who produces milk in compliance with Grade A standards, and ships such milk to a plant fully regulated under the order. Because of the widespread use of reciprocal inspections by health authorities, the Grade A inspection of any duly constituted health authority should be considered appropriate to qualify a person as a producer. Any Grade A milk which enters a plant may be distributed for fluid use, and as a result, be subject to the same pricing provisions of the order.

The record discloses that some milk, not needed for Class I use in the area, has been diverted from producer farms directly to manufacturing plants for disposal. This has obviated duplication in handling at fluid plants which are not equipped to manufacture such reserve supplies of milk. Provision should be made in the order, therefore, to allow a handler to maintain milk of regular producers under the pooling and pricing provisions of the order, even though it may be diverted from manufacture during periods of excess supply. Diversion privileges should not be extended during periods of market shortages, since handlers might thereby be enabled to keep milk pooled with the market, even though such milk were not available for Class I use when needed. Excess supplies during the months of lowest production normally occur only on weekends or holidays. Provision for diversion of a producer's milk on no more than 10 days during any of these months should provide adequate opportunity for disposal of excess milk in this period.

Cooperative associations of producers, which qualify as bona fide representatives of producers, and which are authorized to market the milk of member producers, should be allowed the same diversion privileges as fully regulated handlers.

"Producer milk" should be defined in the order to identify the milk received from producers at pool plants. This milk would include milk diverted in accordance with order provisions, and represents the milk which is to be priced. "Other source" milk should be defined as fluid milk (Class I) products received from sources other than producers or pool plants, and should include nonfluid products, if they are reprocessed or reconverted in a pool plant. The latter products should be included, since they may enter into the Class I market if they are utilized by the plant in the produc-

tion of other items. Other source milk, therefore, represents the skim milk and butterfat at the plant which enters into the operation in such form that it may be utilized in Class I milk, but which originates from sources not priced as Class I milk under the order.

(b) *Classification of milk.* Milk received by regulated handlers should be classified on the basis of the form in, or the purpose for which it is used, as either Class I milk or Class II milk.

The products which should be classified Class I milk are those distributed to the consumer in fluid form. This includes milk, skim milk, cream, and various mixtures thereof, including those flavored or cultured. These are the perishable products which require expedited handling and careful quality control. These are the products which are normally made from milk inspected and supervised from point of production by local health authorities. The extra cost of getting approved milk produced and delivered to the market, in the quantities required, makes it necessary to provide a price for milk used in Class I products somewhat above the manufacturing milk price. Through classification, milk utilized for these purposes may be priced in accordance with the needs of the market for maintaining production of quality milk.

Excess milk not needed seasonally or at other times for Class I use, must be disposed of for use in manufactured products. These products are not required to be made from inspected milk and must be sold in competition with products made throughout the country from unapproved milk. Milk so used should be classified as Class II milk, and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream and any mixture of cream and milk or skim milk (except sterilized products in hermetically sealed containers, eggnog, ice cream mix and aerated cream) and (2) not accounted for as Class II milk.

Fluid milk products such as skim milk drinks and buttermilk, to which extra nonfat solids have been added, should be included under the Class I milk definition, and all of the solids therein should be priced at the same rate. Products, such as evaporated or condensed milk in hermetically sealed cans, should not be considered Class I milk, since they may be made from ungraded milk, and need not be handled as the more perishable fresh fluid items.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk solids and butterfat content of milk products received and disposed of by a handler, can be determined through testing procedures. Some manufactured products, such as ice cream and condensed products, present a more difficult problem of

testing in that some of the water contained in the milk has been removed. It is desirable, in the case of such products, to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator, or by means of standard conversion factors of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Butterfat and skim milk disposed of from the plant in the form of the aforementioned fluid milk items should be classified Class I milk when they leave the plant, subject to reclassification only in case they are transferred to other milk plants for manufacture, under conditions hereinafter described.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream mix, butter, cheese, cottage cheese, evaporated and condensed milk (plain and sweetened) and nonfat dry milk solids.

Butterfat and skim milk used to produce Class II products should be considered to be disposed of when so utilized, and will not enter into the classification picture again unless reused or reconverted. Handlers will need to maintain stock records on such products, however, to permit audit of their records by the market administrator to verify utilization in Class II milk. Class II products from any source, including those produced in the plant, which are utilized for further processing or manufacture, should be considered as a receipt of other source milk.

Handlers must be held responsible for a full accounting of all their receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible to the market administrator to establish the classification of, and make payment to producers for, such milk. Except for a normal amount of shrinkage which may be classified in Class II, all skim milk and butterfat which is received, and for which the handler cannot establish utilization, should be classified Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records, and to assure that producers receive full value for their milk on the basis of its use. It is necessary to place the burden of proof on the handler, in order to establish the utilization of any butterfat or skim milk as other than Class I milk, since the market administrator cannot assume primary responsibility for tracing the utilization a handler makes of his milk.

Pool plants normally will have inventories of fluid milk products on hand at the beginning and end of each month, which must be considered in accounting for current sources and utilization of butterfat and skim milk. Accounting procedure will be facilitated by providing that month-end inventories of all

products designated as Class I milk, regardless of whether such products are held in bulk or in packages, should be classified Class II milk. Inventories of products so classified will then be assigned to Class II use the following month. If any fluid milk products, derived from producer milk, are classified Class II milk because they are held in month-end inventories, and then later used in Class I milk, the higher use value should be reflected to producers.

Inventories of fluid milk products on hand at a pool plant at the beginning of any month during which such plant becomes a pool plant for the first time should likewise be subtracted from the Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

Although handlers should be expected to keep complete account of their utilization of skim milk and butterfat, there is normally a certain amount of shrinkage for which no disposition can be shown. The record shows that 2 percent is a reasonable maximum shrinkage allowance based on operating experience.

Shrinkage should be determined by subtracting, from the total pounds of skim milk and butterfat received by the handler, his total established utilization thereof, respectively, in various products. Shrinkage not in excess of 2 percent of the handler's producer milk and other source milk should be prorated on the basis of the pounds from each of these sources. None of the shrinkage should be assigned to milk received from other pool plants, because shrinkage on such milk will be allowed to the transferring handler.

It is concluded that shrinkage of butterfat or skim milk, which is not more than 2 percent of total amount thereof in producer milk and other source milk should be classified as Class II milk, and any shrinkage in excess of this quantity should be classified Class I milk.

Transfers. As pointed out previously, some fluid milk products may be disposed of to other plants for Class II disposition. Classification of any product transferred or diverted to another plant should, under certain circumstances, be determined according to its utilization in the plant to which transferred.

Fluid milk products transferred from one pool plant to a pool plant of another handler, except that of a producer-handler, should be classified Class I milk, unless both handlers indicate, in their reports to the market administrator, that they desire such milk to be classified Class II milk. However, sufficient Class II utilization must be available at the receiving plant for such assignment, after prior allocation of shrinkage and other source milk as hereinafter described. On the other hand, if the transferring handler had other source milk during the month, the assignment of products transferred to another pool plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while producer milk is allocated to Class II milk in the receiving handler's plant.

Milk, skim milk and cream disposed of in bulk form to a nonpool plant, including milk which is diverted (sent directly to the nonpool plant from the producer's farm) should be classified Class I milk, unless certain conditions are met. One of these conditions is that the operator of the nonpool plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the source and utilization of milk in such nonpool plant. Provision for verification by the market administrator is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. Classification as Class II milk should be limited to the amounts of such actual use in the nonpool plant.

Class I milk items transferred to a producer-handler should not be subject to reclassification, since such handlers normally purchase these items strictly for Class I use. Milk received from producer-handlers should be treated as other source milk, since such milk is unpriced.

The class prices of the order apply only to producer milk. It is necessary, therefore, if a plant has butterfat or skim milk other than that received in milk from producers, to determine the quantities of milk in each class to be assigned to producers. The milk of producers (as defined under the order), who are primarily engaged in supplying the Central Arkansas market, should be assigned to Class I utilization first. This is necessary to insure the stability of the classified pricing program. If the order permitted handlers to obtain other source milk for Class I use, whenever it was advantageous to do so, while producer milk in the plant was utilized in Class II milk, the order would not be effective in carrying out the purposes of the act. Also, the market might be deprived of a dependable supply of quality milk. Class II items utilized in reprocessing or manufacturing at the plant during the month will also be assigned as other source milk. This will mean that such products also will be allocated first to Class II use, thus maintaining priority of assignment for current receipts of producer milk to Class I sales. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in § 908.45 of the attached order.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month. Some variations in utilization and importation of other source milk may occur from day to day throughout the month, but all handlers will be on an equal basis in this respect.

(c) *Class prices.* Class I prices should be established at a level which, in conjunction with the Class II prices hereinafter concluded to be appropriate, will result in returns to producers high enough to maintain an adequate, but not excessive, supply of quality milk to meet the fluid requirements of the marketing area.

The maintenance of stable conditions in the market requires that Class I prices

be adjusted whenever the supply of milk is out of line in relation to sales of milk for fluid use. If prices remain too low, insufficient quantities of milk will be produced to assure that the Class I market will be fully supplied. Conversely, if prices are too high, production will be overstimulated and consumption curtailed. This would cause more milk to be produced than is needed to satisfy the demand for Class I milk, resulting in the development of unnecessary and uneconomic surpluses.

When milk produced locally is insufficient to meet the Class I needs of the market, supplemental supplies of Grade A milk are purchased by handlers in the Central Arkansas area from plants located over a wide geographic area. Prices of this milk fluctuate to a considerable extent on the basis of changes in the value of milk produced for manufacture. Other items which determine the prices at which such milk will be available to Central Arkansas handlers include the cost of transporting such milk to the marketing area, and other Class I outlets for it, such as sale to surrounding markets.

Proper recognition must be given the prices at which alternative sources of supply are available, especially since any milk plant wherever located may, by meeting the prescribed qualifications, become a pool plant under the order. It is necessary, therefore, that the Class I price under the proposed order should not be set at levels which will bring the cost of such milk above the cost of obtaining Grade A milk supplies regularly from other sources.

It is concluded that the Class I price for the Central Arkansas area should be fixed in relation to the general level of the value of milk used to produce manufactured dairy products. To achieve this end, a basic price formula should be adopted which will reflect such general level, and to which differentials should be added to reach the appropriate Class I price. Such basic price should be the higher of (a) the average of the prices paid by the 13 "Midwestern Condenseries," (b) a price computed on the basis of the daily quotations for 92-score butter at Chicago and prices paid for nonfat dry milk solids f. o. b. manufacturing plants in the Chicago area or (c) a price based primarily on the value of milk used for cheese manufacture.

The purpose of such basic price is to give consideration to the national economic factors underlying the price for milk for manufacturing uses, which prices, it has been determined, influence the local market prices. Prices for milk used for fluid purposes in competitive markets are related to the prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is countrywide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. Fluid markets are affected to a large extent by these conditions in that producers may and do shift between ungraded and graded milk pro-

duction. It is for these reasons, most of the fluid milk markets from which Central Arkansas handlers may purchase alternative, or supplemental milk, or to which they sell milk have Class I pricing formulas based on butter, nonfat dry milk solids, and cheese prices, or the prices paid by condenseries subject, in each case, to differentials over these basic or manufacturing prices. Such differentials are those considered appropriate in each case to cover the cost of meeting quality requirements in the production of adequate supplies of market milk, and transportation costs to the particular fluid market.

The alternative prices in the basic formula proposed herein are the same as those used under the Memphis, Tennessee, order and are similar to those used in many other Federally regulated markets. The price computed under this basic formula averaged \$3.57 for 1954.

Memphis is the market with which Central Arkansas handlers are in primary competition. As pointed out heretofore, one major handler serving the proposed area sells nearly half of his milk on routes to the Memphis market. One other large handler in Little Rock has sold substantial volumes of milk to contract outlets as well as on retail or wholesale outlets in the Memphis area. The evidence does not indicate, however, that any Memphis handler distributes milk in the Central Arkansas area.

The price received by Central Arkansas producers for 4.0 percent base milk under the association's contract with handlers averaged \$5.12 for the year 1954. The record indicates that this is not a true cost for Class I milk however, since all producer milk utilized by handlers as Class I milk was not paid for at the base price. Excess prices were somewhat below \$3.00 most of the time.

The hearing record does not contain complete data which accurately reflect the receipts and sales of fluid milk in the Central Arkansas area. It appears clear, however, that prices which have prevailed in the area have not resulted in milk production sufficient to meet Class I requirements at all times during the year. It is questionable, on the other hand, whether the system of milk purchasing which has existed in the market has been fully effective in encouraging maximum milk production at the prices actually paid. In the absence of adequate data, and because the previous price and supply history of the market cannot be fully relied upon, it is not possible to arrive at an appropriate Class I price for Central Arkansas on the basis of local experience alone. However, because of the large degree of sales competition between the Memphis and Central Arkansas markets, and because of the general location of both markets in relation to other supply and sales areas, it is concluded that for the present at least, the same stated Class I differentials over basic formula price should be provided for Central Arkansas as are provided for the Memphis market. Handlers in the two markets compete not only for Class I sales in the Memphis area, but both markets often require substantial volumes of supplemental milk. Handlers from both areas may be expected to purchase such

milk on the same general competitive market. The distance of the two markets from alternative supplies is in general approximately the same.

The pricing formula proposed herein will result in the same price for the two markets, except that the Memphis order contains a supply-demand provision which adjusts the price under that order in accordance with local shortages or surpluses. While the hearing record discloses some need for a similar provision in the Central Arkansas area, data presently available do not provide an adequate basis for drafting one which could be expected to adjust Central Arkansas prices in line with local market needs. It is concluded, therefore, that for the period through August 1956 a Class I differential of \$1.28 for the 6 months of highest production and \$1.68 for the months of lowest production should be provided. Data which became available during this period should then be reviewed to ascertain whether a supply-demand adjustment or some other provision would be appropriate for fixing a Class I price in line with the needs of the market.

Class I prices should be announced by the market administrator by the fifth day of the month. In order to do this, it is necessary to use price quotations for the preceding month in calculating the basic formula price.

Class II price. The Class II price should be at such a level that handlers will accept and market such quantities of milk in excess of Class I needs as may arise from time to time. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

In order to have an adequate supply of producer milk in the fall and winter months, handlers normally accept surplus milk from producers during the months of flush production. Outlets for Class II milk disposed of during the flush production season generally are not as favorable as those available in the fall of the year, when the supply of producer milk available for Class II is lower. With a limited supply of milk for Class II, the market for those products which will command the best return are served first. Such outlets may include cottage cheese and eggnog for which fresh quality milk is particularly desirable. During those months of high production, when the supply is excessive, large quantities of milk are disposed of for use in those products which are least profitable or may actually result in a loss to those handlers receiving milk from producers. Frequently there are additional hauling costs because of inadequacy of local processing facilities.

The record indicates that only minor quantities of excess Grade A milk are produced in the Central Arkansas area during most months of the year. During those months when some excess milk is available, the milk is disposed of locally or to nearby outlets. Such milk is disposed of primarily to the same general market or in competition with excess milk from the Fort Smith market.

The record shows that much of the excess milk which is produced in Cen-

tral Arkansas is diverted directly into local manufacturing plants for disposal, without involving extra haul. It appears, therefore, that prices paid by such local manufacturing plants represent a reasonable minimum price for such milk. It is concluded that during the months of February through July, when most of the excess is produced, the Class II milk price should be the average of the prices paid producers for milk testing 4.0 percent butterfat by the Sugar Creek Creamery at Russellville, the Ozark Creamery Co. at Ozark, and the Pet Milk Co. at Siloam Springs, all in Arkansas. This is the same price as fixed for Class II milk during these months under the Fort Smith order.

During the remaining months of the year, when there is very little excess milk available, such milk should be priced on the basis of the foregoing price plus 25 cents, provided that such price shall not exceed the basic formula price.

Butterfat differentials. As pointed out previously herein, it is concluded that butterfat and skim milk should be accounted for separately for classification purposes. It is necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average butterfat test of milk in each class by a differential which will reflect differences in value due to variations in the butterfat content of each product.

It is concluded that the values resulting from multiplying the average price of 92-score butter at Chicago each month by 0.120 will provide an appropriate basis for adjusting the price for Class I milk in this market. The butterfat differential to be used in adjusting the Class II price should be calculated during the months of lowest production by multiplying the Chicago 92-score butter price by 0.115 and during other months by 0.110.

The foregoing butterfat differentials are generally in line with those prevailing in other surrounding markets and will place Central Arkansas handlers on an approximately equal basis in this respect with their competitors. The proposed seasonal variation in Class II differentials will serve to properly prorate the Class II price heretofore found appropriate for the different seasons between the butterfat and skim milk components of the excess milk. The basing point from which butterfat adjustments are made should be 4.0 percent butterfat. This is the basic test now used by all handlers serving the proposed marketing area. The use of butterfat differentials in this manner follows standard practices in most fluid milk markets for adjusting for butterfat variations.

In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I differential at the same time that the Class I price is announced. Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will not know the price of Class II milk as it is utilized, they will know that their cost

will follow that of their principal competitors for manufactured milk outlets.

Location differentials. To the extent that producer milk is received at plants located some distance from the market, the handlers purchasing such milk should be allowed a lower Class I price. The reduction in price should be based on the distance from the central market to the plant where the producers deliver the milk. Milk located at a distance from the market has less value to the market. If handlers did not assume the costs of moving milk to the market they must otherwise be borne by the producer, since the producer would be compelled to meet such costs, if he were to sell this milk in the market. The value of a producer's milk is therefore deemed to be less than the central market price by the amount it costs to transport such milk to market.

It is concluded that the price of milk used for Class I disposition should be reduced for plants receiving such milk more than 60 miles from the central market. The transportation allowance for such plants should be 10 cents per hundredweight of milk plus 1.5 cents for each additional 10 miles, or fraction thereof, that such plants are from the primary center of consumption in the proposed area. Benton, Arkansas, is centrally located to the primary sales areas of the proposed marketing area, and is therefore proposed as the basing point for location differentials. The rate of location differential adjustment herein provided, is based on the approximate cost of hauling milk in bulk tank lots, which is the most efficient method generally available in the area for transporting milk. Handlers should be expected to make any necessary movements of milk to market by the most efficient means available. The transportation differential rates herein provided are representative of those prescribed in other Federal milk marketing orders, and are based on actual cost of hauling milk as shown in the hearing record.

The class prices for milk proposed in the attached order are designed only to price milk at its value in relation to the marketing area to be regulated pursuant to the proposed order. Milk may have greater or lesser value than reflected by these prices if marketed in one of the many markets throughout the South Central states which would not be subject to this order. It would not be administratively feasible, however, to provide a different price for each lot of milk according to its ultimate destination. To attempt to do this would be unsound also, in that it would make producers bear the cost of hauling beyond the central market, and thereby remove from handlers the incentive to market milk at the location where it will yield its greatest net return.

No adjustment should be made in the Class II price because of differences in location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of

milk involved in transporting manufactured products. The prices shown in the record, paid for ungraded milk received at various sections of the milkshed, do not indicate any difference in value associated with location. Class II milk should not be hauled to the central market for manufacture if there are more convenient facilities available.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk to the best advantage. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk, otherwise part of the incentive for keeping handling cost at a minimum is removed. To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after prior assignment of other source milk.

Compensatory payments on unpriced milk. The class prices heretofore described apply only to that milk received at pool plants from producers. As previously mentioned in connection with the findings and conclusions concerning pool plant standards, milk may be disposed of for Class I use in the marketing area by or from plants which are not fully regulated. Any plant which is not fully subject to classification and pricing is not required to pay producers for milk in accordance with the utilization made of the milk.

Milk from unregulated plants may be sold as Class I in the regulated area through distribution directly to consumers on routes operated by such plants, or it may be received in bulk form from such plants by pool plants which use it in supplying their own Class I outlets. The proposed order does not prohibit any plant, whether it has pool status or not, from selling milk in the marketing area, nor does it specify where any plant must purchase its milk.

The primary purpose of the order is to provide a classified pricing system, whereby the producers primarily engaged in furnishing milk for sale in the marketing area will be paid for such milk according to its utilization. It has been pointed out previously herein, that payment of a premium or differential for milk used in Class I is necessary to encourage adequate production of quality milk needed for fluid use. Such higher prices cannot be maintained, however, unless the Class I market is protected from the competition of reserve, or excess milk. Due to irregular variations in production and consumption each fluid milk market needs to have some reserve milk production available to insure that supplies will be adequate at all times for Class I use. The volume of this reserve milk normally is largest in the spring months of flush milk production. That quantity of milk which is in excess of the Class I sales each day must be marketed in manufactured outlets. Such milk is of

the same quality and is available, except under a classified pricing program, for disposition as Class I milk.

Since milk returns somewhat less if manufactured than if sold for fluid use, a natural pressure develops for handlers to attempt to obtain Class I outlets for all their excess milk even though this may mean a return of somewhat less than a reasonable Class I price on a portion of the milk. Since all milk cannot be marketed in Class I, the tendency is for fluid milk prices to be forced down toward the level of the manufactured milk price. The purpose of compulsory classification and pricing is to provide that price competition from such excess milk may not break the market for Class I milk, and destroy the premium prices necessary to encourage Grade A production.

A classified pricing system as proposed herein can be effective, however, only in controlling the milk of those producers and the plants which by virtue of their primary association with the market, are fully subject to the order. Such regulation is not applicable to and therefore not effective in protecting the Class I market from sales by plants not primarily associated with the market. Since unregulated plants may under some circumstances sell up to half of their milk in the market without incurring regulation, it would be possible for such plants to dispose of considerable volumes of surplus or reserve milk to Class I outlets in competition with the handlers who must abide by the classified pricing program. Such a situation obviously would be characterized by instability. It is necessary, therefore, to provide some protection for the Class I market in addition to that afforded by the classified pricing program as applied to fully regulated plants.

