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TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter E—Account Servicing
[FHA Instruction 451.6]

PART 365—REFINANCING OF LOAN ACCOUNTS

SOIL AND WATER CONSERVATION LOANS

Part 365, Title 6, Code of Federal Regulations (19 F. R. 3539) is revised to incorporate refinancing regulations with respect to Soil and Water Conservation loans and to read as follows:

- Sec.
365.1 General.
365.2 When to request borrowers to refinance.
365.3 Determining which borrowers should refinance.
365.4 Notice to borrowers.
365.5 Action when borrower fails to refinance.

AUTHORITY: §§ 365.1 to 365.5 issued under R. S. 161, sec. 6 (3), 50 Stat. 870, sec. 41 (1), 60 Stat. 1066; sec. 510 (g), 63 Stat. 438, sec. 4 (c), 64 Stat. 100; 5 U. S. C. 22, 16 U. S. C. 590w (3), 7 U. S. C. 1015 (1), 42 U. S. C. 1480 (g), 40 U. S. C. 442 (c). Statutes interpreted or applied are cited to text in parentheses.

§ 365.1 *General.* This part prescribes the policies and procedures related to the refinancing of the outstanding balance of a borrower's indebtedness owed to or insured by the Farmers Home Administration in connection with insured and direct Farm Ownership, insured and direct Soil and Water Conservation, Farm Housing, and Production and Subsistence loans.

§ 365.2 *When to request borrowers to refinance—(a) Farm Ownership and Farm Housing borrowers.* A borrower will be requested to refinance his Farm Ownership or Farm Housing indebtedness when it appears that he has acquired sufficient equity in his real estate to enable him to obtain credit for this purpose from a responsible cooperative or private source at rates, but not to exceed five percent per annum, and on terms prevailing in the area.

(b) *Soil and Water Conservation borrowers.* A borrower will be requested to refinance his Soil and Water Conservation indebtedness when it appears that

he is able to obtain credit for this purpose from a responsible cooperative or private credit source on terms and conditions which he can reasonably be expected to fulfill.

(c) *Borrowers indebted for Production and Subsistence loans.* A borrower will be requested to refinance his Production and Subsistence loan indebtedness when it appears, by reason of his progress in carrying out the planned improvements in his farming operations or for any other reason, that he is able to obtain credit for this purpose from local sources at rates and terms prevailing in the area.

(Secs. 3 (b) (7), 12 (c) (4), 44 (c), 60 Stat. 1075, 1076, 1069, sec. 502 (b) (3), 63 Stat. 433, sec. 2 (f), 64 Stat. 99, sec. 9, 10 (a) (1), 63 Stat. 735; 7 U. S. C. 1003 (b) (7), 1005b (c) (4), 1018 (c), 42 U. S. C. 1472 (b) (3), 40 U. S. C. 440 (f), 16 U. S. C. 590x-2, x-3 (a) (1))

§ 365.3 *Determining which borrowers should refinance.* In order to determine properly which borrowers should seek refinancing, the County Supervisor and the County Committee must be currently informed with respect to the lending policies of the various sources of agricultural credit in the area. This involves considering the suitability of the available credit as well as knowing the financial, security, and other requirements for such credit.

(a) *Review of cases by County Supervisor and County Committee.* Once each year, not later than 90 days following the end of the crop year, the County Supervisor will submit to the Committee the names of those borrowers indebted for Farm Ownership, Farm Housing, Soil and Water Conservation, or Production and Subsistence loans who appear to meet the conditions set forth in § 365.2. The County Supervisor will furnish the Committee with sufficient information to arrive at a recommendation as to whether such borrowers should be encouraged to refinance the unpaid balances on their loans. The Committee will review the progress these borrowers have made in reducing their indebtedness and will indicate to the County Supervisor the borrowers whom the Committee believes have progressed sufficiently to obtain suitable credit from other sources. The County Supervisor,

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after considering the recommendations of the Committee, will determine which borrowers should seek refinancing.