In the absence of any direct control over the pricing of milk from unregulated plants, it is necessary to provide an alternative method of bringing such milk under the classified pricing system without subjecting the originating plant to full regulation. The method provided in the attached order consists of a compensatory payment with respect to unpriced milk utilized for Class I sales. This payment should have the effect, so far as the market is concerned, of classifying the milk as Class I, in that it will remove the cost advantage, which an unregulated plant would have in disposing of unpriced milk, to the regulated Class I market. At the same time, such a payment will involve no extension of regulation.

It is important that the rate of compensatory payment used to bring the unpriced milk into line with the Class I market be appropriate to market conditions. It must not be so low that it will permit a handler to have temporary or permanent advantage through sale of unpriced milk as Class I in the marketing area. It should not be so high that it will penalize suppliers of unpriced milk who offer supplies needed by the market and who are not in a position of gaining an unfair advantage through the sale of such milk. The payment must be provided for in a manner which is administratively feasible and which does

not bring about unjustified administrative inconvenience or expense.

Several methods were described on the hearing record for determining what rate of payment would be appropriate for bringing the unpriced milk under the classification program. One of these is to ascertain the actual cost to the regulated handler of milk which he purchases from unregulated plants and charge as a compensatory payment any amount by which the Class I price exceeds the cost of the unregulated milk used in Class I. Such a scheme is not sound from the standpoint of administrative feasibility and it would not necessarily remove the advantage in using unregulated milk even though it were feasible. Rates at which milk sales are billed may not represent actual cost to the purchaser. In the case of a firm which owns or controls a pool plant under the Central-Arkansas order as well as unregulated plants, the price charged for milk transferred from unregulated plants would have little or no significance. The billing rate, if any, between such plants might be deliberately set without regard to the value of the milk at the level necessary to avoid any payments. Thus, the intended effect of such an order provision might be circumvented by merely adjusting the book-keeping procedure.

A handler having no unregulated plants may find it possible to arrange a billing price on purchased milk which would avoid any compensatory payments. A kick-back arrangement or offsetting purchase and sale might readily be arranged, perhaps through a third party. Since the billing price for milk would be a self-serving figure for both parties to the transaction, it would be virtually impossible to ascertain that it represented the true cost to the purchaser. In any case, if a handler had the choice of paying money to the market-wide pool or to a person from whom he was buying milk, he would probably choose the latter.

If the stated purchase price were a true cost, it would still not fulfill the purpose of removing the advantage to unregulated milk to base compensatory payments on the difference between such price and the Class I price. The record discloses that sales of priced milk between regulated handlers ordinarily take place at the class price plus a handling charge. This handling charge varies according to circumstances, but represents a payment to the receiver of the milk to offset his purchasing and receiving costs, such as dumping, weighing, testing and cooling the milk, and paying producers. The cost of receiving the milk in bulk form is somewhat less than receiving it from producers. Thus, in order to remove the advantage to unregulated milk, it would be necessary to provide that the cost of bulk unregulated milk be somewhat more than the Class I price. It would be exceedingly difficult to determine what this excess rate should be, particularly in the case of products such as condensed skim milk and cream, where the allocation of additional processing costs among more than one end product is involved. Furthermore, it would be unsound economics to

charge handlers on the basis of costs. This would remove the incentive for a plant to be efficient, or to purchase milk from the most economical sources, and would place the administration of the order program in the position of determining rate of profits for individual concerns. The position of distributors in relation to their competition should be determined by their efficiency, and not through recognition of individual costs.

Suggested methods of fixing compensatory payments on the basis of the cost of unpriced milk as reflected by prices paid producers are also considered unacceptable. In the absence of price enforcement, it is impossible to determine actual rates of payment by unregulated plants to producers or to know what portion of such payments should be attributed to any particular lot of milk. Producers are normally paid blend prices, which may be influenced if the occasion arises by various unrealistic charges or credits for services or supplies. In any event such prices are probably only averages reflecting usages in fluid and surplus outlets with widely different values.

The only practicable method suggested for dealing with the problem of calculating an appropriate compensatory payment is one based on a recognition of the market values which affect the purchase and sale of unpriced milk. Fully regulated handlers under the order seeking to purchase unregulated milk may be expected to seek out the lowest cost source from which suitable milk is available. In fixing the rate of compensatory payment, it is necessary, therefore, to determine what the lowest cost source may be and to base the payment on the difference between the cost of such milk and the cost of milk priced under the order for similar use.

The record shows that milk supplies are invariably larger in surrounding markets in spring and summer than in fall and winter, and that because of relatively constant sales of fluid milk, the excess or increased production must be marketed largely as manufactured products. Sale for manufacture, therefore, represents the opportunity cost of this surplus milk during the months of flush production since it is the highest price at which the milk can otherwise be sold. The opportunity cost or value will normally be effective in determining the price at which the unregulated plant would sell such milk. Under the foregoing circumstances, the minimum asking price of the unregulated supplier of such milk probably would be the return which he would realize if the milk were disposed of for surplus use. Since considerable volumes of Grade A milk must be disposed of as surplus by various unregulated plants from which Central-Arkansas handlers may obtain milk, it is evident that milk could be obtained at prices reflecting its value as surplus.

For the months of January through August, during which period surplus milk may be available in substantial volumes from nonpool sources, it is concluded that the compensatory payment on other source milk or milk products used for Class I sales should be based on the difference between the minimum price of

Class II producer milk and the applicable Class I price under the order. The Class II price established by the order appears to be a fair and economic measure of the value of milk for surplus uses in the Central Arkansas area.

During the months of September through December, when milk supplies tend to be shorter, it is concluded that other source milk will not be available to handlers in the Central Arkansas market at surplus prices. It is concluded that during these months the compensatory payment should be based on the difference between the Class I and the blend prices under the order. Generally speaking, during these months the relationship between the supply of milk in the general area and the demand for such milk will tend to fluctuate considerably from year to year, according to production and demand conditions. It is concluded that these fluctuations will generally tend to be similar in Central Arkansas and surrounding milksheds. Thus, the rate of compensatory payment based on the difference between Class I and blend prices will adjust itself automatically in these months, according to the changes in demand for and prices of outside supplies. If supplies of producer milk are relatively plentiful, unpriced milk can be expected to be cheaper, and therefore, the rate of payment should be somewhat higher. On the other hand, as milk supplies in the area tend to be short, it is to be expected that the cost of unregulated milk will increase. Under these circumstances, the rate of payment will be correspondingly less.

By choosing a rate of compensatory payment which reflects the most economical cost of other source milk which may be expected to be available to regulated handlers, any advantage to one handler relative to the others, in obtaining such milk and substituting it for producer milk in Class I, is removed insofar as administratively possible and no handler is given the clear opportunity to gain an unfair advantage which otherwise would exist.

In calculating the payments on other source milk, the Class I price must relate to and be fixed as of the point where the milk is received from farmers, so as to be properly comparable with minimum class prices which apply to producer milk at that level of marketing. No allowance should be made for subsequent handling costs and profits in this farm level comparison between producer and other source milk because such costs and profits are involved at subsequent stages of marketing of the producer milk as well as other source milk. Prices at subsequent stages of marketing are not regulated by the order either with respect to producer milk or other source milk. No adjustment for location is necessary with respect to the Class II price, or for manufactured milk items for the same reasons described heretofore in connection with the findings concerning the need for location differentials with respect to the producer milk used in Class II outlets.

Testimony in the hearing record concerning availability of milk supplies to Central Arkansas handlers indicates

that the rate of payment proposed herein will tend to equalize the competitive position of priced and unpriced milk, and will avoid displacement of producer milk for reasons of cost. However, if experience proves that milk is available to handlers for Class I use in the future at prices different than those now indicated, or that the proposed compensatory payments otherwise interfere with the purposes of the order, then it will be necessary to reconsider the rate of such payment on the basis of that experience.

The rate of payment provided for non-pool plants making distribution directly in the marketing area should be the same as that for pool plants which obtain and use unpriced milk in Class I. The administrative feasibility of any other method of levying compensatory payments and the economics involved are substantially the same as that in the case of unpriced milk used for Class I purposes by pool plants.

The Class I milk price proposed herein is deemed to be in appropriate alignment with other regulated markets. Because of the degree of sales competition between the Memphis and Central Arkansas markets, and because of the proximity of both markets to each other, it was concluded in a previous section discussed herein that the same differentials over the basic formula price should be provided for the Central Arkansas market as for the Memphis market. The pricing formula proposed herein results in the same f. o. b. market price for the two markets when these factors are computed.

It was also indicated in a previous section that the Memphis order contains a supply-demand provision, which adjusts the Class I milk price. It was concluded herein that a supply-demand provision for the Central Arkansas market would not be appropriate at this time because of insufficient marketing data upon which to construct such a provision. In this respect, the Memphis and Central Arkansas prices are not precisely the same. The Memphis supply-demand adjustment has added certain amounts to the Class I price computed pursuant to the basic formula and the Class I differential.

Another factor which determines the price relationship between the two markets is the location differential in each. Evidence in the record justifies a location differential for the Central Arkansas marketing area. This was discussed in a previous section. Location adjustments are not identical for all milk markets operating under Federal regulation. The reason for this, of course, is that the economic factors involved in computing location adjustments are not identical in all markets. The location adjustment deemed appropriate for the Central Arkansas market is not the same as that which is included in the Memphis order.

The record discloses that there is a plant operating in Conway, Arkansas, located approximately 30 miles from the city of Little Rock. This plant is also located in the 60-mile zone within which no location adjustments apply under this proposed order. Conway, Arkansas, is also approximately 150 miles from Memphis. This plant is presently regu-

lated under the Memphis order because a greater portion of this plant's Class I sales is in the Memphis marketing area than is in the proposed Central Arkansas marketing area. The percentage distribution, however, is quite close, being approximately 51 percent in the Memphis marketing area, and 49 percent in the proposed Central Arkansas marketing area.

The action of the Memphis supply-demand adjustment during the first eight months of 1955 increased the Memphis Class I price an average of approximately six cents per hundredweight. The location of the Conway, Arkansas plant with reference to Memphis allows it an adjustment of approximately 28 cents per hundredweight. This location adjustment coupled with the Memphis Class I price adjusted for supply-demand, has resulted during this period in a Class I price approximately twenty-two cents per hundredweight less at Conway, Arkansas, for the handler regulated under the Memphis order than if he were regulated by the order proposed for Central Arkansas.

Normally, reliance is placed upon gaining an appropriate alignment of prices among Federal order markets so that milk may be transferred freely among them. In this particular case, however, an appropriate alignment of prices at the marketing areas necessarily results in a misalignment for the plant at Conway and at other locations in the proposed marketing area.

Consequently, provision must be made so that this plant may not purchase milk for sale as Class I milk on routes in the Central Arkansas area at less than the price paid by other handlers in that area. It is necessary, therefore, to provide that such a handler be required to pay into the producer-settlement fund any amount by which the Central Arkansas Class I price exceeds that charged him under another order for all Class I milk disposed of within the Central Arkansas marketing area. Such handler should also be required to report to the market administrator regularly so that the amount of milk disposed of within the area may be ascertained.

The compensatory payment on milk from another Federal order proposed herein applies specifically to the conditions described above. In addition, there may be plants regulated under Federal orders other than Order 18 selling milk to handlers regulated under the proposed order for Central Arkansas. To the extent that such plants have Class I sales in excess of producer milk, the proposed compensatory payment on unpriced milk should be applicable to such milk to the extent it is marketed for Class I in the Central Arkansas area. The effect of such milk on the market price structure in Central Arkansas would be no different than if the milk were received directly from an unregulated plant by a regulated handler.

(d) *Distribution of proceeds to producers.* Returns from the sale of milk in various classes should be distributed to producers on the basis of a market-wide-equalization pool. Such a pool will provide that each producer supplying

the market will receive a return based on his pro rata share of the Class I sales of the entire market.

The primary problem of the Central Arkansas market, with respect to pooling, is one of providing a means under the order for facilitating the establishment and maintenance of adequate and regular sources of milk to supply the needs of the market. Under a marketwide pool, the prices set by the order should be effective in determining the level of milk supplies, since the price incentive to producers to supply milk will be allowed to operate freely. Those producers producing milk most efficiently would serve as the source of supply. Additional producers may readily be added if they care to produce milk at the prices prevailing under the order. This will avoid an undesirable situation where producers might be selectively dropped from the market, or others would be denied a market, even though they might be willing to produce and ship milk at the prices being paid.

The record indicates also that some of the excess milk of the market has been marketed by a cooperative association of producers. The producers whose milk was so marketed were needed in the market during most months of the year. The marketwide pool will permit equal sharing of such excess milk among all producers. Class II pricing and pool plant standard provisions proposed herein should assure that all available milk will be offered for Class I sale as needed even though any handler's producer pay price in relation to that of other handlers will not be affected by the use he makes of milk.

The uniform price including base and excess prices which are required to be paid producers under the order should be computed for milk containing 4.0 percent butterfat.

In distributing proceeds to producers, a differential should be applied to recognize differences in value of milk because of variations in butterfat content. The butterfat differential used in making such payments to producers should be calculated at the average of the return from the sale of butterfat in producer milk as reflected by its utilization at class prices. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Calculation of the producer butterfat differential in this way does not affect the handlers' cost of milk, but merely prorates returns among producers whose milk differs in butterfat test.

The record indicates that the average butterfat test of producer milk in Central Arkansas exceeds that of Class I sales. The butterfat differentials proposed herein for Class I and Class II milk should tend to encourage the production of milk with butterfat content more in line with the requirements of the market.

Location differentials heretofore discussed should be applied in making payments to producers who deliver their milk to plants located at a distance from the central market. The reduction in price reflects the cost of hauling the milk

to market by the most efficient means available. The rates to be applied should be the same as those found necessary for Class I milk.

Payments to producers. The order should provide that each handler make final payment to each producer for milk received at the appropriate uniform price(s) on or before the 15th day after the end of each month. Since it has been the practice in this area for handlers to pay producers semi-monthly, provision has been made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of such month at not less than the Class II price per hundred-weight for the preceding month. No adjustment for butterfat content or location is required on such advance payment.

Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions for goods or services furnished, or for payments made on behalf of the producer.

The order should provide that handlers shall, if so requested, make payment directly to qualified cooperative associations for milk received from producer members of such association. This provision is necessary to enable producer cooperative associations to carry out their essential functions as authorized by the act.

The successful operation of any classified pricing program and of a milk marketing order is dependent in large measure upon the cooperative marketing activity of producers supplying the market.

The collective marketing activities of cooperative associations are of benefit not only to member producers, but also to producers not members of the association who are able to market their milk in a stable and orderly market at prices comparable to those received by association members. Under such marketing conditions, all producers are assured that they will be paid for their fair share of the fluid milk sales. They are assured, also, that their milk will not be displaced with milk purchased from other producers at lower prices than they receive. The stable and orderly marketing conditions which may be achieved and maintained by cooperative action of producers likewise are of benefit to consumers and distributors in that they foster a dependable supply of pure and wholesome milk.

In order for a cooperative association to be able to carry out these functions, it is important that such association have full authority and not be impeded in collective bargaining and in selling milk. In order for a cooperative association to be able to market milk effectively and distribute returns therefrom to producer members, it may be necessary for them to receive payment for such milk. Thus, payments to all members of the association may be made in accordance with the association's pooling program authorized by the act. Under the authority of the Marketing Agreement Act, payments may be received by a cooperative association on behalf of its members for milk caused to be marketed by the association.

The record indicates that a cooperative association representing a majority of the producers supplying Central Arkansas handlers is active in marketing producer milk as Class II during the months of flush production. The milk of these producers is needed to supply the Class I requirements of the market during the fall months. Not all of the milk so marketed may be moved at the Class II price. On other occasions, the cooperative may market milk for Class I use. The activities of the cooperative association in disposing of producer milk may result in financial losses or gains to the association. These activities benefit the entire market through increased stability and maintenance of class prices under the order. However, unless the association is in a position to share any such losses or gains over the entire membership, it will impair the association's ability to continue marketing milk in this way. It would not be practical for the association to maintain an orderly marketing program and keep all members on an equal footing in this respect unless it collects for the milk which it sells for all its members and distributes payments to such members. The association also has members not in the Central Arkansas milkshed. The milk of such members is sold to plants which will not be regulated under the proposed order. Returns on this milk may vary from time to time and may be different than that reflected by the blend price. It may be necessary for the association to be in a position to equalize returns between members who are producers under the order as well as members not selling under the order. This would not be possible unless the association received payment for milk of its members marketed to regulated handlers.

At the time handlers make payment to producers or to cooperative associations for milk they should be required to furnish each such producer or cooperative association with a statement. This statement should show the pounds and butterfat tests of milk received, together with the rate or rates of payment for such milk and a description of any deductions claimed by the handler.

Base and excess plan. A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the marketwide pool.

Base and excess plans in one form or another are now used generally throughout the milkshed area, although these programs vary somewhat. They have been used as a means to overcome the widespread tendency of milk production to vary widely from one season to the next. Because the rate of fluid milk consumption is comparatively uniform throughout the year it is desirable that an even flow of milk production be achieved which will avoid alternating excesses and shortages of milk.

The base and excess method of distributing milk returns during the months of flush production has been in effect for considerable time in the Central Arkansas area. In spite of this fact production of milk in the area still shows

considerable seasonal variation. Consequently, there is a need for continued incentive to maintain production in the fall and winter months relative to spring and summer levels. Abandonment of the base-excess plan at this time might result in increased seasonality of production to the detriment of the market.

By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter, as compared with deliveries during the season of flush production, a production pattern more closely fitted to the sales pattern of fluid milk products is encouraged.

The base-excess plan proposed herein would establish for each producer in the market a base equal to his average daily deliveries of milk during the months of September through December (total deliveries of milk by such producer to all handlers divided by the number of days in the period). Although the order will not be effective during the month of September, 1955, it is desirable that the base program operate as fully as possible this coming fall and winter. For this reason, it is designated that the base forming period extend from October 1955 through January 1956, and the months of September through December thereafter.

For each of the months of February through July, separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allocated to "base milk." A producer's base milk for any of these months would be that quantity of milk he delivered during the month which is not in excess of his average daily base multiplied by the number of days in the month. The base price would reflect the sale value of such milk at class prices with Class I sales assigned first to the base milk and then to excess milk. The "excess milk" price would be the minimum order Class II price unless Class I sales exceed base milk in which case such excess sale of Class I milk would be reflected in an excess blend price.

It was proposed at the hearing that the base operating period, during which payment for milk would be pooled separately for base and excess milk, be extended to eight months. It is concluded that a base operating period which covers the months of February through July is sufficient to accommodate the needs of the market. Surplus milk is not available in sufficient quantities during the additional two months to justify extension of the base plan to such months. Also, under the proposed plan needed flexibility will be provided. Omission of August from the base operating period will allow time for producers to adjust their production programs in advance of the fall shortage months, without being influenced by the base plan operating during this month. Also, limitation of the base forming period to fewer months gives added incentive to increase production during the more critical months of short supply. The proposed months for establishing bases (September through December) are normally those of relatively low production in relation to fluid sales.

A producer should be permitted to transfer his entire base to any other

dairy farmer so long as the transfer is made as of the first of the month and with advance notice. This will alleviate hardship and will not defeat the purpose of the base-excess plan, which is to encourage level production. Under the base plan the producer has an incentive to increase fall and winter production so he may enjoy a larger share of the Class I market during the following season of high production. Transfer of bases, as proposed herein, will give added assurance to a producer that he will have the full benefit of any base he is able to build, whether or not he is able to continue milk production for his own account through the following spring. This additional certainty should increase the effectiveness of the base-excess plan in encouraging production of milk during the base forming period.

Free transfer of bases was proposed to alleviate possible hardship cases which may arise when a dairyman needs to discontinue milk production before the end of the base operating period. Permission for transfer of entire bases will accomplish this purpose. The hearing record discloses no need for transfer of partial bases in the Central Arkansas area. Permission for transfer of partial bases would result in considerable administrative difficulty, and would tend to defeat one purpose of the base-excess plan, namely, the encouragement to each producer to adjust his own production pattern to the Class I milk sales pattern of the market. Also, partial transfers would facilitate arrangements whereby producers might attempt to gain regular financial advantage by disposing of any portion of their base which they could not use themselves. Splitting of jointly held bases should not be permitted since such splitting in conjunction with the free transfer provision could readily be used to effectuate transfer of partial bases. Either partner should be allowed to take over an entire base jointly held.

Bases should be transferred by the market administrator only as of the first of the month, and only upon advance receipt of a statement, on approved forms, indicating the holder of such base and the person to whom the base is to be transferred, and signed by both parties.

It was proposed that a cooperative association be assigned the collective base of its members so that such base might be pooled. Under this arrangement any under-base deliveries by one member could be used to benefit other members who delivered over-base milk.

This proposal does not conform with the primary purpose of the base rating plan, namely to encourage even production. There is little reason to believe that any individual producer member of an association would make a serious effort to increase fall production solely for the benefit of the other members. Nor does the fact that other members would receive base prices for over-base deliveries appear to give them added incentive to level production. It might in fact have the opposite effect.

The order should provide that the market administrator will notify each producer, and the handler to whom he is currently selling milk, of the amount

of his daily base on or before January 25 of each year. The daily base established by each producer will be calculated by the market administrator from handlers' payroll records.

(e) *Other administrative provisions.* Certain other provisions should be included in the order to carry out administratively the purposes of the regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Such other terms as are defined in the attached order are common to many other Federal milk orders.

Market administrator. Provision should be made for the appointment by the Secretary of an agency known as the market administrator to administer the order, and setting forth the powers and duties for such agency.

Records and reports. Provisions should be included in the order for the purpose of requiring handlers to maintain adequate records of their operations and to make certain reports as necessary to carry out the classification and pricing of milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator. The following schedule will afford interested parties adequate time to perform the indicated function:

Day of Month and Function

5th—Announcement by market administrator of the Class I price and Class I butterfat differential for the current month.

5th—Announcement by the market administrator of Class II price and Class II butterfat differential for preceding month.

7th—Monthly report to the market administrator, by handlers, of sources and utilization of skim milk and butterfat for the preceding month.

7th—Handlers report to cooperatives to which payments are to be made, the pounds of milk and butterfat content thereof received daily, from member producers, and total for the month and the amount and nature of deductions made.

11th—Announcement by market administrator of uniform price and the producer butterfat differential for the preceding month.

12th—Report by the market administrator to cooperative association the percentage of producer milk delivered by members which was used in each class by the handler receiving such milk.

15th—Final payments by handlers to producers for milk received during preceding month and payments for marketing services.

20th—Submission of producer payroll report by handlers for preceding month.

25th—Report by handlers of the amount of milk received from producers during the first 15 days of the month.

Last—Partial payments to producers for milk received during first 15 days of the month.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator, or any other information

upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order.

In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of their intention to import other source milk, and to divert producer milk. Such information, on a marketwise basis, may assist handlers in locating local sources of producer milk, and expedite the transfer of such milk among handlers. Advance information concerning diversions will facilitate check testing and weighing of producer milk at the location where received.

It is necessary that handlers retain records which prove the utilization of milk and to establish that proper payments were made producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time.

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

Producer-settlement fund. Provision should be made in the order for the establishment of a producer-settlement fund. Such fund is necessary for clearing payments between handlers in connection with marketwide equalization of utilization. Money received from handlers with higher than average Class I utilization and paid to those with utilization below average should move through the fund en route to producers.

A small balance should be retained in the fund to permit clearing of accounts with handlers in connection with audit adjustments discovered during the month.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 4 cents per hundredweight, or such lesser amount as the Secretary may, from time to time, prescribe, on (a) producer milk (including such handler's own production) (b) other source milk in a pool plant which is classified Class I milk, and (c) Class I milk disposed of in the marketing area from a nonpool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of

milk from all sources. The record indicates that other source milk is received by most handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute Class I milk in the marketing area. These plants must be checked periodically to verify their status under the order and to check the accuracy of compensatory payments required. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such periodic checks.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 4 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the initial rate of 4 cents per hundredweight without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers, such as verifying tests and weights and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. 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 service.

There is need for a marketing service program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. As previously discussed, detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such service, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk from producers for whom

he renders marketing service. Comparison of the number and distribution of the plants involved, and the volume of milk at such plants with similar conditions in several other markets in the area now under Federal regulation, leads to the conclusion that this will reflect the maximum cost of such service. If later experience indicates that marketing service can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and the 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 of 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 order 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.

Order of the Secretary directing that a referendum be conducted among the producers supplying milk to the Central Arkansas Marketing Area; determination of representative period and designation of an agent to conduct such referendum. Pursuant to section 8 (c) (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608 (c) (19)), it is hereby directed that a referendum be conducted among producers (as defined in the proposed order regulating the handling of milk in the Central Arkansas marketing area) who, during the month of August 1955, were engaged in the production of milk for sale in the marketing area specified in the aforesaid proposed order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed herewith.

The month of August 1955, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order regulating the handling of milk in the Central Arkansas marketing area in the manner set forth in the attached order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Hobart E. Crone is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 577) such referendum to be com-

PROPOSED RULE MAKING

pleted on or before the 20th day from the date this referendum order is issued.

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 Central Arkansas Marketing Area," and "Order Regulating the Handling of Milk in the Central Arkansas Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

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

This decision filed at Washington, D. C., this 7th day of October 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

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

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AUTHORITY: §§ 908.0 to 908.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 708c.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon a proposed marketing agreement and order, regulating the handling of milk in the Central Arkansas 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 of and demand for milk in the 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; and

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

(4) All milk and milk products handled by handlers, as defined 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 expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expenses, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all butterfat and skim milk contained in (i) producer milk, (ii) other source milk allocated to Class I milk pursuant to § 908.41 (a) or (iii) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant as determined pursuant to § 908.62.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Central Arkansas marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

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

§ 908.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 908.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture, or such other Federal agency as may be authorized to perform the price reporting functions specified in this part.

§ 908.4 *Central Arkansas Marketing Area.* "Central Arkansas Marketing Area" hereinafter called the "Marketing Area" means all territory included within the boundaries of the counties of Pulaski, Jefferson, Faulkner, White,

Clark and Garland, all in the State of Arkansas.

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

§ 908.6 *Producer*. "Producer" means any person other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received during the month at a pool plant: *Provided*, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of February through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

§ 908.7 *Approved plant*. "Approved plant" means all of the buildings, premises and facilities of a plant (a) in which milk or skim milk is processed or packaged and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) to wholesale or retail outlets (except pool plants) located in the marketing area, or (b) from which milk or skim milk eligible for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant.

§ 908.8 *Distributing plant*. "Distributing plant" means an approved plant from which Class I milk equal to not less than 50 percent of its receipts of producer milk and fluid milk products from other pool plants is disposed of during the month, on routes or through plant stores, to wholesale or retail outlets (except pool plants) and from which Class I milk equal to not less than 10 percent of such receipts is disposed of during the month on routes or through plant stores, to wholesale or retail outlets (except pool plants) located in the marketing area.

§ 908.9 *Supply plant*. "Supply plant" means an approved plant from which fluid milk products equal to not less than 50 percent of its receipts of producer milk during the month are shipped during such month to distributing plants: *Provided*, That any plant which qualifies as a supply plant for each of the months during the period August through January shall, upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through July.

§ 908.10 *Pool plant*. "Pool plant" means a distributing plant, or a supply plant, except a plant of a producer-handler.

§ 908.11 *Nonpool plant*. "Nonpool plant" means any milk, manufacturing or processing plant other than a pool plant.

§ 908.12 *Handler*. "Handler" means: (a) A cooperative association with respect to milk of producers diverted for the account of such association from a

pool plant to a nonpool plant in accordance with the provisions of § 908.6; or

(b) Any person in his capacity as the operator of one or more approved plants: *Provided*, That if a person operates more than one pool plant he may, upon written application to the market administrator, be considered as a separate handler for the month with respect to one or more of his pool plants if no fluid milk products or producers are transferred during the month between such plant(s) and other pool plant(s) of such handler.

§ 908.13 *Cooperative association*. "Cooperative association" means any cooperative association of producers which the Secretary determines:

(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 and to be exercising full authority in the sale of milk of its members.

§ 908.14 *Producer-handler*. "Producer-handler" means any person who operates a dairy farm and a distributing plant which during the month has no other source milk or producer milk.

§ 908.15 *Producer milk*. "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the plant directly from producers, or (b) diverted from a pool plant to a nonpool plant (except a nonpool plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 908.6.

§ 908.16 *Fluid milk product*. "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream, or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix and aerated cream)

§ 908.17 *Other source milk*. "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and (b) products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 908.18 *Base milk*. "Base milk" means milk received at pool plants from a producer during any of the months of February through July which is not in excess of such producer's daily average base computed pursuant to § 908.90 multiplied by the number of days in such month.

§ 908.19 *Excess milk*. "Excess milk" means milk received at pool plants from a producer during any of the months of February through July which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 908.90.

§ 908.20 *Chicago butter price*. "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

MARKET ADMINISTRATOR

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

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

(a) To Administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds received pursuant to § 908.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses (except those incurred under § 908.85) 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 section, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 908.30 and 908.31 or payments pursuant to §§ 908.80 through 908.86.

(g) Submit his books and records to examination by the Secretary and fur-

nish such information and reports as may be requested by the Secretary.

(h) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of 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 accordance with the total utilization of producer milk by such handler.

(i) Verify all reports and payments of each handler by audit of the records of such handler or any other handler or person to whom skim milk and butterfat are transferred, or by such other means as are necessary.

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and

(k) On or before the date specified publicly announce, and mail to each handler at his last known address a notice of the following:

(1) The 5th 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 11th day of each month, the uniform price, and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 908.30 *Reports of sources and utilization.* On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his approved plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

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

- (1) Producer milk;
- (2) Fluid milk products received from other pool plants;
- (3) Other source milk;
- (4) Inventories of fluid milk products on hand at the beginning of the month, and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk outside the marketing area, and inventories of fluid milk products on hand at the end of the month.

§ 908.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator.

(1) On or before the 7th day of each of the months of March through August the aggregate quantity of base milk received at his pool plant(s) for the preceding month;

(2) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of February through July, the pounds of base milk, (iii) the days for which milk was received from such producer; if less than the entire month, (i) the average butterfat content of such milk, and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions;

(3) On or before the first day other source milk is received in the form of a fluid milk-product at his pool plant(s) 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;

(4) On or before the day prior to diverting producer milk pursuant to § 908.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted; and

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

§ 908.32 *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 and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

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

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

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

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 908.33 *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 calendar month to which such books and records pertain. *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 908.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat, to be reported for pool plants pursuant to § 908.30 (a) shall be classified each month by the market administrator, pursuant to the provisions of §§ 908.41 through 908.45.

§ 908.41 *Classes of utilization.* Subject to the conditions set forth in §§ 908.42 through 908.45, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat; (1) disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section, 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) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of as skim milk and used for livestock feed; and (4) in shrinkage not to exceed 2 percent respectively of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 908.6) and other source milk: *Provided*, That if shrinkage of skim milk or butterfat is less than such 2 percent, it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 908.6) and other source milk respectively.

§ 908.42 *Responsibility of handlers.* All skim milk and butterfat to be classified pursuant to this part shall be classified Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified Class II milk.

§ 908.43 *Transfers.* (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producer-handler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified Class I milk, unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 908.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 908.45.

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified Class I milk.

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool plant from which no fluid milk products are distributed on routes and which is located less than 250 miles by the shortest hard surfaced highway distance, as determined by the market administrator, from

the plant from which transferred or diverted shall be classified Class I milk unless, (1) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 908.30 for the month within which such transaction occurred, (2) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided*, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified Class I milk.

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 908.30, (2) the handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only," (3) the handler gives the market administrator sufficient notice to allow him to verify such Class II disposition in advance, (4) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (5) such cream is not disposed of by the transferee under Grade A label.

§ 908.44 *Computation of 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 § 908.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month 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.

§ 908.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 908.41 (b)

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source

milk except that to be subtracted pursuant to subparagraph (3) of this paragraph: *Provided*, That if the pounds of skim milk to be subtracted exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in fluid milk products received in bulk from plants regulated pursuant to other orders issued pursuant to the act, less any equivalent amounts of skim milk in other source milk allocated to Class I milk at each of such plants respectively: *Provided*, That, if the pounds of skim milk to be subtracted exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk remaining in Class I milk;

(5) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 908.43 (a),

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

(7) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk.

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk.

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

MINIMUM PRICES

§ 908.50 *Basic formula price.* The highest of the prices computed pursuant to paragraphs (a), (b) and (c) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

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

Present Operator and Location

Borden Company, Mount Pleasant, Mich.
Borden Company, New London, Wis.

Borden Company, Orfordville, Wis.
Carnation Company, Oconomowoc, Wis.
Carnation Company, Richland Center, Wis.
Carnation Company, Sparta, Mich.
Pet Milk Company, Belleville, Wis.
Pet Milk Company, Coopersville, Mich.
Pet Milk Company, Hudson, Mich.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Wayland, Mich.
White House Milk Company, Manitowoc, Wis.

White House Milk Company, West Bend, Wis.

Add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price computed by adding together any plus values computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiply the Chicago butter price by 4.8;

(2) Deduct five cents from the simple average as computed by the market administrator of the weighted averages of carlot prices per pound of nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department of Agriculture, and multiply by 7.5.

(c) The price resulting from the following calculations:

(1) Multiply by 8.53 the average of the daily prices per pound of cheese at Wisconsin primary markets ("cheddars," f. o. b. Wisconsin assembly points, cars or truckloads) as reported by the Department of Agriculture during the month;

(2) Add 0.902 times the Chicago butter price for the month;

(3) Subtract 34.3 cents; and

(4) Add an amount computed by multiplying the Chicago butter price for the month by 0.6.

§ 908.51 *Class prices.* Subject to the provisions of §§ 908.52 and 908.53, the class prices per hundredweight of milk containing 4.0 percent butterfat shall be determined for each month as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus \$1.28 from the effective date hereof through August 1955, and for the months of March through August 1956; and plus \$1.68 for the months of September 1955 through February 1956.

(b) *Class II milk price.* For the months of February through July the Class II milk price shall be the price determined pursuant to subparagraph (1) of this paragraph rounded to the nearest cent. For all other months it shall be the basic formula price, or the price determined pursuant to subparagraph (1) of this paragraph, plus 25 cents, whichever is less.

(1) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month.

Present Operator and Location

Sugar Creek Creamery, Russellville, Ark.
 Ozark Creamery Co., Ozark, Ark.
 Pet Milk Co., Siloam Springs, Ark.

§ 908.52 *Butterfat differential to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices calculated pursuant to § 908.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the previous month by 0.12;

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.11 for the months of February through July, and by 0.115 for all other months.

§ 908.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 60 miles or more from the city limits of Benton, Arkansas, by shortest highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 908.51 (a) shall be reduced at the rate of 1.5 cents for each 10 miles or residual fraction thereof that such plant is from such city limits where such milk is received from producers: *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 plant to which transferred after making the calculation prescribed in § 908.45 (a) (1) through (4), and the comparable steps in paragraph (b) thereof for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 908.54 *Rate of compensatory payments on unpriced milk.* The rate of compensatory payment per hundredweight shall be calculated as follows:

(a) For the months of February through July, subtract the Class II milk price, adjusted by the Class II butterfat differential, from the Class I milk price, adjusted by the Class I butterfat differential and in the case of fluid milk products by the Class I location differential.

(b) For the months of August through January, subtract the uniform or the weighted average of the base and excess prices to producers from the Class I milk price.

APPLICATION OF PROVISIONS

§ 908.60 *Producer-handlers.* Sections 908.40 through 908.45; 908.50 through 908.53; 908.61, 908.62 and 908.70 through 908.75; and 908.80 through 908.87 shall not apply to a producer-handler.

§ 908.61 *Plants subject to other Federal orders.* A plant specified in paragraphs (a) or (b) of this section shall be a nonpool plant for purposes of this order except that the operator of such plant shall, with respect to the total

receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 908.30) and allow verification of such reports by the market administrator.

(a) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk was disposed of from such plant during the six months period immediately preceding to retail or wholesale outlets (except pool plants or nonpool plants) in the Central Arkansas marketing area than in the marketing area regulated pursuant to such other order.

(b) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of August through January.

(c) In case skim milk or butterfat, which is priced under Federal Order No. 18 for the Memphis, Tennessee, marketing area, is disposed of as Class I milk in the marketing area on a route operated by or for a person subject to regulation as a handler defined in such order, and the price which such handler is required to pay under Federal Order No. 18 for milk which would be classified as Class I milk under this part, is less than the Class I price provided by this part, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all milk disposed of as Class I milk on routes in the marketing area) an amount equal to the difference between the value as determined pursuant to this part and its value as determined pursuant to Federal Order No. 18.

§ 908.62 *Handlers operating nonpool plants.* Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall, on or before the 15th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of in the form of fluid milk products from such nonpool plant to retail or wholesale outlets (including deliveries by vendors and sales through plant stores) in the marketing area during the month, by the rate of compensatory payment calculated pursuant to § 908.54.

DETERMINATION OF PRICES TO PRODUCERS

§ 908.70 *Computation of the value of producer milk for each handler.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 908.45 by the applicable class price, and total the resulting amounts (and add any amount necessary to reflect adjust-

ments in location differential allowance required pursuant to the proviso of § 908.53)

(b) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 908.45 (a) (2) and (b) by the rate of compensatory payment as determined pursuant to § 908.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 908.45 (a) (7) and (b) by the applicable class price;

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 908.45 (a) (5) and (b) for the preceding months or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 908.45 (a) (4) and (b) for the current month, whichever is less, respectively.

§ 908.71 *Computation of the uniform price.* For each of the months of August through January, the market administrator shall compute the uniform price per hundredweight of producer milk of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the values computed pursuant to § 908.70 for the producer milk of all handlers who submit reports prescribed in § 908.30 and who have made payments for the previous month pursuant to § 908.80 or § 908.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the variation in the average butterfat content of such milk from 4.0 percent by the butterfat differential computed pursuant to § 908.73 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 908.80 (a) (2)

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 908.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of February through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit

reports pursuant to § 908.30, and who have made payments for the previous month pursuant to §§ 908.80 or 908.82 as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price; (2) multiply any additional hundredweight of such milk by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the aggregate value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers;

(c) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk from the total value of producer milk for the month as determined according to the calculations set forth in § 908.71. (a) through (d)

(d) Divide the result obtained pursuant to paragraph (c) of this section by the total hundredweight of base milk of handlers included in these computations.

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content f. o. b. market.

§ 908.73 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 908.52, dividing by the total butterfat in producer milk and rounding to the nearest even tenth of a cent.

§ 908.74 *Location differential to producers.* The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the city limits of Benton, Arkansas, by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from such city limits at the rate of 1.5 cents for each 10 miles or residual fraction thereof.

§ 908.75 *Notification of handlers.* On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 908.30, at his last known address, a statement showing:

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

(b) For the months of February through July the amounts and value of his base and excess milk respectively.

(c) The uniform price(s) computed pursuant to §§ 908.71 and 908.72 and the

butterfat differential computed pursuant to § 908.73; and

(d) The amounts to be paid by such handler pursuant to §§ 908.82, 908.85, 908.86, or 908.62; and the amount due such handler pursuant to § 908.83.

PAYMENTS

§ 908.80 *Time and method of payment for producer milk.* (a) Except as provided in paragraph (b) in this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 908.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 908.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk; and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler shall furnish the person to whom payment is to be made pursuant to this section with the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month;

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 15th day of the following month to producers (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk; (ii) for the months of February through July the pounds of base milk received; (iii) the amount or rate and nature of deductions made from payments and (iv) the amount and nature of payments due pursuant to § 908.84.

§ 908.81 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 908.62, 908.82 and 908.84, and out of which he shall make all payments pursuant to §§ 908.83 and 908.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 908.82 *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 producer milk as computed pursuant to § 908.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 908.83 *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 total value of his producer milk, computed pursuant to § 908.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) 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 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.

§ 908.84 *Adjustment of accounts.* Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 908.85 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 908.80, shall deduct 5 cents per hundredweight, or such amount not ex-

ceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 908.86 *Expense of administration.* On or before the 15th day after the end of each month, each handler shall pay to the market administrator, for each of his approved plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, (b) other source milk allocated to Class I milk pursuant to § 908.45 (a) (2) and (b) or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 908.87 *Termination of obligations.* The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the mar-

ket 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 representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the payment (including deduction or setoff 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.

DETERMINATION OF BASE

§ 908.90 *Computation of daily average base for each producer.* Subject to the rules set forth in § 908.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of October 1955 through January 1956 by the number of days from the first day of delivery by such producer during such months to the last day of January 1956, inclusive, or by 90, whichever is more. The daily average base for each producer thereafter shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December inclusive or by 90, whichever is more.

§ 908.91 *Base rules.* The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 908.90 to each person for whose account producer milk was delivered to pool plants during the months of October 1955 through January 1956, and during the months of

September through December thereafter.

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and 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 the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 908.92 *Announcement of established bases.* On or before February 25, 1956 and January 25 of each year thereafter, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 908.100 *Effective time.* The provisions of the part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 908.101 *Suspension or termination.* The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 908.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 908.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except §§ 908.84, 908.89, and 908.91 through 908.93, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 908.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 908.111 *Separability of provisions.* If any provisions 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. 55-8292; Filed, Oct. 12, 1955; 8:47 a. m.]

[7 CFR Part 1004]

[Docket No. AO-271]

HANDLING OF MILK IN CENTRAL ARIZONA
MARKETING AREADECISION WITH RESPECT TO PROPOSED
MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the proceedings to formulate marketing agreements and orders (7 CFR Part 900), a public hearing was conducted at Phoenix, Arizona, on April 19-23, 1955, pursuant to a notice thereof issued March 29, 1955 (20 F. R. 2084).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on August 25, 1955, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. This decision and notice of opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on August 30, 1955 (20 F. R. 6340). A notice of extension of time for filing exceptions was filed by the Acting Deputy Administrator, Agricultural Marketing Service, on September 9, 1955, and published in the FEDERAL REGISTER of September 14, 1955 (20 F. R. 6751).

Within the period reserved therefor, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

To the extent that suggested findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues of record related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

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

(a) The scope of regulation,

(b) The classification of milk,

(c) The level and method of determining class prices,

(d) The method to be used in distributing 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.* All milk which will be regulated under the proposed marketing agreement and order is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products.

Milk produced in California is purchased on both regular and supplemental bases to meet the demand for fluid milk products of consumers in the Central Arizona marketing area as defined in the proposed order. On a regular basis, four milk producers (of the twelve supplying Yuma) whose farms are located in Bard, California, regularly supply milk to handlers located in Yuma, Arizona. A distributor in Yuma disposes of bottled milk in the Bard-Winterhaven area in California. Also, a distributor operating a milk depot in the marketing area processes milk that is sold on vendor routes in New Mexico.

On a supplemental basis, substantial quantities of milk produced in California and Utah are imported each year to supply part of the raw milk requirements of nearly all handlers in the Central Arizona marketing area. Such imports have been necessary each year during July through October (the months of seasonally-short production of milk in the area); in some years milk is imported for periods as long as 7 months (1951) to 10 months (1952). In 1952 importations of Grade A milk into Phoenix and Tucson totaled nearly 69 million pounds; in 1954 they totaled about 29 million pounds. Milk so imported was commingled with locally-produced milk and distributed to consumers throughout Arizona. The record shows that handlers operating in this manner compete actively throughout the entire marketing area with handlers buying all, or most, of their milk supplies from local producers.