(Sec. 42 (d), 60 Stat. 1067, sec. 508 (b), 63 Stat. 436; 7 U. S. C. 1016 (d), 42 U. S. C. 1478 (b))

§ 365.4 *Notice to borrowers.* Each borrower whom the County Supervisor determines should seek refinancing will be informed in writing that it appears he has progressed to the point where he can refinance the Farmers Home Administration debt involved. At the same time, the borrower will be asked to in-

form the County Supervisor within 60 days of the progress he is making in refinancing his loan. If the borrower has failed to obtain a loan to refinance his Farmers Home Administration debt, he should also be asked to inform the County Supervisor of the credit sources contacted. County Supervisors will not attempt to influence borrowers with respect to where they obtain credit for refinancing.

§ 365.5 *Action when borrower fails to refinance*—(a) *Borrowers indebted for initial or subsequent Farm Ownership loans approved after October 31, 1946, or for Farm Housing loans*—(1) *Action by County Supervisor.* At the expiration of the 60-day period, the County Supervisor will determine what action should be taken with respect to those borrowers who have not made arrangements to refinance their Farmers Home Administration real estate indebtedness.

(i) If the investigation by the County Supervisor establishes the fact that a borrower is unable to refinance his indebtedness, he will inform the borrower in writing that the Farmers Home Administration will take no further action with respect to requiring refinancing for the remainder of that year.

(ii) For each borrower whom the County Supervisor determines could have refinanced his loan at an interest rate not in excess of five percent per annum but failed to do so, he will prepare a report on Form FHA-133, "Request for Legal Action," and will submit it to the State Director.

(2) *Action by State Director.* The State Director will review each case submitted to him and determine what action should be taken.

(i) The State Director will advise the County Supervisor of the names of those borrowers he has determined will not be required to refinance their loans on the basis of the existing status of the case. He will also instruct the County Supervisor to inform each such borrower in writing that the Farmers Home Administration will not require refinancing for the remainder of that year.

(ii) Each of the remaining borrowers will be informed in writing by the State Director that on the basis of available information it appears that credit is available to refinance his Farmers Home Administration real estate indebtedness and that he will be expected to make arrangements to obtain credit for that purpose or to submit additional facts regarding his failure to do so within 30 days.

(iii) If the borrower fails to comply with the request or fails to furnish satisfactory evidence within 30 days of his inability to obtain the necessary credit, the State Director will refer the case to the representative of the Office of the General Counsel with his recommendations for foreclosure.

(b) *Borrowers indebted for direct Farm Ownership loans all of which were approved prior to November 1, 1946, or for Water Facilities loans coded J.* No statutory or contract provisions exist for requiring these borrowers to refinance their loans. When such borrowers are able to obtain suitable credit from co-

operative or private credit sources but fail to refinance after receiving the letter no further action will be taken except that during supervisory and servicing contacts further encouragement will be given them to refinance their loans. If the proper understanding is reached with such borrowers with respect to refinancing, there should be a continuous voluntary graduation of successful borrowers to other credit sources.

(c) *Borrowers indebted for Soil and Water Conservation loans (except Water Facilities loans coded J)* When a borrower indebted for a Soil and Water Conservation loan (except a Water Facilities loan coded J) is able to obtain suitable credit from a responsible cooperative or private credit source on terms and conditions which it appears he can fulfill, and he fails to refinance after receiving the letter, the same action as set forth for Farm Ownership and Farm Housing borrowers in paragraph (a) of this section will be taken; however, the interest rate on the refinancing loan may exceed five percent.

(d) *Borrowers indebted for Production and Subsistence loans.* (1) When borrowers indebted for Production and Subsistence loans who are able to obtain suitable credit from cooperative or private credit sources at rates not exceeding five percent per annum fail to obtain the necessary refinancing after receiving the letter, the same action as set forth for Farm Ownership and Farm Housing borrowers in paragraph (a) of this section will be taken.

(2) When borrowers indebted for Production and Subsistence loans who are able to obtain suitable credit from cooperative or private credit sources only at rates exceeding five percent per annum fail to refinance after receiving the letter, no further action will be taken except that during supervisory and servicing contacts further encouragement will be given them to refinance their loans. If a proper understanding is reached with such borrowers with respect to refinancing, there should be a continuous voluntary graduation of successful borrowers to other credit sources.

(Secs. 3 (b) (6), 12 (c) (4), 60 Stat. 1074, 1076; 7 U. S. C. 1003 (b) (6), 1005b (c) (4))

Dated: November 1, 1955.

[SEAL] R. B. McLEASH,
Administrator
Farmers Home Administration.

[F. R. Doc. 55-8936; Filed, Nov. 3, 1955; 8:54 a. m.]

TITLE 7—AGRICULTURE

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

PART 941—MILK IN CHICAGO, ILLINOIS, MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISIONS

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act," and of the order, as amended

(7 CFR Part 941, regulating the handling of milk in the Chicago, Illinois, marketing area, hereinafter referred to as the "order," it is hereby found and determined that:

(a) The provisions of § 941.52 (a) (3) and (b) (3) will not tend to effectuate the declared policy of the act for the month of November 1955.

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof, are found to be impracticable, unnecessary, and contrary to the public interest in that:

(1) The information upon which this action is based did not become available in time sufficient for such compliance;

(2) This suspension order relieves handlers from certain restrictions in that it relieves them from the obligation of paying 70 cents per hundredweight on Class I and Class II milk moved in bulk to outside the surplus milk manufacturing area;

(3) Producers of more than 50 percent of the milk produced for this market, and handlers of most of the milk, have requested that these provisions be suspended for November 1955;

(4) Although, pursuant to § 941.52 (e) of the order, the 70-cent differentials should apply in November 1955, current information indicates that supplies of producer milk are adequate to meet marketing area requirements and other demands during November;

(5) It is found necessary to issue and make effective for November 1955, this suspension order to reflect current marketing conditions and to facilitate, promote, and maintain orderly marketing conditions in this marketing area; and

(6) This suspension order does not require of persons affected substantial or extensive preparation prior to its effective date.

Therefore, good cause exists for making this order effective immediately for the period of November 1955.

It is therefore ordered, That the following provisions of the order be and hereby are suspended for the month of November 1955:

1. In § 941.52 (a) (3) Grade A or Grade B Class I milk moved in bulk to any place outside the surplus milk manufacturing area during any of the delivery periods of September, October or November shall be classified separately and its price shall be \$0.70 higher than the prices otherwise computed pursuant to subparagraphs (1) and (2) respectively, of this paragraph, except as provided in paragraph (e) of this section.

2. In § 941.52 (b) (3) Grade A or Grade B Class II milk moved in bulk to any place outside the surplus milk manufacturing area during any of the delivery periods of September, October or November shall be classified separately and its price shall be \$0.70 higher than the price otherwise computed pursuant to subparagraphs (1) and (2) respectively, of this paragraph, except as provided in paragraph (e) of this section.

(Sec. 5, 49 Stat. 733, as amended; 7 U. S. C. 602c)

Done at Washington, D. C., this 1st day of November 1955, to be effective on and after November 1, 1955.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 55-8933; Filed, Nov. 3, 1955;
8:54 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter B—Trade Practice Conference Rules [File No. 21-469]

PART 18—COMMERCIAL DENTAL LABORATORY INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held under the trade practice conference procedure in pursuance of the act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act) and other provisions of law administered by the Commission:

It is now ordered, That the Group I trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of November 4, 1955.

Statement by the Commission. Trade practice rules for the Commercial Dental Laboratory Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The industry for which these rules are established is composed of persons, firms, corporations, and organizations engaged in the design¹ and manufacture of orthodontic corrective appliances, prosthetic dental appliances, ceramic or plastic teeth encapments, cast-metal dental appliances, dental inlays, dental bridges, and other types of oral restorations, pursuant to oral or written authority and/or from impressions, casts, or models furnished by a licensed practitioner of dentistry, or licensed medical physician or other authorized person.

The rules are directed to the maintenance of free and fair competition in the industry and to the prevention and elimination of various practices deemed to be violative of laws administered by the Commission. They are to be applied to such end and to the exclusion of any acts or practices which suppress competition or otherwise restrain trade.

Proceedings under which the rules have been established were instituted upon application from members of the industry. A general industry conference was held under Commission auspices in New Orleans, Louisiana, at which proposals for rules were submitted for consideration of the Commission. Thereafter proposed rules were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, sug-

gestions, or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice, a public hearing was held in the offices of the Commission in Washington, D. C., and all matters there presented, or otherwise received in the proceeding, were duly considered by the Commission.

Following such hearing, and upon consideration of the entire matter, final action was taken by the Commission whereby it approved the Group I rules hereinafter set forth.