In addition to the importations of whole milk just described, substantial quantities of such concentrated Grade A milk products as nonfat dry milk solids are imported from out-of-state sources and regularly used in the fortification of such fluid milk products as buttermilk and skim milk drinks. Imported nonfat dry milk solids are also used in making reconstituted fluid milk

products for sale in the Central Arizona marketing area during several months of the year.

Substantial quantities of such manufactured dairy products as cottage cheese and ice cream distributed in the marketing area originate from locations outside the State of Arizona. For example, a handler located in the marketing area distributes ice cream that is processed and manufactured in company-affiliated plants located in Texas. Seasonal surpluses of locally-produced Grade A milk are used in the manufacture of cottage cheese and ice cream, and must, in turn, be sold in competition with similar products manufactured in areas outside Arizona from milk produced outside of the State.

(2) *The need for regulation.* The marketing and pricing conditions in the Central Arizona marketing area require the issuance of a Federal milk marketing agreement and order to establish and maintain orderly marketing conditions and effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

The problems encountered by producers in the Central Arizona marketing area are typical of those occurring in unregulated fluid milk markets where producers are unorganized or where producer cooperative associations have been unsuccessful in establishing effective bargaining relationships with handlers. The Federal milk marketing order proposed herein for Central Arizona will implement the declared congressional policy of establishing and maintaining orderly marketing conditions by:

(a) Providing a regular and dependable method for determining minimum prices to producers at levels comparable to those contemplated under the act;

(b) Establishing uniform prices to handlers for milk received from producers according to a classification plan based on the use made of such milk by the handler;

(c) Providing an impartial audit of handler's records of receipts and utilization to further insure uniform prices for milk purchased;

(d) Providing all producers with a means whereby the weighing and testing of their milk can be checked to insure accuracy;

(e) Establishing uniform returns to producers supplying the area and insuring that the lower returns from the sale of reserve milk are shared equitably among all producers;

(f) Establishing uniform rules for the operation of a market-wide base and excess plan that will (i) acquaint producers with the rules for establishing bases and determining base and excess prices; and (ii) encourage producers to balance seasonal fluctuations in the production of milk with a relatively steady consumer demand for such production; and

(g) Providing market-wide information on the receipts, sales and other data relating to milk market problems in the area.

The hearing record contains considerable testimony on the chaotic marketing conditions in Central Arizona created by the wide variety of classification and

pricing planes used by different distributors serving the area, the resultant lack of uniformity in prices paid producers for milk, and the ineffectiveness of the producers in protecting themselves against sharp cuts in producer prices during periods of milk price wars among distributors.

The effects of a milk price war became widespread in the latter part of 1954 when distributors lowered paying prices on successive occasions until producers were receiving approximately \$1.00 a hundredweight less for milk in December than in June. The depressed and erratic producer prices have persisted. Record testimony indicates these actions have lowered prices to producers to the point where a continuous and adequate supply of pure and wholesome milk for the area is threatened. Producers need a regular and dependable method for determining minimum prices for their milk that will provide price levels that reflect general economic conditions, local supply and demand, and be in harmony with those contemplated under the enabling act.

Under present marketing conditions no two handlers pay producers on exactly the same basis. Prices paid producers vary greatly between handlers. This lack of uniformity, and uncertainty of prices to producers fosters market instability and permits inequities to occur among and between handlers in the prices paid for producer milk. As an example, the record indicates that one handler was paying \$6.36 a hundredweight for 4.0 percent milk during the same period that another handler was paying as low as \$5.08. The classification and pricing plan of the attached order is the only available means of establishing uniform prices among handlers for milk received from producers according to the use made of such milk by each handler. This use-classification plan is equitable and will apply similarly to all handlers. To insure equity among handlers and full accountability to producers, the use-classification plan must be supplemented by an impartial audit of handlers' records of receipts and utilization. The market-wide pooling provisions of the order proposed herein will provide a means of insuring uniform returns to producers and equitable sharing of the burden of the inevitable seasonal excesses of producer milk.

Many producers supplying handlers in the Central Arizona area have no effective means of insuring the accuracy of the weights and tests of their regular deliveries of milk. In addition, only part of the handlers permit an audit of their records by the producer associations for the purpose of establishing the accuracy of the proportions of milk paid for as base and as excess under the handler-operated base-excess plans now in use. These plans are individual to each plant, there is no uniformity in methods of figuring the proportion of excess milk, and there are indications that some handlers have manipulated the plan to benefit favored producers. There is need for a Federal order to correct these inequities.

The record also indicates that producers have no regular and dependable

method for participating in the price-determining decisions that govern the sale of their milk. Handlers and their representatives have used various means to discourage producers from joining the proponent producers' cooperative association. They further hamper the growth of the association by refusing to make deductions for association dues even though the producer-members authorized such deductions. Such actions have kept producers from having an effective role in determining the prices they receive for milk, or the proportion of their milk to be paid for as base milk and excess milk. An order will give producers a voice in the deliberations as to what price they should receive for their milk, and will provide a means whereby the producers associations can carry out a full scale marketing service program applicable to all handlers with which the members have business. The classified use plan of the attached order, together with the pricing formula herein established, should insure a sufficient quantity of pure and wholesome milk for the marketing area, will protect the interests of producers, handlers, and consumers and be in the public interest.

(3) *Order provisions*—(a) *Scope of regulation.* Federal milk orders achieve marketing and pricing stability by using techniques authorized by the Agricultural Marketing Agreement Act of 1937, as amended. Important among these techniques are the requirements that (1) regulated distributors (handlers) pay at least specified minimum prices to producers in accordance with a classified use plan established in an order, and (2) these payments be distributed to each producer on a uniform basis through either an individual-handler pool or a marketwide pool. Under the circumstances it is important to establish clearly which plants and which milk will be subject to all or part of the pricing provisions of an order and, in turn which producers will participate in the distribution of returns through the specified pool. To identify such persons and to facilitate reference to them throughout this decision and in the proposed order, such terms as "marketing area" "producer" "pool plant" "handler" "producer milk" and "other source milk" are defined and are used herein.

Marketing area. The Central Arizona marketing area should be defined to include all of the territory within the counties of Maricopa, Pima, Pinal, and Graham, and all the territory south of 33° latitude (North from the Equator) in Yuma County all in the State of Arizona.

Fluid milk products sold for consumption in this area must be approved by health authorities who are governed by health ordinances, practices and procedures generally patterned after the United States Public Health Service Milk Ordinance and Code. The record testimony indicates that within this defined area the health standards are substantially equal and are under the jurisdiction of operating health authorities. These conditions support the adoption of milk marketing regulations that are applied equally within the defined area.

Marketing areas, as defined in Federal milk orders, are designed to cover as nearly as is practicable, areas in which milk is sold to consumers rather than the areas where the milk may be produced. The proposed order would regulate distributing plants that are in substantial sales competition with one another within and outside the defined marketing area. Record data show that four handlers, all with plants located in Maricopa County (the central part of the marketing area) compete with each other in all of the five counties included in the marketing area. Handlers with plants located in the southern part of Yuma County also compete with a handler located in Pinal County. Handlers selling only in Graham County compete with two handlers located in Tucson in addition to the four handlers selling in all five counties. The marketing area thus includes the most densely populated places in Central Arizona and comprises the most important sales territory served by handlers located within the area.

It will be noted that the marketing area defined herein includes less territory than that requested by both the producers' associations and by various handlers. Although all territory originally requested by handlers was not included in the notice of hearing, the notice did state that if the evidence adduced at the hearing indicated it would not be feasible to promulgate an order for all or part of the area set forth in the notice, or that additional territory should properly be included under any proposed order, the hearing would be reopened for the purpose of giving further consideration to appropriate extensions of the marketing area. A careful review of the record testimony indicates that it is clearly feasible to issue an order for the marketing area proposed herein without reopening the hearing to consider extending the defined marketing area.

The vast majority of the milk produced in Arizona is produced and processed within the Central Arizona marketing area. This milk will be subject to regulation by the attached order regardless of where it might be sold. The record shows that regulated handlers sell a substantial proportion of the milk consumed in most counties located outside the defined marketing area. Individual handlers will not be disadvantaged significantly in making sales in these out-of-area counties because (1) their principal competitors also will be regulated by the same order, (2) the economies of scale inherent in the large-scale processing and distribution of milk in paper containers will tend to offset any short-run advantage in producer prices that might accrue to an occasional unregulated handler, (3) 90 percent of the milk produced in Arizona will be subject to the minimum pricing provisions of the order, (4) in some of the outlying counties the only competition encountered by regulated handlers is a local producer-handler (who would be exempt from the pricing provisions of the attached order), (5) for the most part the remainder of the State of Arizona is a deficit milk production area,

and (6) in some counties producers selling to local dairies have an alternative of shipping to regulated handlers in the Central Arizona marketing area should they become dissatisfied with pricing and marketing conditions under which they have to sell milk to local unregulated plants (which should have the effect of stabilizing producer prices in out-of-area counties at levels close to those to be paid producers whose milk is priced by the order) It is neither administratively feasible nor necessary to include within the marketing area all the territory in which handlers may be distributing any portion of their sales of fluid milk products. In fact, it would be impracticable, if not impossible, to extend the marketing area to include all the territory in which there would be some competition with unregulated distributors. However, should handlers regulated herein be forced into a disadvantageous competitive condition in any of the unregulated portions of the State after the order has become effective (because of the failure to extend the marketing area) the consideration of an appropriately enlarged marketing area can be handled expeditiously at a public hearing called for that purpose. Market-wide data on sales in and out of the marketing area obtained under the order will assist in evaluating any developments affecting the future appropriateness of the size of the defined marketing area.

The marketing area should not include the territory in Yuma County lying North of the 33° latitude. No handler in the Central Arizona area sells milk in that portion of the county. This excluded territory is located 85 to 165 miles from Phoenix and is rural in nature (having only one town with a population of more than 1000 persons in 1950) Nearly all the milk sold there originates in Los Angeles, California, is paid for as Class I milk under the California Milk Control Act, and is sold by one person on a wholesale route in conjunction with other food items. Furthermore, milk sold in this area has no effect on the competitive relationships with and between regulated handlers in the Central Arizona marketing area.

Accordingly, it appears that the marketing area defined herein includes the territory which will minimize the problems of competition with unregulated distributors and at the same time regulate enough sales area to restore and maintain orderly marketing conditions for producer milk.

Definition of plants and milk to be subject to regulation. Record testimony indicates that milk plants supplying the Central Arizona marketing area are distributing plants located within the area that dispose of the major portion of their milk receipts as fluid milk products. These "fluid milk products" are required to be made from milk produced in compliance with the Grade A requirements of the duly constituted health authorities having jurisdiction in the area and include such products as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream and mixtures in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, yogurt,

ice cream mix and aerated cream) Plants disposing of their producer receipts in such form in the marketing area by delivery to retail or wholesale outlets, including delivery by a vendor or a sale from a plant or a plant store, should be fully regulated under the order. They are herein defined as "pool plants"

The order shall also provide standards for plants from which pool plants making route sales draw supplemental supplies of milk. Plants shipping supplemental supplies to a market generally fall into two broad categories. One category includes plants that supply milk to the market in such a manner as to be considered closely associated with the market. Although the record discloses that no such plants from any area, including out-of-state areas, are serving the Central Arizona marketing area with regularity, some provision should be made to regulate plants of this type that might become closely associated with the market. Such plants are a normal part of milk procurement facilities in many markets and nothing in this order will preclude any plant wherever located from serving the market in the future should a need for their services arise. This objective can best be accomplished by defining also as a "pool plant" any plant that ships to pool plants making route sales in the areas as Class I milk a majority (at least 50 percent) of its receipts of producer milk in the current month during the period of July through October, and 20 percent in the current month during the period November through June: *Provided*, That, if a plant meets these standards during the months of July through October, such plant should be permitted, upon written application to the market administrator on or before October 31 following such compliance, to be designated as a "pool plant" until the end of the following June. Plants not qualified under these standards cannot be considered as closely associated with the Central Arizona market, and receipts from them should be considered as other source milk. The standards recommended herein will provide the framework for appropriate regulation of plants shipping supplemental supplies if such plants should become regularly associated with the market.

A "pool plant" is defined to include any plant subject to full regulation under the proposed order.

A "handler" is defined to be the operator of any pool plant. Such handler is the person to whom the provisions of the order are applicable. The handler receives the milk and thus must be held responsible for reporting the receipt and utilization of it. If the milk is priced, he is responsible for paying producers the specified minimum prices. A "handler" should include a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant for its account. If a handler also operates an unregulated plant(s) this definition is not intended to include such person in his capacity as an operator of such plant(s). This definition should include producer-handlers in order that they may be required to report to the

market administrator whenever necessary to determine their status.

"Producer" should be defined as any person other than a "producer-handler" who produces milk in compliance with the Grade A requirements of a duly constituted health authority having jurisdiction within the marketing area, which milk is received at a pool plant. Provision should be made so that the milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant without such producers losing their status under the order. This will permit milk regularly associated with the market to be diverted to manufacturers during periods of flush production and over weekends and holidays when supply and demand relationships may require some reserve and surplus milk to be manufactured in plants not regulated by the order. Producers whose milk is so diverted will continue to receive the uniform price under the order and their milk will be available for fluid use when needed. Diverted milk should be deemed to have been received at the plant from which it was diverted. Producer milk should include all skim milk and butterfat contained in milk produced by producers and received at pool plants directly from producers or diverted by a handler from such plant.

"Producer-handler" should be defined as a person who operates a pool plant in which he handles only milk of his own production and such milk from other handlers as is priced under the order at such other handler's plant. A producer-handler should be subject to the order only to the extent that he must submit reports to the market administrator as required and maintain and make available to the market administrator, accounts, records and facilities so that the market administrator may verify that such person is a producer-handler. It seems unnecessary to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler should be Class I milk. Any supplemental supplies of milk which may be obtained from other handlers may, by virtue of the type of operation involved, be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the pool plant(s) of a handler after the allocation of shrinkage on producer milk. This method of allocating producer-handler milk will preserve producers' priority on the Class I sales in the marketing area. Thus, the producer-handler who, by being exempt, enjoys the full advantage of his fluid milk sales, will not also share in the Class I market of other producers.

"Other source milk" should be defined as all skim milk and butterfat utilized by the handler in his operations except fluid milk products received from pool plants, inventory, and current receipts of producer milk. This includes any non-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 in the plant. Thus, other source milk would represent butterfat and skim milk from sources not subject to the Class I pricing provisions of the attached order. Defining other source milk in this manner will insure uniformity among all handlers under the allocation and pricing provisions of the order.

(b) *Classification of milk.* Milk received by regulated handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, it is used, as either Class I milk or Class II milk.

A classified-use plan of this type will insure that minimum prices for milk will be uniform among handlers according to use, that a price may be fixed for the milk disposed of as Class I at a level that will bring forth an adequate supply of pure and wholesome milk, and that a necessary reserve of quality milk may be maintained at all times (and used at prices in line with its value when processed into manufactured dairy products) without disrupting marketing and pricing conditions within and outside the established marketing area.

The products which should be included in Class I milk are those distributed to the consumer in fluid form and required by health authorities in the proposed marketing area to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded, or manufacturing, milk price. This higher price should be at such a level that it will yield a blend price to producers that will encourage the production of enough milk to meet market needs.

Reserve milk not needed seasonally or at other times for Class I use must be disposed of for use in manufactured products. These products are less perishable, are not required to be made from inspected milk, and must be sold in competition with products made from unapproved milk produced throughout the United States. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including reconstituted and concentrated nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream or any mixture in fluid form of milk, skim milk and cream (except eggnog, ice cream, ice cream mixes, yogurt, aerated cream, and sterilized products contained in hermeti-

cally sealed containers) and (2) not accounted for as Class II milk.

Fluid milk products which contain concentrated skim milk solids, such as skim milk drinks and buttermilk to which extra solids have been added, or concentrated whole milk disposed of for fluid use, should be included under the Class I milk definition and all the solids therein should be priced at the same rate. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans would not be considered as Class I milk; they need not be handled as fluid milk products nor need they be made from Grade A milk exclusively.

Skim milk and butterfat are not used in many products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk serum and butterfat content of milk products, received and disposed of by a handler, can be determined through certain recognized testing procedures. Some of these products, such as ice cream and condensed products, present a difficult problem of testing (and accounting) in that some of the water contained in the milk has been removed. It is necessary, in the case of such products, to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator in the case of products manufactured by a handler, or by means of standard conversion factors of skim milk and butterfat used to produce such products in the case of products purchased by a handler or where plant production records are inadequate.

The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product. The record discloses that (1) concentrated skim milk solids are used to fortify Class I milk products, (2) that such solids are required to come from Grade A milk, and (3) that they would be paid for on the basis of the Class II price, if derived from milk covered by the order or at the price for manufacturing milk, closely in line with the Class II price, if derived from milk processed at a non-regulated plant. Under the circumstances, the value of each pound of nonfat milk solids utilized by addition to, or as, a Class I product has a value to the handler the same as every other pound contained therein. Neither the form in which, nor the source from which, such solids are obtained alter their value to the handler for this purpose. Solids contained in producer skim milk are in fluid form and are paid for on the basis of all the water originally associated with the solids. In order to account for skim milk solids in powdered or concentrated form on a basis comparable to that used in accounting for liquid skim milk in producer milk it is necessary to account for such solids on the basis of the amount of skim milk necessarily used in produc-

ing such solids. Therefore, the accounting procedure to be used in the case of this and any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible for establishing the classification of, and making payment to producers for, such milk. Fixing responsibility in this manner is a practice which is followed consistently in both regulated and unregulated markets. It is necessary to administer effectively the provisions of the order in order to achieve equality of cost among handlers. The operator of the plant at which milk is first received from producers is the person with whom contractual relations have been made by producers or their representatives. Except for the limited quantities of shrinkage which may be classified in Class II under certain conditions set forth elsewhere in this decision, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix, and other frozen desserts and mixes; eggnog; yogurt; aerated cream; butter; cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened), nonfat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk. Skim milk and butterfat disposed of to commercial food product manufacturing plants, other than dairy plants, which do not dispose of fluid milk products for fluid consumption, should be Class II milk. The health ordinances applicable in the marketing area do not require that these products be made from locally approved milk.

Cream placed in storage and frozen should be classified as Class II milk. Such cream is intended primarily for use in ice cream and ice cream mixes. Skim milk disposed of as animal feed also should be classified as Class II. Any frozen cream or other Class II products which are used later in a pool plant would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

Butterfat and skim milk used to produce Class II products should be considered to be disposed of when so used, and will not enter into the classification problem again unless reused or reconverted. 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, including

those produced in the plant from producer milk, which are used for further processing or manufacture, should be considered to be a receipt of other source milk. This will maintain priority of assignment of current receipts of producer milk to Class I utilization.

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

It is concluded that inventory should be accounted for as Class II milk. If fluid milk products in inventory are accounted for as Class II milk at the end of the month, it will be necessary to provide a method to deal with the producer milk inventory which is used in the current month for Class I purposes but which the handler accounted for to producers as Class II milk at the end of the previous month. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by considering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class II milk following the subtraction of other source milk. To the extent that opening inventory is allocated to Class I milk and there was an equivalent amount of producer milk classified in Class II milk in the previous month (after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I price in the current month and the Class II price in the preceding month. This will promote equality in the cost of milk among handlers and returns to producers, irrespective of whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler his total established utilization of skim milk and butterfat, respectively, in various products. Shrinkage not in excess of 2 percent of the handler's receipts of skim milk and butterfat from producers and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other pool plants because shrinkage on such milk will be allowed to the transferring handler. The evidence indicates that a plant operated in a reasonably efficient manner, and for which complete and accurate records

of receipts and utilization are maintained, should be able to keep total shrinkage at less than 2 percent of total receipts. It is concluded, therefore, that shrinkage not in excess of 2 percent of total receipts of producer milk and other source milk should be classified as Class II milk; any in excess of this quantity should be classified as Class I milk.

Transfers. Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of by the handler. However, since some Class I items may be disposed of to other plants for processing, specific classification procedures should be prescribed for transfers to other plants.

Milk, skim milk, cream or other products designated as Class I milk transferred by a handler to the plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk. Furthermore, the assigning to classes must be such as will result in the maximum amount of producer milk of both handlers being assigned to Class I milk. These actions will carry out the recognized principle that the highest-valued uses should be assigned first to those producers regularly supplying the market.

In order to reduce the administrative expense of verifying the use of milk or skim milk transferred great distances, transfers of milk or skim milk to plants 250 miles or more from the nearer (by the shortest hard-surfaced highway distance) of the respective City Halls of Phoenix or Tucson, Arizona, should be Class I in all cases. The costs involved in transporting milk or skim milk in fluid form such a distance appear such that it would not be economically feasible to move the milk farther for Class II disposition.

Cream presents a somewhat different problem because its value is so much greater in relation to its bulk that it may be transported long distances for manufacture. In order to provide for such transfer and at the same time provide reasonable assurance that the butterfat is being classified according to use, it should be provided that cream may be Class II if the following conditions are met: (1) The transferring handler requests such a classification, (2) it is clearly labeled as manufacturing grade cream and the shipment is so invoiced, (3) if the operator of the nonpool plant maintains books and records of utilization at the plant which are made available on request of the market administrator for verification of usage, (4) if prior notice of the intended shipment is furnished to the market administrator, and (5) the nonpool plant used an equivalent amount of skim milk and butterfat in the use indicated.

The more common form of transfer to a nonpool plant is the movement of excess milk to nearby manufacturing plants. It is provided that transfers of milk, skim milk, or cream from a pool plant to a nonpool plant located within a radius of 250 miles be Class I unless Class II use is affirmatively established. Evidence of Class II use consists of a certification by the pool plant operator that the transfer was intended for Class II use, and verification by the market administrator of the records made available by the nonpool plant operator to establish that the milk was not utilized for other than manufacturing purposes.