Such rules become operative thirty (30) days from the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

Sec.

- 18.1 Deception (general).
- 18.2 Deceptive demonstrations and claims.
- 18.3 Substitution of products.
- 18.4 False invoicing.
- 18.5 Defamation of competitors or false disparagement of their products.
- 18.6 Enticing away employees of competitors.
- 18.7 Deceptive use of trade or corporate names, trademarks, etc.
- 18.8 Use of the word "free."
- 18.9 Coercing purchase of one product as a prerequisite to purchase of other products.
- 18.10 Fictitious prices.
- 18.11 Guarantees.
- 18.12 Prohibited discrimination.
- 18.13 Exclusive deals.

AUTHORITY: §§ 18.1 to 18.13, issued under sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

GROUP I

General statement. The unfair trade practices embraced in the rules in §§ 18.1 to 18.13 are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

§ 18.1 *Deception (general)* It is an unfair trade practice to sell, offer for sale, or distribute any industry product, or promote the sale or distribution thereof, under any representation or by any method or under any circumstance or condition which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers.

(a) With respect to the construction, composition, design, strength, durability, or occlusion; or

(b) With respect to a process or technique used in the preparation or fabrication of any industry product; or

(c) With respect to the materials used in the fabrication of any industry product; or

(d) Which is false, misleading, or deceptive in any other material respect.

NOTE: Nothing in this section, nor in any of the other rules for this industry, is to be construed as relieving any industry member of the necessity of complying with the requirements of the Federal Food, Drug and Cosmetic Act, and regulations issued thereunder.

[Rule 1]

§ 18.2 *Deceptive demonstrations and claims.* (a) In the sale, offering for sale, or distribution of industry products, or in the promotion and distribution thereof, it is an unfair trade practice to demonstrate any of such products in a manner, or under circumstances, having the capacity and tendency or effect of creating a false impression in the minds of purchasers or prospective purchasers as to the actual benefits they will obtain as the result of their purchase and use of said products.

(b) It is an unfair trade practice for a member of the industry to represent, claim, or guarantee that his laboratory has the skill, ability, equipment, or personnel to design, construct, or fabricate a product of the industry under a specific technique or method, unless such representation, claim, or guarantee is made with the knowledge that complete and satisfactory accomplishment can be furnished with the facilities and personnel of such member laboratory.

(c) It is an unfair trade practice for any member of the industry to represent, claim, or guarantee that any technique or method of manufacture used is the equivalent of, or substitute for, any other method or technique, unless such is the fact. [Rule 2]

§ 18.3 *Substitution of products.* It is an unfair trade practice for a member of the industry to make an unauthorized substitution of products, where such a substitution has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers, by

(a) Shipping or delivering industry products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery; or

(b) Falsely representing the reason for making a substitution. [Rule 3]

§ 18.4 *False invoicing.* Withholding from or inserting in invoices or order tickets any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or order tickets, with the capacity and tendency or effect of thereby misleading or deceiving purchasers or prospective purchasers, is an unfair trade practice. [Rule 4]

§ 18.5 *Defamation of competitors or false disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct,

¹ The ultimate responsibility for design is that of the dentist.

inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, services, or conditions of employment, is an unfair trade practice. [Rule 5]

§ 18.6 *Enticing away employees of competitors.* It is an unfair trade practice for any member of the industry willfully to entice away employees or sales representatives of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition: *Provided*, That nothing in this section shall be construed as prohibiting employees from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of competitors in good faith and not for the purpose of inflicting injury on a competitor. [Rule 6]

§ 18.7 *Deceptive use of trade or corporate names, trade-marks, etc.* The use of any trade name, corporate name, trade-mark, or other trade designation which has the capacity and tendency or effect of misleading or deceiving the purchaser as to the name, nature, efficacy, or origin of any product of the industry, or of any material used therein, or which is false or misleading in any other respect, is an unfair trade practice. [Rule 7]

§ 18.8 *Use of the word "free."* In connection with the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to use the word "free," or any other word or words of similar import, in advertisements or in other offers to purchasers or prospective purchasers, as descriptive of an article of merchandise, or service, which is not an unconditional gift, under the following circumstances:

(a) When all the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise or service offered are not clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms of the offer will be misunderstood; and, regardless of such disclosure:

(b) When, with respect to any article of merchandise required to be purchased in order to obtain the "free" article or service, the offerer (1) increases the ordinary and usual price of such article of merchandise, or (2) reduces its quality, or (3) reduces the quantity or size thereof.