Allocation. Because the order class prices apply only to the producer milk, it is necessary, if a pool plant has butterfat or skim milk other than that received in producer milk, to determine the quantities of milk in each class to be assigned to current receipts from producers. The milk of producers who are regularly engaged in supplying the market should be assigned the Class I utilization first. This is necessary to insure the effectiveness of the classified pricing program of the order. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in detail in the order.

In general this procedure requires that skim milk and butterfat, respectively, remaining in each class be assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class II milk, except as otherwise noted:

- (1) Class II shrinkage of producer milk;
- (2) Other source milk;
- (3) Beginning inventory;
- (4) Receipts from other handlers (according to classification), and
- (5) Overage.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month. To apply a shorter accounting period would place an accounting and reporting burden upon handlers and increase the cost of administering the order.

(c) Class prices. In order to restore and maintain orderly marketing conditions in the Central Arizona area, minimum Class I and Class II prices for producer milk must be established at levels that will reflect economic conditions affecting the market supply and demand for milk or its products and assure the maintenance of a supply of quality milk adequate for the needs of the market. The enabling act requires that minimum prices established by Federal milk orders meet this standard. An important point in this requirement is that the prices shall be at a level that over a reasonable period of time, due consideration being given the need for a reserve of milk and the seasonal variation in production, the supply of milk meeting the quality standards of a market will be about equal to the needs of the market for milk of that quality. This means, in turn, that the minimum prices provided for in the order can be related to general economic conditions, but cannot be maintained out of

line with such conditions. If producer prices are too low, not enough milk of acceptable quality will be produced to supply fully the Class I needs of the market. If such prices are too high, on the other hand, milk production will be over stimulated and fluid consumption will tend to be curtailed. These actions would cause more milk to be produced than is needed to supply the demand for Class I milk, including the necessary reserves, and would eventually result in the shifting of agricultural resources toward the production of unnecessary and uneconomic surpluses and this would depress the blend price to producers.

The concept of adjusting minimum class prices in response to changes in supply and demand conditions, and thereby influencing production of milk through consequent changes in producers' blend prices, has wider geographical implications today than in the past. In earlier days producers were limited to supplying milk to local markets because of inadequate transportation facilities and the local nature of health regulations and milk distribution systems. Today the technological advances in milk production, including the widespread use of milk cooling equipment on farms; the rapid motor transportation from farms to a number of cities instead of one or two, especially through the advent of bulk farm tank milk pickup; the increased efficiency of milk processing equipment and plants; the increasing importance of paper containers for packaging milk; the use of refrigerated delivery trucks; the sale of milk through vendors and stores in distant cities; and the corollary trend among health authorities of approving sources of milk derived from a wider supply area under agreements for reciprocal inspection—all these factors enable milk to be transported and sold long distances from the point of production and processing. The hearing record was replete with testimony showing that these developments have and are influencing the marketing organization and price structure for producer milk and for fluid milk products in Arizona. That these developments affect the level of prices paid for milk produced in Arizona is borne out by the many references in the record to the need of keeping Arizona prices in reasonable alignment with those in other areas, particularly California.

Class I prices. Producers proposed that the Class I price for 4 percent milk be established for each month by adding a differential of \$3.05 to a "basic formula price" that reflects the values on a nation-wide basis of manufacturing milk used for butter and powder (through a butter-nonfat dry milk solids formula) and condensing (through the Mid-west condensery price series). They requested a further provision that for producer milk received at plants in Pima County (Tucson) the price be 36 cents a hundredweight higher. Handlers requested a 3.5 percent basis for pricing and a Class I differential of \$1.90 over the basic formula price.

The evidence demonstrates that pricing should be based on milk of 3.8 percent butterfat test and that the appropriate price level for Class I milk of such

test in Central Arizona would be the basic formula price plus \$2.80 for plants in the Tucson zone, \$2.50 a hundredweight for plants in the Phoenix-Safford zone and \$2.40 for those plants in the Yuma zone.

The general price level for Grade A milk in Phoenix from May 1953 through June 1954 (the most recent period when the market was not involved in pricing or marketing disturbances) was \$6.12 a hundredweight for 3.8 percent milk (purchased on a butterfat basis at the rate of \$1.61 a pound butterfat). In July 1954, this price was reduced 2 cents a pound butterfat by at least two handlers. By August 1954, this level of prices decreased further, with the result that producers supplying plants in Phoenix received between \$1.515 and \$1.60 a pound butterfat for their milk (equal to \$5.76 to \$6.08 for 3.8 percent milk). This decrease was approximately commensurate to the reduction in the price support levels for dairy products. A price level of \$1.50 to \$1.59 a pound butterfat (\$5.70 to \$6.04 a hundredweight of 3.8 percent milk) remained in effect in the Phoenix area until upset by the marketing conditions reviewed earlier in this decision. Except for periods of unsettled conditions, the price for milk in Tucson has been higher by at least the amount of extra transportation charges involved. On this basis, the Tucson price normally has been about 34 cents a hundredweight higher for 3.8 percent milk. However, producers in the Salt River Valley, when shipping to plants in the Tucson area (as an alternative to shipping to plants in the Phoenix area) incur extra transportation costs of about 30 cents a hundredweight. On this basis the Class I price level in Tucson should remain 30 cents a hundredweight higher than the Class I price level in the Phoenix-Safford area.

The level of prices existing in the area before the market became unstabilized in late 1954 maintained enough local production to meet the fluid needs of the area during months of flush production, but had not induced enough local production to meet year-round demands in the market. The market was not oversupplied on a year-round basis. This indicates that a price of \$1.50 to \$1.55 a pound butterfat under present nationwide marketing conditions is not and has not been too high. At the present time, however, the economic conditions affecting the cost of producing milk in Arizona and the relative profitability of dairying compared with other agricultural enterprises are slightly more favorable to dairying than heretofore. This situation is reflected in the current slightly upward trend in local milk production. These conditions and trends indicate that a Class I price of \$5.80 for 3.8 percent milk at Phoenix area plants, with appropriate differentials for other locations, will induce an adequate supply for the Central Arizona marketing area. Furthermore, if producers need any added incentive price-wise, it should be supplied through the market-wide blend price by the effects of those order provisions that require classification, check weighing and testing, and full and accurate accountability to producers for

milk sold to handlers. These conclusions can be carried out in Central Arizona by adding a Class I differential of \$2.80 each month of the year to a basic formula price which reflects the value of manufacturing milk at a national level. This Class I differential would apply to plants located in or within 60 miles of Tucson, Arizona, and would be adjusted downward through appropriate location differentials (discussed elsewhere in this decision). This further action has the effect of setting a Class I differential of \$2.50 for producers shipping to plants in the Phoenix-Safford zone and \$2.40 for those shipping to plants in the Yuma zone.

Record evidence indicates that, under present conditions, this level of prices appears to be in appropriate alignment with prices established for Grade A milk in the Los Angeles, California market under regulations promulgated by the State of California, Department of Agriculture, Bureau of Milk Control.

The basic formula price recommended herein is comparable with that proposed at the hearing and with those presently used in the Federal order markets in the State of Texas. The purpose of this basic formula price is to reflect the general economic factors underlying the price for milk used in manufactured dairy products. Because the market for most manufactured products is nation-wide, prices of such products reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. These prices, in turn, influence the local market prices for the same uses of milk. Prices for milk used for fluid purposes are related to prices paid for milk used for manufacturing purposes since the production and marketing of inspected milk for fluid purposes is influenced by many of the same economic conditions. Also, manufacturing milk plants serve as alternative outlets for milk which farmers produce for fluid markets. For these reasons, most fluid milk markets have used the prices for butter and nonfat dry milk solids, or the prices paid by condenseries (with differentials over these basic manufacturing prices) to establish fluid milk prices. The differential that is added to the basic formula price should, in general, reflect the additional costs of getting Grade A milk produced and delivered to consumers in the quantities required to meet the needs for fluid consumption in the Central Arizona marketing area.

The basic formula price to be used in establishing the current price for Class I milk of 3.8 percent butterfat test should be the higher of the following for the preceding month: (1) The prices paid to farmers at Mid-west condenseries for milk of 3.5 percent butterfat content adjusted to a 3.8 percent basis, and (2) a formula price based on the market prices of butter and nonfat dry milk solids on the Chicago, Illinois, wholesale market. Chicago, Illinois, is a large central market for butter and nonfat dry milk solids and changes in prices at that point reflect the changing conditions affecting the supply and demand for milk and its products throughout the country. The use of these alternative components in the basic formula price will reflect the

value of manufactured milk; the use of the higher price resulting therefrom is appropriate because alternative supplies of milk must be obtained at any given time in competition with the most favorably priced manufacturing outlet. Subtracting 3 cents from the Chicago butter price, adding 20 percent and multiplying by 3.8 makes appropriate allowances, respectively, for the costs of manufacturing butter, for the overrun involved, and for the pounds of butterfat contained in the milk. The deduction of 5.5 cents from the average price for spray and roller nonfat dry milk solids in Chicago is a manufacturing allowance; multiplying the result by 8.5 adjusts for the pounds of solids obtained from a hundredweight of skim milk; and multiplying the result by 0.962 adjusts for the pounds of skim milk in a hundredweight of milk containing 3.8 percent butterfat.

Handlers recommended that the order provide for a basic test of 3.5 percent butterfat rather than the 4 percent basis proposed by the Arizona Dairymen's League. Handlers based their recommendation on the facts that the market-wide average test of milk received from producers and the average test of products sold to consumers are both somewhat less than 4 percent. Moreover, Los Angeles, California, is the nearest market from which Central Arizona handlers can purchase raw milk when local production is insufficient to meet sales requirements and the only market to which any substantial quantity of milk, surplus to the needs of the Central Arizona marketing area, can be sold for processing. The Bureau of Milk Control of the State of California announces its Class I prices for Los Angeles in terms of 3.8 percent milk. Because of marketing interrelationships, it would seem appropriate to announce Central Arizona prices on a basis comparable with those in California. For these reasons, a reasonable butterfat test on which to calculate and announce prices in the Central Arizona marketing area, especially during the period immediately after the attached order would go into effect, is 3.8 percent. Setting the basic test at this level rather than at 4 percent will not, in itself, alter the level of returns to producers because the price structure established herein has been adjusted to that basis.

If experience indicates that the proposed level, or the basis or method of pricing, fails to bring forth a satisfactory level of producer milk receipts in the marketing area, it will be appropriate to re-examine these provisions in conjunction with the complete marketing information that will become available after the order has been in effect. Although the basic formula is designed to respond to general supply and demand conditions affecting the production of milk, it also is important to have the Class I price responsive to local conditions. An important local condition is the relationship between the supply of milk immediately available to the market and the proportion of this milk disposed of for Class I purposes. However, because of limitations on accurate market-wide data, no automatic adjustment of Class I prices based on changing

supply-demand relationships is proposed herein. It is concluded, however, that after the accumulation of at least one-year's data the basis or method of pricing should be reexamined at a public hearing called for that purpose. For this reason the Class I price differential adopted will be effective for a period of only 18 months.

The market administrator should announce the Class I price near the beginning of each month. In order to do this, it will be necessary to use price quotations for the previous month in determining the basic formula price. These quotations will be available in time for the market administrator to announce the Class I prices on or before the 6th day of the month to which the price applies.

Class II prices. Every fluid milk market needs a "reserve" supply of Grade A milk to meet day to day fluctuations in receipts from producers and in Class I sales. In the Central Arizona marketing area, sales of milk vary considerably on a daily basis, but do not change greatly from season to season. Milk supplies, on the other hand, because of the seasonal variations in production, are greater during the winter and spring months than during the summer and fall months. The result is that handlers must process on a year-round basis the daily and seasonal surpluses into various manufactured products. Since milk going into these products must be paid for at the Class II price, this price should be fixed at a level which will induce handlers to accept and market whatever quantities of such milk may be offered from time to time by the producers who provide the market's regular fluid supply. It is of equal importance to establish a price that will return to producers full value for their milk.

All products included in Class II may be made from unapproved milk. Approved milk which may be used in some of these products by regulated handlers and, therefore, must be priced at a level that is competitive with the cost of alternative supplies of milk or in line with the cost of milk products that would otherwise be used in the Class II products processed by handlers in this area. The record shows that ice cream, cottage cheese, and condensed milk are the most important outlets for reserve and surplus milk in this area.

There is no group of plants in Central Arizona carrying on extensive manufacturing operations whose prices can be used as a basis for fixing the Class II price under the order. The two plants that represent the most important outlets for surplus milk in the area are owned and operated by persons who would be handlers under the order. Obviously, the pay prices at these plants for ungraded milk may not be used to determine the level of Class II prices under the order.

The record shows that because of a lack of local ungraded milk, and, at times, reserve and surplus milk, handlers in Central Arizona must rely on imports of cream and nonfat solids in processing Class II products and even Class I products. The record also indi-

cates that these ingredients cannot be purchased locally at less than the level of prices for such manufactured products. It seems clear, then, that the most appropriate formula for a Class II price is one based on wholesale prices of butter and nonfat dry milk solids.

Handlers suggested a butter-nonfat dry milk solids formula that averaged about 25 cents per hundredweight lower in price in 1954 than the butter-nonfat dry milk solids formula used herein in connection with the basic formula price (section 50 (b)). The price level proposed by handlers coincided almost exactly with the level of prices reported paid for ungraded manufacturing milk by the two plants located in the marketing area. The Class II formula should reflect a price that will insure that surplus milk will move into manufacturing uses during flush production months, yet will be high enough in the months of short production to insure its use in meeting the Class I requirements of the market. To effectuate this the Class II price should be established by using the butter-nonfat dry milk solids formula in the basic formula price (section 50 (b)) during the short production months of July through December and the price resulting from the same formula less 25 cents per hundredweight during the months of January through June.

In order that the Class II price may be kept in line with current changes in manufacturing values, the central market prices for butter and nonfat milk solids during the current month should be used for determining Class II prices under the order.

Location differentials. Class I milk products because of their bulky, perishable nature incur a relatively high transportation cost if such products or the milk used to produce them are moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers in the defined marketing area is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance the handler must incur the additional costs of moving that milk into the central market. The producer, in turn, receives less for milk delivered to points distant from the central market in lieu of incurring the additional costs of hauling his milk into the central market. Under these conditions the value of producer milk delivered to plants located some distance from the central market is reduced in proportion to the distance (and cost of transporting such milk) from the point of receipt to the central market.

In order to allow for the cost of moving Class I milk from distant plants that are, or might become, regular sources of supply for Central Arizona, it is necessary to establish the Class I price for milk delivered to plants at a point in the marketing area and then provide a schedule of deductions from the Class I milk price as location differentials or adjustments. The city of Tucson is one of two principal consuming areas in Arizona and, at the same time, represents the point at which producer prices

have been, and will continue to be, the highest. It also represents the part of the marketing area most expensive to supply (because of its location with respect to the main segment of the Central Arizona milkshed). Accordingly, the distances used in determining the location differentials should be measured from the City Hall of Tucson, Arizona, and should apply at plants located more than 60 miles by shortest hard-surfaced highway distance as determined by the market administrator.

The rates should begin with 30 cents at plants located in the 60-160 mile zone (notably Phoenix and Safford) 40 cents at plants located in the 160-260 mile zone (notably Yuma) and 1 cent for each additional 10 miles or fraction thereof as measured from the City Hall in Tucson. Handlers can be expected to move milk into the market in the most efficient and feasible manner. In the Central Arizona marketing area this means hauling in bulk by tank truck. The location differentials proposed herein are based on the record data relating to the actual cost of hauling milk by this method both within the area (as discussed earlier in this decision in connection with the Class I price) and between points in Arizona and California. They also are comparable with those contained in other Federal milk marketing orders. The rates should apply to all milk assigned to or otherwise classified as Class I.

A method is provided for determining, if necessary, the priority of milk from various plants in allocating milk to Class I for purposes of computing the aggregate of location adjustments to be allowed. Such adjustments would be made in sequence beginning with those plants nearest Tucson.

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 (in contrast to the situation with respect to Class I fluid milk products). This phenomenon occurs because of a very significant difference in the costs of transporting the two types of dairy products—fluid milk products are bulky, easily contaminated, and almost non-storeable, whereas such manufactured products as butter and cheese, for example, are easily stored for use over long periods of time, easily transported for use in any areas of the country or world, may be made from ungraded milk, and have a high value relative to the cost of transporting them. For these reasons the prices for Class II products vary little as distance from the consuming market becomes greater. These phenomena are borne out in the record by noting the tendency for comparable prices to be paid for ungraded milk into similar uses in different parts of Arizona and California. Accordingly, no adjustment should be made in the Class II price for reason of location of the plant to which the producer milk is delivered.

In line with the economic considerations which affect the value of milk for fluid market uses when it is delivered by farmers to plants located some distance from the consuming market, it is necessary and appropriate that the uniform

prices paid producers delivering milk to plants to which location differentials apply also should be reduced by the same rates applicable to handlers to reflect the lower value of such milk f. o. b. the point of actual delivery (in contrast to its value when delivered to Tucson plants where the cost of obtaining milk supplies is greatest).

Butterfat differentials. In an earlier section of this decision it was concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II milk prices in accordance with the average test of milk in each class by a butterfat differential that will reflect differences of value due to variations in the butterfat content in each product. As pointed out earlier in this decision, the basing point from which such adjustments are to be made should be 3.8 percent butterfat.

The butterfat differentials for Class I milk and Class II milk should be appropriate to the level of class prices provided for herein for Class I and Class II milk. Also, the differential for Class I milk must reflect the continuing necessity for appropriate price alignment of Class I prices with California markets. This is necessary and desirable since the Class I prices proposed in this decision are in alignment with those prices. To effectuate this the Class I price should be increased or decreased for each one-tenth of one percent of butterfat above or below 3.8 percent, respectively, by the value obtained by multiplying the Chicago butter price for the preceding month by 0.175. The Class II butterfat differential would be determined by multiplying the Chicago butter price for the current month by 0.115.

The use of butterfat differentials in this manner follows standard practice in most fluid milk markets for adjusting for butterfat variations. At these levels they reflect the recommendations of the market interests at the public hearing and are such as will ease the transition of the market from a direct ratio butterfat basis of payment to a butterfat-skim milk basis of payment. In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I differential at the same time that the Class I price is announced.

Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will not know the cost of such milk as it is utilized, they do know that in any sales competition with other processors located throughout the nation their competitors also will be paying for milk on the basis of current market values.

The butterfat differential used in making payments to producers should be calculated at the average of the returns actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each

class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class prices provided in the order. In the Central Arizona area this should mean, for most months, a producer butterfat differential at or near the value of the Class I butterfat differential. The producer butterfat differential in no way affects the differentials used in calculating a handler's obligation at class prices; it merely prorates returns among producers whose milk differs in butterfat test.

Compensatory payments on unpriced milk. Compensatory payments on unpriced milk disposed of as Class I milk in the Central Arizona marketing area are unnecessary under prevailing marketing conditions and the terms of the order proposed herein.

Over 90 percent of the production of the Central Arizona marketing area, as defined herein, is concentrated in the Salt River Valley. Inter-market competition from unregulated areas for route sales in the area is nonexistent. Except for producer-handlers, no plants, other than pool plants, distribute Class I milk on routes in the area. All such distributors will be handlers and will be treated equally under the complete classification and pricing provisions of this order. As pointed out previously in this decision, the Central Arizona marketing area has no year-round surplus. Any supply plant that becomes closely associated with the market by meeting the specified requirements will be a fully regulated pool plant. Milk from supply plants not meeting those standards will be considered as other source milk. The allocation provisions pertaining to other source milk should provide adequate protection for the equitable operation of the market-wide pool and still permit the importation of milk.

The Class I pricing formula adopted herein is an appropriate alignment with the price for Class I milk in Los Angeles, California. Under those circumstances, and as long as any milk coming into the Central Arizona marketing area is paid for in accordance with the classification and pricing provisions promulgated by the State of California Bureau of Milk Control, the need for compensatory payments on milk emanating in California seems unnecessary. Although the above conclusions with respect to the need for compensatory payments are clear under present marketing conditions, it is conceivable that competitive conditions or operating practices of regulated and unregulated handlers, both in and outside the marketing area, can change enough to create a need for remedial action with appropriate compensatory payment provisions. If such developments occur, appropriate modifications in the attached order can be proposed by the industry and reconsidered on relatively short notice at a public hearing called for that purpose.

Considerable testimony was adduced at the hearing relative to the need for, and the amount of, a compensatory payment to meet the peculiar marketing problem in the northern portion of Yuma County occasioned by a vendor operating out of Blythe, California. This problem is automatically obviated by the finding

that regulation of that area as part of the Central Arizona Marketing area is unnecessary.

(d) *Payments to producers*—(a) *Type of pool.* The order should provide that the proceeds from the sale of milk in both classes by all handlers be combined and distributed to producers through a "market-wide" type of equalization pool. Under this type of pool each producer will receive minimum prices that are uniform with those received by all producers delivering milk to the Central Arizona area, subject, of course, to butterfat and location differentials. The "blend" price, and the "base" and "excess" prices during the months of January through June, will be a weighting of the proportions of all producers' milk paid for at Class I and Class II prices, and will, in effect, return to each producer his share of the Class I sales of the market.

Under the marketing conditions and the organizational structure of the industry in Central Arizona, as set forth in the record, it is clear that the market-wide type of equalization pool is a necessary part of any effective program to establish and maintain orderly marketing and pricing conditions.

Only two handlers in Central Arizona are equipped to process reserve and surplus milk in their own plants. For this reason, and those already pointed out in the discussion of the necessity for an appropriate Class II price, it is imperative that a pool be established that will provide for an equitable sharing, particularly during the flush production season, of the lower returns that are inevitable with an adequate and necessary reserve of milk. Because many plants do not have facilities for processing reserve and surplus milk, the adoption of an individual-handler pool, wherein plants operating on a Class I basis can pay a higher blend price than those who would carry the reserve needs of the market, would automatically deter handlers from handling such milk or from equipping their plants for that purpose. The burden of carrying the necessary reserve supplies of milk would continue to be shouldered by only a part of the producers who share in the year around Class I sales in the area.