NOTE: The disclosure required by paragraph (a) of this section shall appear in close conjunction with the word "free" (or other word or words of similar import) wherever such word first appears in each advertisement or offer. A disclosure in the form of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the word "free," will not be regarded as compliance.

[Rule 8]

§ 18.9 *Coercing purchase of one product as a prerequisite to purchase of other*

products. The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably to restrain trade, is an unfair trade practice. [Rule 9]

§ 18.10 *Fictitious prices.* It is an unfair trade practice to sell or offer for sale industry products at prices purported to be reduced from what are in fact fictitious prices, or to sell or offer for sale such products at a purported reduction in price when such purported reduction is in fact fictitious or is otherwise misleading or deceptive. [Rule 10]

§ 18.11 *Guarantees.* In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member:

(a) To represent that any industry product is guaranteed unless, in conjunction with such representation, the identity of the guarantor, the extent and nature of the guarantee, and any material conditions or limitations relating to the liability of the guarantor under the guarantee, are fairly disclosed; or

(b) To use any guarantee respecting an industry product in which conditions or limitations relating to the liability of the guarantor are deceptively minimized or concealed; or

(c) To offer or use any guarantee respecting an industry product under which the guarantor fails to scrupulously observe his obligations. [Rule 11]

§ 18.12 *Prohibited discrimination*²—

(a) *Prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, con-

sumption, or resale within any place under the jurisdiction of the United States, and are not purchased by schools, colleges, universities, public libraries, churches, hospitals, or charitable institutions not operated for profit, as supplies for their own use;

(2) That nothing contained in paragraph (a) of this section shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

NOTE: Cost justification under the above proviso depends upon net savings in cost based on all facts relevant to the transactions under the terms of subparagraph (2) of this paragraph. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in paragraph (a) of this section shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, imminent deterioration of perishable goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor, or the services or facilities furnished by a competitor (see paragraphs (c) and (d) of this section).

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facili-

²As used in this section, the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

ties furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Purchases by U. S. Government; applicability of Robinson-Patman Antidiscrimination Act to same.* In an opinion submitted to the Secretary of War under date of December 28, 1936, the U. S. Attorney General advised that the Robinson-Patman Antidiscrimination Act "is not applicable to Government contracts for supplies." (38 Opinions, Attorney General 539.) [Rule 12]

§ 18.13 *Exclusive deals.* It is an unfair trade practice for any member of the industry to contract to sell or sell any industry product, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or of such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 13]

Promulgated by the Federal Trade Commission November 4, 1955.

Issued: November 1, 1955.

[SEAL] ROBERT M. PARRISH,
Secretary.

APPENDIX

For the information of industry members, there is appended to the rules in this part, but not made a part of them, a copy of the Federal Denture Act. This act is not administered by the Federal Trade Commission, but is a criminal act administered by the United States Department of Justice. Nothing in the rules in this part is to be construed as relieving any member of the industry from complying with the provisions of the said act.

FEDERAL DENTURE ACT (18 USCA 1821; 62 STAT. 786, JUNE 25, 1948)

Whoever transports by mail or otherwise to or within the District of Columbia, the

Canal Zone or any Possession of the United States or uses the mails or any instrumentality of interstate commerce for the purpose of sending or bringing into any State or Territory any set of artificial teeth or prosthetic dental appliance or other denture, constructed from any cast or impression made by any person other than, or without the authorization or prescription of, a person licensed to practice dentistry under the laws of the place into which such denture is sent or brought, where such laws prohibit;

(1) The taking of impressions or casts of the human mouth or teeth by a person not licensed under such laws to practice dentistry;

(2) The construction or supply of dentures by a person other than, or without the authorization or prescription of, a person licensed under such laws to practice dentistry; or

(3) The construction or supply of dentures from impressions or casts made by a person not licensed under such laws to practice dentistry—

shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

[F. R. Doc. 55-8926; Filed, Nov. 3, 1955; 8:51 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

APPLICATION FOR REGISTRATION OF SECURITIES

Form S-1¹ (§ 239.11) Registration Statement under the Securities Act of 1933 is revised to read as set forth in copy marked "As revised 10/25/55"

(Sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77s)

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

OCTOBER 21, 1955.