A market-wide pool will permit any handler to bid on such business as that offered by military installations and other public institutions and to obtain the supplies for such sales without upsetting the market whenever the business might shift from one handler to another.

The producer cooperative associations in Central Arizona assume the responsibility for marketing the reserve and surplus milk of their member-producers. A market-wide pool will facilitate the movement of milk supplies by these associations between handlers to meet their individual needs or to those non-pool processing plants that can make the most efficient use of such milk. A market-wide pool will aid the market in retaining qualified, experienced and willing producers during periods of seasonal surpluses (by permitting them to receive the market-wide uniform price) hence their milk will be available to fill the Class I requirements of the

market at other seasons of the year. These factors, taken in conjunction with the variations in amount of reserve supplies among plants, all support the adoption of a market-wide pool.

Base-excess plan. A base and excess plan of distributing returns for milk among producers should be employed in connection with the market-wide pool established herein. Record evidence indicates that receipts vary between the spring and fall months to a greater extent than Class I sales. In addition, same handlers have difficulty in utilizing efficiently all milk delivered to them during periods of seasonally high production. Consequently, there is a need for an incentive to maintain production in the late summer and fall months relative to that of the winter and spring months.

Handlers and producers serving the Central Arizona market are now relying and have relied on various forms of base-excess plans to provide the incentive needed to induce local dairymen to strive for a more nearly even level of milk production throughout the year. Producers and handlers alike feel that the presently-operated base-excess plans perform a much-needed function, even though their actual operation in many cases leaves much to be desired from the standpoint of equity between handlers and fairness to producers. These latter conditions can arise because distributors themselves establish the rules of the base-excess plan and control the adjustment and transfer of bases.

Base and excess plans are effective means of improving the seasonal pattern of milk deliveries because they relate producer returns directly to delivery of additional milk in the late summer and fall as compared with usual deliveries in the winter and spring. Such a plan will help to achieve a production pattern more nearly fitted to the sales pattern for fluid milk products in the area. Were some version of this plan not included in the attached order, the most likely result would be an increased seasonality of production with its attendant problems of surplus disposal in the flush production months and the need for additional imports in the short production months. Any movement in this direction will work against market stability in this area. It is concluded, therefore, that a base-excess plan, uniformly applied to all producers by being made a part of the attached order, will play an essential role in stabilizing marketing and pricing conditions in the Central Arizona area.

The base-excess plan proposed herein would establish for each producer a base equal to his average daily deliveries during the four months of August through November. If a producer did not deliver milk to the market during the entire period, the days of actual delivery from the first day of delivery but not less than 90 would be used.

In their exceptions producers and handlers urged that the base-excess plan be kept operative in the market by adopting some method for establishing bases of individual producers during the period from the effective date of the order through June 30, 1956. Several parties suggested that the problem be resolved

by using producer deliveries during the months of October and November, 1955, for base-forming purposes.

In view of the fact that the order cannot be made effective before October, 1955, the most equitable period for base-forming purposes during 1955 is October-November. In order to carry out this plan, it is necessary to require handlers to report to the market administrator such information on receipts of milk from each producer during the months of October and November, 1955, as is necessary to establish bases for the base-paying period of January-June, 1956.

During the months January through June separate uniform prices would be computed for base milk and excess milk for the purpose of allocating Class I sales first to base milk. Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month during which he delivers milk to any handler. The excess milk price would be the Class II price except in those months when the total Class I sales exceed the total quantity of base milk. During such months the excess milk price would be a blend of a Class I and Class II usage of excess milk. Provision is made for producers who may enter the market after the start of the base-forming period to establish a full base by delivering a minimum of 90 days during the specified period. Producers delivering milk for less than 90 days will have their bases calculated by dividing their total deliveries during the base-forming period by 90. The base-operating period (when payments are made for base milk and excess milk) should be limited to the 6-month period, January-June. These are the months in which the production of milk and the inadequacy of surplus processing facilities combine to create difficult marketing conditions.

Any producer should be permitted to transfer his entire base provided the market administrator is given advance notice and the transfer is made as of the first of a month. Permitting bases to be so transferred will alleviate situations wherein a producer discontinues the production of milk before the end of the base-paying period of January-June. Such a provision will give a producer added incentive to increase production during the August-November period because he can benefit from all the base he can establish even though he discontinues milk production in the spring. This action will encourage a more level pattern of seasonal production, and is, therefore, compatible with the need for and the purposes of a base-excess plan.

(b) *Payments to individual producers and to members of cooperative associations.* Handlers should make payments to each producer for milk delivered by such producer at the appropriate uniform price. Payments due any producer for milk should be paid by the handler to a cooperative association that makes a written request for such payments if the producer has given the cooperative association written authorization, in the form of a contract or in any other form, to collect such payments. The association's request should also agree to in-

demnify the handler for any loss incurred because of an improper claim. In making such payments for producer milk to a cooperative association the handler should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amount of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary so the cooperative association can make proper distribution of the money it collects to the producer-members for whom it makes collections.

Qualified cooperative associations of dairymen, if they so request, should be permitted to receive payment from handlers for their producer-members as a group. A provision authorizing handlers to make payment directly to such qualified cooperative associations for milk received from producer-members is necessary to enable an association to carry out its essential functions authorized by the enabling act. A cooperative association, if it is to carry out these essential functions, must have full authority in the collective bargaining and selling of members' milk.

The record shows that the proponent cooperative association operating in the Central Arizona area has responsibility for marketing surplus producer milk during months of flush production. This milk may be sold within or outside the marketing area. Such sales may result in financial losses or gains to the association, hence the association must be in a position to spread such losses or gains over the entire membership if it is to handle such milk effectively and efficiently. The Agricultural Marketing Agreement Act authorizes a qualified producer cooperative association to collect payments on behalf of all its members for milk caused to be marketed to all types of outlets by such association and to reblend the proceeds from its entire sales. The order should provide that payment to such a cooperative association is a proper satisfaction of the payments required by the order to be made to individual producer-members.

(c) *Producer-settlement fund.* Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, it is necessary to provide for some method of balancing these amounts. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund; all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal, except for

minor differences that may result from rounding of uniform prices. In order to permit this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the proposed order should be sufficient for these purposes. This reserve would be adjusted each month.

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producer-settlement fund should be paid as soon as the balance in the fund is sufficient, and handlers should then complete payments to producers. In order to reduce the possibility of this occurring, milk received by any handler who has not made payments required of him into the producer-settlement fund should not be considered in the computation of the uniform price in subsequent months until such handler has completed all delinquent payments.

(e) *Other administrative provisions.* Certain other provisions are needed in the order to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

Terms and definitions. In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to insure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Other terms defined in the proposed order are common to many other Federal milk orders.

Marketing administrator. Provisions should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of his office.

Records and reports. Provisions should be included in the order to advise handlers that they are required to maintain adequate records of their operations and to make the reports necessary to establish the proper classification and pricing of producer milk and payments due producers for such milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator.

It should be provided that the market administrator report to the cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the utilization of members' milk in

each handler's plant will be prorated to each class in the proportion that total receipts of producer milk were used in each class by such handler. In addition to the regular reports of handlers, provision is made for the handler, prior to the diversion of the milk of a producer, to notify the market administrator and the cooperative association, if such producer is a member of an association, of his intention to divert such milk. These reports are necessary if a cooperative association is to market to best advantage the milk of its member producers.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, and such facilities as are necessary to determine the accuracy of the information reported to the market administrator as he may deem necessary or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled and to verify all payments required under the order.

It is necessary that handlers retain records to prove the utilization of the milk received from producers and that proper payments were made therefor. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records 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 order should terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation July 30, 1947, following 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. Without a provision for termination of obligations after a reasonable period of time has elapsed, handlers may file claims which, because the period involved might extend back over many years, could be in substantial amounts. This creates uncertainties which would endanger the stability of the market and lead to serious inequities. The order should provide that any obligation to pay a handler shall terminate two years after the month in which the milk was received if an underpayment is claimed, or within two years after payment was made if a refund is claimed, unless within such period of time the handler files a petition pursuant to section 8c (15) (A) of the act, claiming such money. Handlers also need the protection of provisions terminating their obligations to make payments. Since handlers cannot be forewarned always as to contingent liabilities, it is extremely difficult and burdensome for them to make adequate provisions therefor by setting up reserves or by taking other precautionary measures. The obligation of any handler to pay money should, except under

certain extraordinary conditions, such as litigation, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of 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. It is concluded that in general, a period of two years is a reasonable time within which a market administrator should complete his auditing and inspection work and render any billings for money due under the order. Provisions are necessary, also, as contained in the order included herewith, to meet such contingencies as failure of the handler to submit required books and records and to deal with situations where fraud or willful concealment of information may be involved.

It was proposed that if a handler fails to make the required reports or payments, his name shall be publicly announced at the discretion of the market administrator. Such announcement is provided for by the act, and it is concluded that its adoption will facilitate the enforcement of the terms of the order.

Expenses of administration. Each handler should be required to pay the market administrator as his pro rata share of the cost of administering the order not more than 4 cents per hundredweight or such lesser amounts as the Secretary may, from time to time, prescribe on (a) producer milk (including such handler's own production) and (b) other source milk in pool plants which is allocated to Class I milk.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers.

One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and to other source milk allocated to Class I milk.

Proponents of the order suggested a rate of 5 cents per hundredweight to provide the funds needed to administer properly the attached regulation. In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 4 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 4 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing market services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. 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 service.

There is need for a marketing service program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are in accordance with the Classification, pricing and pooling provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

In the case of producers who are members of cooperatives having plants, the matter of milk-testing and milk-weighing is under the complete control of such producers and is assessed against such producers either through an association check-off or as a plant operating cost. Bargaining associations in the area are performing check-weighing and check-testing services for their members under their association check-off. In order to place such services on a market-wide basis, the market administrator should also provide them for producers not otherwise receiving services through a cooperative association. The additional service of providing market information to producers is carried on to some extent at present by the cooperatives although detailed information regarding market prices, supplies, and the utilization of milk is not available to either the cooperative associations and their members or the independent producers.

An important phase of the marketing service program of the order is to furnish producers with correct market information. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a market-wide basis to all producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk 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 the event any qualified cooperative association of producers is determined by the market administrator to be performing such services for its members, handlers would be required to pay to the cooperative association such association dues as are authorized by its members.

General findings. (a) The proposed marketing agreement and the 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 order 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 the marketing agreement upon which a hearing has been held.

Order of the Secretary directing that a referendum be conducted among the producers supplying milk to the Central Arizona Marketing Area; determination of representative period and designation of an agent to conduct such referendum. Pursuant to Section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the Central Arizona marketing area) who, during the month of August 1955, were engaged in the production of milk for sale in the marketing area specified in the aforesaid proposed order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

The month of August 1955, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order regulating the handling of milk in the Central Arizona marketing area in the manner set forth in the attached order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Andrew 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 as published in the Federal Register on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this referendum order is issued.

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 Central Arizona Marketing Area" and "Order Regulating the Handling of Milk in the Central Arizona Marketing Area," which have been

decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing 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.

This decision filed at Washington, D. C., this 7th day of October 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

Order¹ Regulating the Handling of Milk in the Central Arizona Marketing Area

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

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§ 1004.0 *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, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Central Arizona marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of and demand for such milk, 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 and commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined 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 expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expenses, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all butterfat and skim milk contained in (i) producer milk (including such handler's own production), and (ii) other source milk in pool plants which is allocated to Class I milk.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Central Arizona marketing area shall be in conformity to and in compliance with the terms and conditions of this order as set forth below:

DEFINITIONS

§ 1004.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 1004.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1004.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1004.4 *Person.* "Person" means any individual, partnership, corporation, association or any other business unit.

§ 1004.5 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines:

(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 and to be exercising full authority in the sale of milk for its members.

§ 1004.6 *Central Arizona marketing area.* "Central Arizona marketing area" hereinafter called the "marketing area" means all territory included within the counties of Maricopa, Pima, Pinal, Graham, and the territory south of 33 degrees latitude (North from the Equator) in Yuma County, all in the State of Arizona.

§ 1004.7 *Producer.* "Producer" means any person other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority having jurisdiction within the marketing area and whose milk is received at a pool plant or is diverted from a pool

plant by the handler who operates such pool plant, or by a cooperative association, to a plant which is not a pool plant for the account of such handler or cooperative association. "Producer" does not mean any dairy farmer with respect to milk received by a handler who is partially exempted from the provisions of this part pursuant to § 1004.61.

§ 1004.8 *Pool plant.* "Pool plant" means any milk plant:

(a) Approved or recognized by any health authority having jurisdiction within the marketing area for the receipt or processing of Grade A milk and from which Class I milk is disposed of on a route(s) in the marketing area,

(b) Supplying to any agency of the United States Government located within the marketing area Class I milk products; or

(c) Any plant which ships fluid milk products approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume equal to not less than 50 percent of its receipts of milk (from dairy farmers who would be producers if this plant qualifies as a pool plant) in the current month during the period of July through October or 20 percent in the current month during the period November through June to a plant specified in paragraph (a) of this section; *Provided*, That if a plant qualifies in each of the months of July through October in the manner prescribed in this section such plant shall upon written application to the market administrator on or before October 31 following such compliance, be designated as a pool plant until the end of the following June.

(d) For the purpose of this definition, milk diverted from a pool plant to a non-pool plant as described in § 1004.7 shall be deemed to have been received at the pool plant from which such milk was diverted.

§ 1004.9 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 1004.10 *Handler.* "Handler" means (a) any person in his capacity as the operator of a pool plant; or (b) a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1004.7.

§ 1004.11 *Producer-handler.* "Producer-handler" means any person who is both a dairy farmer and the operator of a pool plant in accordance with § 1004.8 (a) or (b) but who receives no milk from producers or other dairy farmers; *Provided*, That, such person provides proof satisfactory to the market administrator that (a) the maintenance, care and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from pool plants) is the personal enterprise of and at the personal risk of such person in his capacity as a producer, and (b) the operation of such pool plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1004.12 *Market administrator.* "Market administrator" means the person designated pursuant to § 1004.20 as the agency for the administration of this part.

§ 1004.13 *Producer milk.* "Producer milk" means all skim milk and butterfat produced by a producer, which is received at a pool plant directly from such producer.

§ 1004.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the pool plant) which are reprocessed or converted to another product in the pool plant during the month.

§ 1004.15 *Fluid milk product.* "Fluid milk product" means milk (including frozen or concentrated milk), skim milk, buttermilk, flavored milk, flavored milk drinks and cream in fluid form or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, yogurt, ice cream mix and aerated cream)

§ 1004.16 *Route.* "Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or a plant store) of milk or any milk product classified as Class I milk pursuant to § 1004.41 (a) other than a delivery to a plant described in § 1004.8 (a)

§ 1004.17 *Base milk.* "Base milk" means producer milk received by handlers from a producer during the months of January through June which is not in excess of such producer's daily base determined pursuant to § 1004.90, multiplied by the number of days during the month for which milk was received from such producer.

§ 1004.18 *Excess milk.* "Excess milk" means producer milk received by handlers from a producer which is in excess of base milk received from such producer during the months of January through June of each year.

§ 1004.19 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1004.20 *Designation.* The agency for the administration of this order shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1004.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1004.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditions upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary

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

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

(d) Pay out of the funds received pursuant to § 1004.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1004.85, 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 request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, 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 pursuant to §§ 1004.30 through 1004.32 or payments pursuant to §§ 1004.80 through 1004.86;

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

(h) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of 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 accordance with the total utilization of producer milk by such handler;

(i) Verify all reports and payments of each handler by audit necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such han-

handler depends; and by such other means as are necessary;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and

(k) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address a notice of, the following:

(1) The 6th 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, and

(2) The 11th day of each month, the uniform price, and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS, AND FACILITIES

§ 1004.30 *Reports of sources and utilization.* On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his pool plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

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

- (1) Producer milk,
- (2) Fluid milk products received from other pool plants,
- (3) Other source milk,
- (4) Inventories of fluid milk products on hand at the beginning of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk on routes entirely outside the marketing area, and inventories of fluid milk products on hand at the end of the month.

§ 1004.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 7th day of each of the months of February through July the aggregate quantity of base milk received at his pool plant(s) for the preceding month,

(2) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of January through June, the pounds of base milk, (iii) the days for which milk was received from such producer if less than the entire month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment to the producer, together with the price paid and the

amount and nature of any authorized deductions,

(3) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), 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;

(4) On or before the day prior to diverting producer milk pursuant to § 1004.7 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted, and

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

(c) Each handler operating a pool plant shall report the total quantity of milk received from each producer and the number of days of such delivery for each of the months of October 1955 and November 1955, together with such other information relating to the computation of bases to be in effect in the January-June 1956 period as the market administrator may prescribe.

§ 1004.32 *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 and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

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

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

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

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1004.33 *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 written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1004.40 *Skim milk and butterfat to be classified.* The skim milk and butter-

fat to be reported for pool plants pursuant to § 1004.30 (a) shall be classified each month by the market administrator, pursuant to the provisions of §§ 1004.41 through 1004.45.

§ 1004.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1004.42 through 1004.45, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including reconstituted and concentrated nonfat milk solids) and butterfat; (1) disposed of from the plant in the form of fluid milk products, except those classified pursuant to subparagraph (b) (3) of this section, 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) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of as skim milk for livestock feed; and (4) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1004.7) and other source milk: *Provided*, That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1004.7) and other source milk, respectively.

§ 1004.42 *Responsibility of handlers.* 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 it should be classified as Class II milk.

§ 1004.43 *Transfers.* (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producer-handler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 1004.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 1004.45;

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified as Class I milk;

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool milk plant shall be classified as Class I unless, (1) the transferee-plant is located less than 250 miles from the City Hall of Phoenix or Tucson, Arizona, whichever is nearer, by the shortest hard-surfaced highway distance, as determined by the market

administrator, (2) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1004.30 for the month within which such transaction occurred, (3) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (4) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided*, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified as Class I milk; and

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1004.30, (2) the handler attaches tags or labels to each container of such cream bearing the words "Grade C cream for manufacturing uses only" and the shipment is so invoiced, (3) the handler gives the market administrator sufficient notice to allow him to verify the shipment, (4) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (5) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided*, That, if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified as Class I milk.

§ 1004.44 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors, the report submitted by each handler pursuant to § 1004.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided*, That, the skim milk contained in any product utilized, produced or disposed of by the handler during the month 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.

§ 1004.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1004.41 (b),

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk,

(4) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1004.43 (a),

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

(6) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk. Any amount so subtracted shall be called "overage".

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk;

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

MINIMUM PRICES

§ 1004.50 *Basic formula price.* The higher of the prices computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) The average of the basic, or field, prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 3.8:

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.

Fot Milk Co., Belleville, Wis.
Fot Milk Co., Cooperville, Mich.
Fot Milk Co., Hudson, Mich.
Fot Milk Co., New Glarus, Wis.
Fot Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

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

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 3.8.

(2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 3.5, and then multiply by 0.962.

§ 1004.51 *Class prices.* Subject to the provisions of §§ 1004.52 and 1004.53, the minimum prices per hundredweight to be paid by each handler for milk received at his pool plant(s) from producers during the month shall be as follows:

(a) *Class I milk price.* For each month during an eighteen month period following the effective date of this order, the minimum price per hundredweight of Class I milk containing 3.8 percent butterfat shall be the basic formula price for the preceding month plus \$2.80.

(b) *Class II milk price.* The Class II milk price shall be the "butter-powder" price computed pursuant to § 1004.50 (b) during the months of July through December, and that price less 25 cents during the months of January through June.

§ 1004.52 *Butterfat differentials to handlers.* For each class of milk containing more or less than 3.8 percent butterfat, the class prices calculated pursuant to § 1004.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat 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 0.175; and

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

§ 1004.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 60 miles or more from the City Hall, Tucson, Arizona, by the shortest hard-surfaced highway distance as determined by the market administrator and which is assigned to Class I milk pursuant to the proviso of this section when moved to another pool plant, or classified as Class I milk without such movement, the price specified in § 1004.51 (a) shall be reduced at the rate set forth in the following schedule according to

the location of the pool plant where such milk is received from producers:

Distance from the City Hall of Tucson, Ariz. (miles)	Rate per hundred-weight (cents)
60 but not more than 160.....	30.0
160 but not more than 260.....	40.0
For each additional 10 miles or fraction thereof an additional.....	1.0

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 plant to which transferred after making the calculations prescribed in § 1004.45 (a) (1) through (4) and the comparable steps in (b) for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1004.54 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1004.60 *Producer-handler Sections 1004.40 through 1004.45, 1004.50 through 1004.53, 1004.70 through 1004.75, and 1004.80 through 1004.87 shall not apply to a producer-handler.*

§ 1004.61 *Plants subject to other Federal orders.* Upon application to the market administrator and a subsequent determination by the Secretary, any plant specified in paragraph (a) or (b) of this section shall be treated as a non-pool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any pool plant which (1) would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, and (2) does not dispose of a greater volume of Class I milk to retail or wholesale outlets (except pool plants or nonpool plants) in the Central Arizona marketing area than in the marketing area regulated pursuant to such other order; and

(b) Any plant which (1) would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, and (2) qualified as a pool plant for each of the preceding months of July through October in accordance with the provisions of § 1004.8 (c) --

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1004.70 *Computation of the value of producer milk for each handler.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1004.45 by the applicable class price, total the resulting amounts; and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 1004.53;

(b) Add an amount computed by multiplying the pounds of any overage deducted from either class pursuant to § 1004.45 (a) (6) and (b) by the applicable class price; and

(c) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1004.45 (a) (4) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1004.45 (a) (3) and (b) for the current month, whichever is less.

§ 1004.71 *Computation of the uniform price.* For each of the months of July through December, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.8 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 1004.70 for the producer milk of all handlers who submit reports prescribed in § 1004.30 and who are not in default of payments pursuant to §§ 1004.80 or 1004.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.8 percent, or add, if such average butterfat content is less than 3.8 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 1004.73, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 1004.74;

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1004.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of January through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.8 percent butterfat content, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 1004.30, and who are not in default of payments pursuant to §§ 1004.80 or 1004.82 as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in

the pool plants of such handlers by the Class II milk price, (2) multiply the hundredweight of excess milk not included in subparagraph (1) hereof by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.8 percent butterfat content received from producers;

(c) Subtract the total value of excess milk, determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk, from the total value of producer milk for the month as determined according to the calculations set forth in § 1004.71 (a) through (d) (using location differentials applicable to base and excess milk);

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 3.8 percent butterfat content.

§ 1004.73 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 3.8 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 1004.52, dividing by the total butterfat in producer milk and rounding to the nearest even tenth of a cent.

§ 1004.74 *Location differential to producers.* The applicable uniform prices computed pursuant to §§ 1004.71 and 1004.72 (for base milk) to be paid for producer milk received at a pool plant located 60 miles or more from the City Hall at Tucson, Arizona, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the rates set forth in § 1004.53. The rates applicable to excess milk shall be determined by dividing the quantity of excess milk specified in § 1004.72 (a) (2) by the total quantity of excess milk and multiplying the result by the rates applicable to base milk.

§ 1004.75 *Notification of handlers.* On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

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

(b) For the months of January through June the amounts and value of his base and excess milk respectively, and the totals thereof;

(c) The uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 and the butterfat differential computed pursuant to § 1004.73; and

(d) The amounts to be paid by such handler pursuant to §§ 1004.82, 1004.85, and 1004.86 and the amount due such handler pursuant to § 1004.83.

PAYMENTS

§ 1004.80 *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 from whom milk is receiving during the month as follows:

(1) On or before the 27th day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph,

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1004.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1004.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to

such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month, and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of January through June the total pounds of base and excess milk received, (iii) the amount or rate and nature of any authorized deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1004.84.

§ 1004.81 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1004.82 and out of which he shall make all payments pursuant to §§ 1004.83: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1004.82 *Payments to the producer-settlement fund.* On or before the 13th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1004.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 1004.83 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 1004.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) 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 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.

§ 1004.84 *Adjustment of accounts.* Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1004.85 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other

than milk of his own production) pursuant to § 1004.80, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1004.86 *Expense of administration.* On or before the 15th day after the end of each month, each handler shall pay to the market administrator, for each of his approved plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, and (b) other source milk allocated to Class I milk pursuant to § 1004.45 (a) (2) and (b).

§ 1004.87 *Termination of obligations.* The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 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 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation,
 (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
 (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the amount for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market

administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the month during which the payment (including deduction or setoff 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.

BASE RATING

§ 1004.90 *Computation of daily average base for each producer* (a) Subject to the rules set forth in § 1004.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of August through November immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of November, inclusive, or by 90, whichever is more: *Provided*, That for the period from the effective date of this part through June 30, 1956, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of October 1955 and November 1955, by the number of days from the first day of delivery by such producer during such months to the last day of November, inclusive, or by 45, whichever is more.

§ 1004.91 *Base rules*. The following rules shall apply in connection with the establishment and assignment of bases.

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 1004.90 to each person for whose account producer milk was delivered to pool plants during the months of August through November; and

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an ap-

plication for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and 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 transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1004.92 *Announcement of established bases*. On or before December 25 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1004.100 *Effective time*. The provisions of the part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1004.101 *Suspension or termination*. The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 1004.102 *Continuing obligations*. If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 1004.103 *Liquidation*. Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1004.110 *Agents*. The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and represen-

tative in connection with any of the provisions of this part.

§ 1004.111 *Separability of provisions*. If any provisions 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. 55-8293 Filed, Oct. 12, 1955; 8:47 a. m.]

Commodity Stabilization Service [7 CFR Part 811]

SUGAR REQUIREMENTS, QUOTAS, AND QUOTA DEFICITS FOR CALENDAR YEAR 1956

NOTICE OF PROPOSED RULE MAKING

Pursuant to the authority contained in the Sugar Act of 1948 (7 U. S. C. Sup. 1100) the Secretary of Agriculture is preparing to determine the sugar requirements and to establish sugar quotas for the calendar year 1956 (1) for the continental United States pursuant to sections 201 and 202 of the act, and (2) for local consumption in Hawaii and in Puerto Rico pursuant to sections 201 and 203 of the act. The Secretary is also preparing to determine whether any domestic area, the Republic of the Philippines, or Cuba will be unable to market the quota for such area in 1956 and to reallocate, pursuant to section 204, any quota deficit so determined.

Section 201 of the act provides that the Secretary of Agriculture shall determine for each calendar year the amount of sugar needed to meet the requirements of consumers in the continental United States. In making such determinations, the Secretary is directed to use as a basis the amount of sugar distributed for consumption during the 12 months ending October 31 of the preceding calendar year and to adjust such amount for any deficiency or surplus in inventories of sugar and for changes in consumption because of the changes in population and demand conditions. The Secretary is also directed to take into consideration certain standards with a view to providing such supply of sugar as will be consumed at prices which will not be excessive to consumers and which will fairly and equitably maintain and protect the welfare of the domestic sugar industry. The standards to be taken into consideration include those enumerated above and also the level and trend of consumer purchasing power and the relationship between the prices at wholesale for refined sugar that would result from such determination and the general cost of living in the United States as compared with the relationship between prices at wholesale for refined sugar and the general cost of living in the United States obtaining during 1947 prior to the termination of price control.

Section 202 of the act provides for fixed quotas for the domestic areas and for the Republic of the Philippines and for the apportionment of the balance of the requirements to foreign countries other than the Republic of the Philip-

pines in accordance with stated percentages.

Section 203 of the act provides that the Secretary also shall determine in accordance with such provisions of section 201 as he deems applicable, the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and shall establish quotas for local consumption in such areas equal to the amounts so determined.

Section 204 of the act provides that the Secretary shall from time to time determine whether in view of various factors specified in the act, any area will be unable to market the quota for such area. Section 204 further provides that upon a finding that any such area will be unable to market its quota, the deficit so determined shall be reallocated, in accordance with a stated formula.

A public hearing will be held in Washington, D. C., in the Auditorium, South Building, United States Department of Agriculture, on November 2, 1955, at 10:00 a. m., e. s. t., for the purpose of affording interested persons an opportunity to present orally any data, views, or arguments with respect to the deter-

mination of sugar requirements and the establishment of sugar quotas for the continental United States for the calendar year 1956. The principal matters for consideration at the hearing relate to (1) the manner of determining deficiencies or surpluses in inventories of sugar, (2) the effect upon requirements of various changes in demand conditions, (3) the effect of the prospective 1956 level and trend of consumer purchasing power, (4) the manner in which the relationship between the wholesale price of refined sugar and the general cost of living in the United States should be employed or considered, and (5) the relative importance of the foregoing factors in determining the sugar requirements for 1956.

Prior to the issuance of regulations setting forth the sugar requirements for the calendar year 1956 and the sugar quotas for 1956 for domestic and foreign areas, consideration will be given to any data, views, or arguments pertaining thereto which are presented at the hearing or which are submitted in writing to the Director, Sugar Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25,

D. C. Prior to the issuance of regulations setting forth (1) the sugar requirements for Hawaii and for Puerto Rico for the calendar year 1956 and the sugar quotas for 1956 for local consumption in such areas, and (2) the amount by which any area will be unable to market the quota for such area in 1956 and the reallocation of such deficit, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Sugar Division, Commodity Stabilization Service. Written data, views, or arguments must be submitted in duplicate and must be received not later than November 21, 1955. Such data, views, or arguments submitted at the hearing will be accepted as a part of the record, but will not be copied into the transcript of the oral testimony given at the hearing. All such data, views or arguments will be available for examination at the office of the Hearing Clerk.

Issued at Washington, D. C., this 7th day of October 1955.

[SEAL]

EARL M. HUGHES,
Administrator.

[F. R. Doc. 53-8311; Filed, Oct. 12, 1955;
8:51 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Maritime Administration

ESSENTIALITY AND U. S. FLAG SERVICE REQUIREMENTS OF ROUND-THE-WORLD EASTBOUND SERVICE

NOTICE OF FINAL CONCLUSIONS AND DETERMINATIONS

Notice is hereby given that the Acting Maritime Administrator has considered the comments and views submitted by interested persons, firms or corporations with respect to the tentative conclusions and determinations regarding the essentiality and United States flag service requirements of Round-the-World Eastbound Service as published in the FEDERAL REGISTER issue of June 22, 1955 (20 F. R. 4374) and has ordered that Paragraph No. 2 thereof be modified to read as follows:

2. United States flag sailing requirements are approximately three to four sailings monthly, including one sailing monthly with combination ships, all serving the U. S. and foreign areas specified in paragraph No. 1 hereof; such sailings to complement U. S. flag liner sailings on Trade Routes Nos. 4, 10, 12, 17, 18, 28 and 29.

The Acting Maritime Administrator, acting pursuant to Section 211 of the Merchant Marine Act, 1936, as amended, has affirmed the previously published conclusions and determinations regarding Round-the-World Eastbound Service as so modified, and has directed that notice of his action with respect to such modification and affirmation be published in the FEDERAL REGISTER.

Dated: October 7, 1955.

By order of the Acting Maritime Administrator.

[SEAL]

A. J. WILLIAMS,
Secretary.

[F. R. Doc. 55-8298; Filed, Oct. 12, 1955;
8:48 a. m.]

ESSENTIALITY AND U. S. FLAG SERVICE REQUIREMENTS OF ROUND-THE-WORLD WESTBOUND SERVICE

NOTICE OF CHANGES IN CONCLUSIONS AND DETERMINATIONS

Notice is hereby given that the Acting Maritime Administrator has considered the comments and views submitted by interested persons, firms or corporations with respect to the conclusions and determinations regarding the essentiality and United States flag service requirements of Round-the-World Westbound Service as published in the FEDERAL REGISTER issue of June 22, 1955 (20 F. R. 4373) and has ordered that the following modification thereof be published in the FEDERAL REGISTER:

Paragraph No. 2 shall be revised to read:

2. United States flag sailing requirements are approximately four sailings monthly, including one sailing monthly with combination ships, all serving the U. S. and foreign areas specified in Paragraph No. 1 hereof; such sailings to complement U. S. flag liner sailings on Trades Route Nos. 4, 10, 12, 17, 18, 28 and 29.

All other conclusions and determinations with respect to Round-the-World Westbound Service as published in the above-mentioned issue of the FEDERAL REGISTER shall stand unchanged.

Dated: October 7, 1955.

By order of the Acting Maritime Administrator.

[SEAL]

A. J. WILLIAMS,
Secretary.

[F. R. Doc. 55-8299; Filed, Oct. 12, 1955;
8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 10, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31176; *Oats—Estill, S. C., to Spartanburg, S. C.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on oats, in bulk, carloads, from Estill, S. C., to Spartanburg, S. C.

Grounds for relief: Circuitous interstate route.

Tariff: Supplement 101 to Agent C. A. Spaninger's I. C. C. 1325.

FSA No. 31177; *Commodities—W T. L. Points to the South.* Filed by W. J. Pruefer, Agent, for interested rail carriers.

Rates on syrup, corn; wool or mohair; or tags and wallboard; carloads, from specified points in western trunk-line territory to specified destinations in southern territory.

Grounds for relief: Carrier competition and circuitry.

FSA No. 31178: *Plasterboard—Heath, Mont., to Wild's Spur Colo.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on plasterboard, carloads, from Heath, Mont., to Wild's Spur, Colo.

Grounds for relief: Maintenance of existing higher rates to points in intermediate territory, and circuitry.

Tariff: Supplement 62 to Agent W. J. Prueter's I. C. C. 1560.

FSA No. 31179: *Petrolatum from Kansas, Louisiana, Missouri and Oklahoma.* Filed by F. C. Kratzmeier, Agent, for interested rail carriers. Rates on crude petrolatum, tank-car loads, from specified points in Kansas, Louisiana, Missouri, and Oklahoma, to Cleveland, Coshocton, Ohio, and New Market, N. J. (additional destinations)

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 32 to Agent F. C. Kratzmeier's I. C. C. 4150.

FSA No. 31180: *Sulphuric acid—Nitro, W. Va., to Jeffersonville, Ind.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on sulphuric acid, tank-car loads, from Nitro, W. Va., to Jeffersonville, Ind.

Grounds for relief: Barge competition and circuitry.

Tariff: Supplement 9 to New York Central Railroad Company I. C. C. 1612.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 55-8296; Filed, Oct. 12, 1955; 8:48 a. m.]

FOURTH SECTION APPLICATION FOR RELIEF CORRECTION

OCTOBER 10, 1955.

The fourth section application listed under Aggregate-of-Intermediates, in the FEDERAL REGISTER of October 8, 1955, 20 F. R. 7558, should bear the F. S. A. No. 31158, Commodities Between Points in Texas.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 55-8297; Filed, Oct. 12, 1955; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-164, 59-14]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM
NOTICE OF FILING OF APPLICATIONS FOR ALLOWANCES IN CONNECTION WITH CERTAIN PLANS AND NOTICE OF AND ORDER FOR HEARING ON CERTAIN OF SUCH APPLICATIONS

OCTOBER 7, 1955.

I. The above-entitled proceedings involve plans filed pursuant to section 11

(d) of the Public Utility Holding Company Act of 1935 ("Act") to enable Bartholomew A. Brickley, Trustee of International Hydro-Electric System ("IHES") a registered holding company now in process of reorganization before the Commission and the United States District Court for the District of Massachusetts ("Court") to effectuate compliance with section 11 (b) of the Act. In connection with its approval of such plans, orders have been entered by the Commission reserving jurisdiction with respect to the fees and expenses paid or to be paid by the Trustee for services rendered in the proceedings.

Pursuant to Rule U-63 of the Commission's General Rules and Regulations promulgated under the Act, the Commission has heretofore disposed of various applications for allowances filed by the Trustee and his counsel and by representatives of the debenture-holders of IHES. The Commission subsequently notified the other participants that it would receive applications for allowances with respect to services rendered to the estate up to September 30, 1954, and various applications were filed.

As a first step in fixing the procedure to be followed by the Commission in determining the maximum allowances which it should approve, the Commission entered an order dated January 13, 1955 (Holding Company Act Release No. 12780), under the authority conferred by section 11 (f) of the Act, directing the Trustee to file with the Commission a report or reports setting forth:

(1) The amounts of fees and expenses claimed by the various applicants for services rendered in connection with these proceedings;

(2) The amounts of fees and expenses which the Trustee has already paid or is prepared to pay to such applicants without modification;

(3) The amounts of fees and expenses, if any, which the Trustee is willing to pay to such applicants and which, after negotiation with the Trustee, they have indicated a willingness to accept; and

(4) In cases where such negotiations have been unsuccessful, the amounts of fees and expenses which the Trustee considers to be reasonable and which he is prepared to recommend for payment to such applicants; such part of the Trustee's report to be submitted directly to the Chairman of the Commission and to be kept confidential until a further order of the Commission shall require otherwise.

In accordance with the Commission's aforesaid order of January 13, 1955, the Trustee has filed his report indicating the amounts of fees and expenses which he is willing to pay to certain claimants hereinafter named in Table I, who, in all cases, after negotiation with the Trustee, have indicated a willingness to accept the amounts which the Trustee is willing to pay as settlement in full of their claims for compensation and reimbursement of expenses for services rendered in these proceedings; and where such amounts are less than the amounts requested in their original applications, such claimants have amended their applications accordingly.

TABLE I

Claimant and capacity	Fee	Expenses
Erwin N. Griswald, tax consultant employed by Trustee.....	\$75,000.00	-----
LeBocuf, Lamb & Leiby, special counsel employed by Trustee for work before New York Public Service Commission....	42,500.00	\$1,630.05
Hutchinson, Pierce, Atwood & Scribner, special counsel employed by Trustee in connection with conveyance of ENYP properties.....	350.00	20.20
Ropes, Gray, Best, Coolidge & Rugg, special counsel to old Board of Directors.....	8,000.00	-----
Buchman & Buchman, counsel for preferred stockholders in Paper Company litigation....	2,000.00	403.00
"Carter," Preferred Stockholders Committee:		
C. Shelby Carter and Ralph H. Haas, committeemen.....	7,000.00	1,318.04
Harold P. Seligson and Edmund Burke, Jr., counsel....	150,000.00	8,550.02
J. Samuel Hartt, engineering adviser.....	37,000.00	0,934.69
Preferred Stockholders Group:		
William Stuberfield and Joseph D. Allen, committeemen.....	2,750.00	(¹)
Perclval E. Jackson, counsel..	75,000.00	4,042.18
Equity Holding Corporation.....		3,920.69
Estate of Frank Balley.....		3,920.69
William M. Grove.....		3,920.69
Paul H. Todd, Class A stockholder, in behalf of Class A stockholders.....		69,712.50
Root, Ballentine, Bushby & Palmer and Purcell & Nelson, counsel.....	180,133.33	(¹)
Drexel & Company, financial adviser.....	28,000.00	100.63
Class A Stockholders Committee:		
James A. Davis, John M. McGrath and Anthony Shlanko, committeemen.....	10,000.00	-----
Harold Barnett, committeeman.....	3,000.00	-----
Nemerov & Shapiro, counsel..	107,000.00	8,129.43
Theodore R. Mackoul, financial adviser.....	748,950.00	983.22
Total.....	802,183.33	114,369.06

¹ \$500 advanced to Reis & Chandler was reimbursed by Equitable Holding Corporation, Estate of Frank Balley, and William M. Grove, and the amount is included in their claims.

² In addition, Jackson received a fee of \$10,000 from Equitable Holding Corporation, Estate of Frank Balley, and William M. Grove, and the amount is included in their claims.

³ This amount includes \$44,866.67 advanced to counsel.

⁴ This amount is exclusive of \$44,866.67 advanced by Todd.

⁵ Expenses of \$15,397.77 were reimbursed by Todd and are included in his claim.

⁶ Including \$7,500, to be paid by Nemerov & Shapiro to Leo B. Mittelman, associate counsel.

⁷ This amount is exclusive of \$1,050 advanced by Nemerov & Shapiro and included in their claim for expenses.

Notice is hereby given that any interested person may, not later than October 31, 1955 at 5:30 p. m., request the Commission in writing that a hearing be held with respect to the above-listed claims or any of them, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said claims or any of them which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the aforesaid claims may be approved as maximum amounts to be paid by the Trustee for fees and expenses, pursuant to Rule U-63 and the applicable provisions of the Act, or the Commission may take such other action with respect thereto as it may deem appropriate.

II. The Trustee of IHES having advised the Commission, pursuant to the

aforesaid order dated January 13, 1955, that no agreements have been reached with respect to certain claimants who have requested allowances of fees and expenses for services alleged to have been rendered in connection with the above-entitled proceedings:

Notice is hereby given that applications for the allowance of fees and reimbursement of expenses have been filed by the following persons and in the indicated amounts:

TABLE II

Claimant and capacity	Fee	Expenses
Christian A. Johnson, Class A stockholder	\$50,000.00	\$1,823.93
Central-Illinois Securities Corporation, Class A stockholder and prospective purchaser of ENYP properties		27,047.48
Northern Investors Corporation, prospective purchaser of ENYP properties	50,000.00	48,074.16
Baker, Weeks & Co., agent in making offers to purchase ENYP properties		1,128.19
Kaye, Scholer, Fierman & Hays, counsel for Baker, Weeks & Co.	13,625.00	177.54
White & Case, counsel for Christian A. Johnson and Central-Illinois Securities Corporation	36,500.00	2,523.04
Reis & Chadler, Inc., financial adviser to Preferred Stockholders Group	10,000.00	28.43
Sullivan and Sullivan, financial and engineering experts for Paul H. Todd	73,540.00	693.27
S. Philip Cohen, counsel for certain Class A stockholders	12,500.00	720.40
Total	256,165.00	\$2,214.44

¹ Net fee claim after crediting \$500 advanced by client.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the applications set forth in Table II:

It is ordered, That a hearing be held on the applications listed in Table II, which hearing shall commence on November 15, 1955, at 10 a. m. at the office of the Commission, 425 Second Street NW., Washington, D. C. On such date the hearing-room clerk in Room 193 will advise as to the room in which the hearing will be held. Any person who is not already a party, or who has not been granted leave to participate in the above-entitled proceedings, and who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of this Commission on or before November 10, 1955, a request relative thereto as provided in Rule XVII of the Commission's Rules of Practice.

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer or officers so designated is and are hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's Rules of Practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of said applications set forth in Table II, and that on the basis thereof the following matters and ques-

tions are presented, without prejudice however, to the presentation of additional matters and questions for examination:

1. Whether the services and disbursements for which remuneration is sought are compensable out of the estate of IHES, and whether it is lawful or appropriate to grant any allowances for fees and expenses to the persons making such claims;

2. Whether the requested amounts for fees and expenses were incurred in rendering services which were necessary in connection with the reorganization plans involved, and whether the requested amounts are reasonable; and if not, what amounts should be fixed by the Commission;

3. Whether there are any other factors apart from the nature and value of the services rendered and the capacity in which rendered which would make any of the requests for compensation or reimbursement improper.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Bartholomew A. Brickley, Trustee, and on each of the claimants named herein; and that notice of the entry of this order shall be given to all other persons by general release of the Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8289; Filed, Oct. 12, 1955; 8:46 a. m.]

[File No. 70-3413]

WORCESTER COUNTY ELECTRIC CO.

ORDER AUTHORIZING ISSUANCE AND SALE AT COMPETITIVE BIDDING OF PRINCIPAL AMOUNT OF FIRST MORTGAGE BONDS

OCTOBER 7, 1955.

Worcester County Electric Company ("Worcester"), an electric utility subsidiary of New England Electric System, a registered holding company, has filed an application and amendments thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule U-50 thereunder, regarding the following proposed transaction:

Worcester proposes to issue and sell, pursuant to competitive bidding requirements of Rule U-50, \$8,500,000 principal amount of Series D Bonds, to be dated as of October 1, 1955 and to mature October 1, 1985. The interest rate (which shall be a multiple of 1/8 of 1 percent and not in excess of 3 3/4 percent) and the price, exclusive of accrued interest, to be paid to Worcester therefor (which shall be not less than 100 percent nor more than 102 3/4 percent of the principal

amount) will be determined by competitive bidding.

The bonds will be issued under a First Mortgage Indenture and Deed of Trust dated as of July 1, 1949, as amended and supplemented, and will be secured equally and ratably with the presently outstanding Series A, B and C bonds of Worcester.

The proceeds from the sale of said bonds will be applied to the payment of Worcester's short-term note indebtedness (which aggregated \$7,700,000 at September 19, 1955) and the balance to pay for capitalizable expenditures or to reimburse the treasury therefor.

The issuance and sale of the bonds have been approved by the Massachusetts Department of Public Utilities, which is the State commission of the State in which Worcester is organized and doing business.

Worcester's expenses herein other than underwriting discounts and commissions are estimated at \$49,000, including attorneys' fees of \$9,000, engineering fees of \$4,600, trustee's fees of \$5,500, and accounting fees of \$1,000. The legal fee and expenses of independent counsel to the underwriters are estimated at \$5,000 and \$300, respectively.

Due notice having been given of the filing of said application, and a hearing not having been requested of or ordered by the Commission; and the Commission finding with respect to the proposed transaction that the applicable provisions of the Act and the Rules promulgated thereunder are satisfied and that no adverse findings are necessary and deeming it appropriate in the public interest and in the interest of investors and consumers that the amended application be granted, effective forthwith, subject to the conditions below set out:

It is ordered, pursuant to Rule U-23 and the applicable provisions of the Act, that said application as amended be, and it hereby is, granted, effective forthwith, subject to the conditions prescribed in Rule U-50 and Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8290; Filed, Oct. 12, 1955; 8:47 a. m.]

[File No. 70-3418]

PHILADELPHIA CO. AND STANDARD GAS AND ELECTRIC CO.

NOTICE OF PROPOSED RENEWAL OF PROMISSORY NOTE

OCTOBER 7, 1955.

Notice is hereby given that Philadelphia Company ("Philadelphia") a registered holding company and a subsidiary of Standard Gas and Electric Company ("Standard Gas") and Standard Power and Light Corporation, also registered holding companies, and its parent Standard Gas have filed with this Commission a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6 (a) 7, 9 and 10 thereof as applicable to the proposed

transaction which is summarized as follows:

The companies propose that Philadelphia will issue and deliver to Standard Gas a renewal promissory note in replacement of a promissory note in the principal amount of \$2,500,000 which matured September 10, 1955, and which bore interest at the rate of 3 percent per annum, payable monthly. The renewal note, in the same principal amount, will bear interest, payable monthly, at the rate of 3¼ percent per annum, which is stated to be the prime interest rate prevailing for short-term commercial bank loans, and will mature September 10, 1956, with the right of the issuer to anticipate at any time the payment of all or any part of the principal thereof.

The filing states that the expenses, if any, in connection with the proposed transaction will be nominal in amount.

Notice is further given that any interested person may, not later than October 21, 1955, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25,

D. C. At any time after said date said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100 or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 55-8291; Filed, Oct. 12, 1955;
8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-9443]

ATLANTIC REFINING CO.

ORDER SUSPENDING PROPOSED
CHANGES IN RATES

The Atlantic Refining Company (Applicant) on September 8, 1955, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings which are proposed to become effective on the dates shown:

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Aug. 25, 1955.	United Fuel Gas Co.-----	Supplement No. 1 to FPC Gas Rate Schedule No. 63.	Nov. 1, 1955
Do-----	do-----	Supplement No. 1 to Applicant's FPC Gas Rate Schedule No. 115.	Do.

¹ The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by Applicant if later.

The increased rates and charges proposed in the aforesaid filings have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's General Rules and Regulations (18 CFR, Chapter I) a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplements be and the same hereby are suspended and the use thereof deferred until April 1, 1956, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f))

of the Commission's Rules of Practice and Procedure.

Adopted: October 5, 1955.

Issued: October 7, 1955.

By the Commission.¹

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8285; Filed, Oct. 12, 1955;
8:46 a. m.]

[Docket No. G-1479]

BANGOR GAS CO.

NOTICE OF APPLICATION

OCTOBER 7, 1955.

Bangor Gas Company (Applicant) a Pennsylvania corporation and a public utility under the laws of that Commonwealth, filed on August 12, 1955, an application for an amendment of the order issued October 3, 1952, in the Matters of Warwick Gas Corporation, et al., Docket Nos. G-1476, et al., insofar as it relates to this proceeding. The order of October 3, 1952, modified and affirmed as modified the initial decision of the Presiding Examiner issued August 4, 1952. By such order the Commission affirmed the is-

¹ Commissioner Digby dissenting.

suance of a certificate of public convenience and necessity to Applicant to construct and operate natural-gas transmission pipe-line facilities for the transportation of natural gas in interstate commerce and required The Manufacturers Light and Heat Company (Manufacturers) pursuant to section 7 (a) of the Natural Gas Act, to supply Applicant up to 541 Mcf per day—425 Mcf per day for Applicant and 116 Mcf for Pen Argyl Gas Company (Pen Argyl)

It appears from the application that the merger of the Applicant and Pen Argyl became effective on January 26, 1954, and Applicant has been receiving natural gas from Manufacturers in volumes not in excess of 541 Mcf per day.

Applicant requests that the Commission remove the limitation of 541 Mcf per day applicable to the volumes of natural gas which Manufacturers is obligated to sell and deliver to Applicant. In support of such request, Applicant avers that its peak day requirements already exceed 541 Mcf per day and that the requirements of its customers of a peak day for the next five years will increase from 800 Mcf to 1500 Mcf per day.

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 October 27, 1955.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8286; Filed, Oct. 12, 1955;
8:46 a. m.]

[Docket Nos. G-9223, G-9224]

OTHA H. GRIMES AND SKELLY OIL CO.

NOTICE OF APPLICATIONS AND DATE
OF HEARING

OCTOBER 7, 1955.

In the matters of Otha H. Grimes, Docket No. G-9223; Skelly Oil Company, Docket No. G-9224.

Take notice that Otha H. Grimes (Grimes), Applicant, an individual whose address is Tulsa, Oklahoma, filed on August 12, 1955, an application for permission to abandon service pursuant to section 7 (b) of the Natural Gas Act, authorizing Applicant to sell certain facilities and to terminate service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection; and that concurrently therewith, Skelly Oil Company (Skelly) Applicant, a Delaware corporation whose address is Tulsa, Oklahoma, filed on August 12, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant to acquire and operate the aforesaid facilities heretofore owned and operated by Grimes and to take over, commence and continue to render the aforesaid service heretofore rendered by Grimes, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully repre-

sented in the application which is on file with the Commission and open for public inspection.

Applicant Grimes, pursuant to contract dated August 8, 1955, and effective September 1, 1955, between Otha H. Grimes and Mildred B. Grimes, his wife (Sellers) and Skelly Oil Company (Buyer) proposes to sell, transfer, set over and assign to Buyer among other things: (1) A gasoline plant located in Lea County, New Mexico, known as Lovington Plant which is owned and operated by Sellers, (2) all gathering and residue lines owned, maintained and operated by Sellers in connection with the operation of said plant, (3) all of Seller's casinghead gas contracts under which they purchase or acquire casinghead gas for processing in said plant, and (4) the gas sales contract dated October 2, 1954, between Otha H. Grimes (Seller) and Permian Basin Pipeline Company covering sale by Sellers of available surplus residue gas from said plant to said pipeline company.

Applicant Skelly proposes: (1) To take over, carry out, perform and continue making the sales of residue gas to Permian Basin Pipeline Company under and pursuant to aforesaid Gas Purchase Contract dated October 2, 1954, between Otha H. Grimes (Seller) and Permian Basin Pipeline Company (Buyer) and to assume all obligations and be entitled to all benefits under said contract; and (2) to purchase and operate aforesaid Lovington Gasoline Plant and attendant facilities.

Applicant Skelly incorporates by reference and makes a part of its own application for all purposes the application for a section 7 (c) certificate by Otha H. Grimes in Docket No. G-6868 filed with the Commission on January 10, 1955, as supplemented on February 28 and March 14, 1955, wherein Grimes sought and was granted authorization for the sale of residue gas from the aforesaid Lovington Gasoline Plant to Permian. The natural gas involved in all of these dockets, viz., G-6868, G-9223 and G-9224, is the same and is purchased and gathered by Applicant Grimes from certain sellers and is produced from the Southeast Lovington Field, Lea County, New Mexico.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on Wednesday, November 16, 1955, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to

the provisions of section 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 October 24, 1955. 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.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8288; Filed, Oct. 12, 1955; 8:46 a. m.]

[Docket No. G-9100]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 7, 1955.

Take notice that Texas Eastern Transmission Corporation (Applicant), a Delaware Corporation whose address is Shreveport, Louisiana, filed on July 5, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, and its supplement thereto filed on August 25, 1955, authorizing Applicant to make temporary sales of additional quantities of natural gas for transportation and sale for resale in interstate commerce for the period of November 16, 1955, through April 15, 1956, under its WPS Rate Schedule to the existing customers as hereinafter listed, subject to the jurisdiction of the Commission all as more fully represented in the application which is on file with the Commission and open for public inspection.

WINTER PEAKING SERVICE
(Nov. 16, 1955 through Apr. 15, 1956)
[McInt 14.73 p. s. l. a.]

Company	Maximum daily quantity	Winter contract quantity
Arkansas-Missouri Power Co. and Associated Natural Gas Co., Joint Buyers.....	1,600	77,522
Belmont, Miss., Town of.....	21	3,876
Borough of Chambersburg, Pa..	21	3,876
City Gas Co. of New Jersey.....	21	3,876
Consumers Gas Co. (Illinois)....	224	15,524
Indiana Gas & Water Co., Inc..	1,600	77,522
Missouri Utilities Co.....	1,600	77,522
National Gas & Oil Co. (Ohio)....	519	33,701
New Jersey Natural Gas Co.....	5,103	337,619
The Permian Oil & Gas Co. (Ohio).....	29	1,559
Philadelphia Electric Co.....	29,823	3,169,833
Philadelphia Gas Works.....	2,649	125,644
Public Service Electric & Gas Co	15,523	1,162,631
Somerset, Ky., City of.....	224	15,524
Waynesburg Home Gas Co. (Pennsylvania).....	224	15,524
Huntingdon Gas Co. (Pennsylvania).....	29	1,559

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 November 1, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 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 Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 27, 1955. 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.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8287; Filed, Oct. 12, 1955; 8:46 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

OCTOBER 5, 1955.

The United States Atomic Energy Commission has filed an application, Serial No. Los Angeles 0124077, for withdrawal of the lands described below from all forms of appropriation except under the mineral leasing laws, and subject to valid existing rights.

The applicant desires the land for use in connection with classified programs of the Atomic Energy Commission.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, at Room 801 California Fruit Building, 4th and J Streets, Sacramento 14, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will

be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN

T. 10 S., R. 9 E.
Sec. 24, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 40 acres of public land.

R. R. BEST,
State Supervisor

[F. R. Doc. 55-8284; Filed, Oct. 12, 1955;
8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order 5125]

ARKANSAS

LOAN ANNOUNCEMENT

SEPTEMBER 2, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Arkansas 28P Conway-----	\$100,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8315; Filed, Oct. 12, 1955;
8:52 a. m.]

[Administrative Order 5126]

FLORIDA

LOAN ANNOUNCEMENT

SEPTEMBER 7, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Florida 30P Walton-----	\$410,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8316; Filed, Oct. 12, 1955;
8:52 a. m.]

[Administrative Order 5127]

NORTH CAROLINA

AMENDMENT OF LOAN ANNOUNCEMENT

SEPTEMBER 7, 1955.

I hereby amend:

(a) Administrative Order No. 935, dated July 23, 1945, as amended by Administrative Order No. 4396, dated November 3, 1953, which reduced the allocation of \$25,000 by \$6,643, by further

reducing the allocated balance of \$18,357 therein made for "North Carolina 4606681 Chowan" by \$10,000 so that the reduced allocation shall be \$8,357.

[SEAL]

ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8317; Filed, Oct. 12, 1955;
8:52 a. m.]

[Administrative Order 5128]

ILLINOIS

LOAN ANNOUNCEMENT

SEPTEMBER 7, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Illinois 37TU Saline-----	\$740,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8318; Filed, Oct. 12, 1955;
8:52 a. m.]

[Administrative Order 5129]

FLORIDA

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Florida 34M Bay-----	\$240,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8319; Filed, Oct. 12, 1955;
8:52 a. m.]

[Administrative Order 5130]

ARKANSAS

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Arkansas 13X Johnson-----	\$50,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8320; Filed, Oct. 12, 1955;
8:52 a. m.]

[Administrative Order 5131]

MINNESOTA

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Minnesota 101F Clearwater-----	\$100,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8321; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5132]

MISSOURI

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Missouri 43Y Laclede-----	\$1,302,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8322; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5133]

IOWA

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Iowa 83EF Cedar Rapids-----	\$11,173,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8323; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5134]

SOUTH CAROLINA

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the

Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
South Carolina 27X Marlboro----- \$50,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 55-8324; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5135]

OKLAHOMA

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Oklahoma 25W Rogers----- \$833,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8325; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5136]

NEBRASKA

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Nebraska 78AC Dawson D. P.----- \$340,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 55-8326; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5137]

NEW MEXICO

LOAN ANNOUNCEMENT

SEPTEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
New Mexico 9X Curry----- \$367,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8327; Filed, Oct. 12, 1955;
8:53 a. m.]

[Administrative Order 5138]

ARIZONA

LOAN ANNOUNCEMENT

SEPTEMBER 14, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Arizona 22H Kingman----- \$149,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 55-8328; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5139]

OHIO

LOAN ANNOUNCEMENT

SEPTEMBER 14, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Ohio 88X Gallia----- \$50,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8329; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5140]

TEXAS

AMENDMENT OF LOAN ANNOUNCEMENT

SEPTEMBER 14, 1955.

I hereby amend:

(a) Administrative Order No. 4856, dated January 28, 1955, by reducing the loan of \$500,000 therein made for "Texas 45M Limestone" by \$245,000 so that the reduced loan shall be \$255,000.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 55-8330; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5141]

NORTH CAROLINA

LOAN ANNOUNCEMENT

SEPTEMBER 15, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
North Carolina 47N Wake----- \$59,000

[SEAL] ROBERT T. BEALL,
Acting Administrator.

[F. R. Doc. 55-8331; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5142]

IOWA

LOAN ANNOUNCEMENT

SEPTEMBER 16, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Iowa 57M Mitchell----- \$250,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 55-8332; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5143]

PENNSYLVANIA

LOAN ANNOUNCEMENT

SEPTEMBER 16, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Pennsylvania 13AA Toga----- \$250,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 55-8333; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5144]

WYOMING

LOAN ANNOUNCEMENT

SEPTEMBER 21, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Wyoming 21 G Carbon----- \$175,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 55-8334; Filed, Oct. 12, 1955;
8:54 a. m.]

[Administrative Order 5145]

WISCONSIN

LOAN ANNOUNCEMENT

SEPTEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

NOTICES

Loan designation: *Amount*
Wisconsin 47V Jackson----- \$261,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8335; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5146]

IOWA

LOAN ANNOUNCEMENT

SEPTEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Iowa 33L Calhoun----- \$118,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8336; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5147]

COLORADO

LOAN ANNOUNCEMENT

SEPTEMBER 23, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Colorado 37R Douglas----- \$940,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8337; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5148]

NORTH CAROLINA

LOAN ANNOUNCEMENT

SEPTEMBER 26, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
North Carolina 39T Union----- \$265,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8338; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5149]

ARKANSAS

LOAN ANNOUNCEMENT

SEPTEMBER 26, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended,

a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Arkansas 10AA Pulaski----- \$50,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8339; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5150]

MONTANA

AMENDMENT OF LOAN ANNOUNCEMENT

SEPTEMBER 26, 1955.

I hereby amend:

(a) Administrative Order No. 318, dated January 31, 1939, by reducing the allocation of \$8,000 therein made for "Montana R9015W1 Fergus" by \$4,625.66, so that the reduced allocation shall be \$3,374.34.

[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8340; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5151]

TEXAS

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Texas 64Z San Augustine----- \$1,333,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8341; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5152]

TEXAS

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Texas 113L Dickens----- \$900,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8342; Filed, Oct. 12, 1955;
8:55 a. m.]

[Administrative Order 5153]

NORTH DAKOTA

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
North Dakota 17S McHenry----- \$126,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8343; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5154]

MINNESOTA

AMENDMENT OF LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Inasmuch as The Rural Cooperative Power Association has transferred certain of its properties and assets to Arrowhead Electric Cooperative, Inc., and Arrowhead Electric Cooperative, Inc. has assumed in part the indebtedness to United States of America, of The Rural Cooperative Power Association, arising out of loans made by United States of America pursuant to the Rural Electrification Act of 1936, as amended, I hereby amend:

(a) Administrative Order No. 976, dated October 16, 1945, as amended by Administrative Order No. 4279, dated June 30, 1953, by changing the project designation appearing therein as "Minnesota 70F Hennepin" in the amount of \$478,494.45 to read "Minnesota 70F Hennepin" in the amount of \$446,494.45 and "Minnesota 104TP1 Cook (Minnesota 70F Hennepin)" in the amount of \$32,000.

[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8344; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5155]

MINNESOTA

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Minnesota 75R Red Lake----- \$50,000
[SEAL] FRED H. STRONG,
Acting Administrator
[F. R. Doc. 55-8345; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5156]

MINNESOTA

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Minnesota 97N Roseau..... \$50,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8346; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5157]

NORTH CAROLINA

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
North Carolina 34U Anson..... \$50,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8347; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5158]

NORTH DAKOTA

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
North Dakota 13P Foster..... \$50,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8348; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5160]

ALL STATES

LOAN ANNOUNCEMENTS

SEPTEMBER 29, 1955.

Pursuant to Section 3 (c) of the Rural Electrification Act of 1936, as amended, and upon information and data in the files of the Rural Electrification Admin-

istration, I hereby determine that the number of farms not receiving central station electric service for each state and the number of such farms for the United States at the beginning of the current fiscal year are as set forth in the following schedule, and I hereby allot from the sum of \$40,000,000, being twenty-five per centum of the total sum available for the current fiscal year, the respective sums for loans in the several States as hereinafter set forth.

	Farms with- out Central Station Electric Service July 1, 1955	Allotment for loans during the fiscal year ending June 30, 1955
United States.....	341,650	\$40,000,000
Alabama.....	17,000	2,000,000
Arizona.....	1,200	140,000
Arkansas.....	10,000	1,200,000
California.....	6,000	800,000
Colorado.....	5,000	600,000
Connecticut.....	100	10,000
Delaware.....	400	40,000
Florida.....	6,000	800,000
Georgia.....	11,000	1,300,000
Idaho.....	1,200	140,000
Illinois.....	5,000	600,000
Indiana.....	4,000	500,000
Iowa.....	4,500	550,000
Kansas.....	11,000	1,300,000
Kentucky.....	17,000	2,000,000
Louisiana.....	6,000	800,000
Maine.....	1,200	140,000
Maryland.....	1,700	200,000
Massachusetts.....	300	30,000
Michigan.....	3,400	400,000
Minnesota.....	6,100	800,000
Mississippi.....	22,000	2,600,000
Missouri.....	12,100	1,400,000
Montana.....	5,000	600,000
Nebraska.....	7,400	900,000
Nevada.....	800	100,000
New Hampshire.....	200	20,000
New Jersey.....	200	20,000
New Mexico.....	4,100	500,000
New York.....	7,100	850,000
North Carolina.....	13,500	1,600,000
North Dakota.....	9,000	1,100,000
Ohio.....	3,000	350,000
Oklahoma.....	10,000	1,200,000
Oregon.....	1,000	100,000
Pennsylvania.....	5,000	600,000
Rhode Island.....	50	5,000
South Carolina.....	8,000	1,000,000
South Dakota.....	2,000	250,000
Tennessee.....	14,000	1,700,000
Texas.....	22,000	2,600,000
Utah.....	200	20,000
Vermont.....	400	40,000
Virginia.....	7,000	850,000
Washington.....	1,100	120,000
West Virginia.....	8,500	1,000,000
Wisconsin.....	5,000	600,000
Wyoming.....	1,700	200,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8350; Filed, Oct. 12, 1955;
8:57 a. m.]

[Administrative Order 5159]

IOWA

LOAN ANNOUNCEMENT

SEPTEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Iowa 61N Winnebago..... \$216,000

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-8349; Filed, Oct. 12, 1955;
8:56 a. m.]

[Administrative Order 5161]

MONTANA

LOAN ANNOUNCEMENT

SEPTEMBER 30, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Montana 12N Missoula..... \$327,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8351; Filed, Oct. 12, 1955;
8:57 a. m.]

[Administrative Order 5162]

NORTH CAROLINA

LOAN ANNOUNCEMENT

SEPTEMBER 30, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
North Carolina 36X Randolph..... \$50,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8352; Filed, Oct. 12, 1955;
8:57 a. m.]

[Administrative Order 5163]

TEXAS

LOAN ANNOUNCEMENT

SEPTEMBER 30, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation: *Amount*
Texas 60T Lynn..... \$442,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-8353; Filed, Oct. 12, 1955;
8:57 a. m.]