[F. R. Doc. 55-8904; Filed, Nov. 3, 1955; 8:47 a. m.]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

DECLARING EFFECTIVE DISTRIBUTION PLAN OF NEW YORK STOCK EXCHANGE

The Securities and Exchange Commission has announced that it has declared effective until the close of business on October 31, 1956, an amended Exchange Distribution Plan filed by the New York Stock Exchange. The Commission's proposal to declare the amended Plan effective was published for comment in Securities Exchange Act Release No. 5200, dated July 22, 1955, which contains the text of the amended Plan, and no comments were received by the Commission.

The Exchange Distribution Plan of the New York Stock Exchange, filed under the Commission's § 240.10b2 (d) (Rule X-10B-2 (d)) authorizes the Exchange to grant approval to members to make a distribution of a block of securities "at

the market" on the Exchange when the regular market on the Exchange cannot otherwise absorb the block of securities within a reasonable time and at a reasonable price or prices. The Plan contains certain anti-manipulative controls and requires participating members to make certain disclosures to persons solicited to buy the securities being distributed. Under the amended Plan the Exchange may permit a specialist to distribute a block of the security in which he is registered as a specialist if the Exchange has determined that he has been unable, within a reasonable period of time, to dispose of the securities in the ordinary course of his duties as a specialist. The amended Plan also restricts the price at which a specialist may effect purchases of the security for his own account during the course of the distribution, and provides that in effecting such a distribution the specialist may not deal directly with the public but must make an arrangement with one or more other members to effect the distribution on his behalf.

The Exchange has indicated to the Commission that the amended Plan will help specialists to maintain fair and orderly markets in the securities in which they act as specialists since they will be more willing to take larger amounts of stock, either in the ordinary performance of their dealer functions on the Exchange or by purchasing blocks off the floor, because there will be available to them a facility for the distribution of the stock in the event that they are unable to sell such stock within a reasonable time in the ordinary course of their business as specialists.

The Commission has declared the amended Plan effective for an experimental period of one year, on condition that if at any time it appears to the Commission necessary or appropriate in the public interest or for the protection of investors to suspend or terminate the effectiveness of the Plan the Commission may do so by sending at least 10 days written notice to the Exchange. During the experimental period the Commission proposes to review and study the operation of the Plan.

The text of the Commission's action follows:

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, particularly sections 10 (b) and 23 (a) thereof, and § 240.10b2 (d) (Rule X-10B-2 (d)) thereunder, deeming it necessary for the exercise of the functions vested in it, and having due regard for the public interest and for the protection of investors, does hereby declare effective the amended Exchange Distribution Plan of the New York Stock Exchange until the close of business on October 31, 1956, on condition that if at anytime it appears to the Commission necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of the said Plan by sending at least 10 days written notice to the New York Stock Exchange. The Commission finds, in accordance with the provisions of section 4 (c) of the Administrative Procedure Act, that paragraph (d) of § 240.10

¹ Filed as part of original document.

b2 (Rule X-10B-2 (d)) and this action have the effect of granting exemption and relieving restriction and that, therefore, this action may be and is hereby declared effective on October 31, 1955.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w)

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

OCTOBER 26, 1955.

[F. R. Doc. 55-8905; Filed, Nov. 3, 1955;
8:47 a. m.]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

APPLICATION FOR REGISTRATION OF SECURITIES

On May 27, 1955, the Securities and Exchange Commission announced, and invited comments on, a proposed revision of Forms 10, 8-B and 8-C (§§ 249.210, 249.208b, 249.208c) the proposed rescission of Forms 12 and 12-A (§§ 249.212 and 249.212a) and a proposed amendment to § 240.12b-2 (Rule X-12B-2). The Commission has considered the comments received, has made certain modifications in the proposals and has determined that such proposals should be adopted as set forth below.

Section 240.12b-2 (Rule X-12B-2) is amended by changing the definition of the term "associate" contained therein to read as follows:

§ 240.12b-2 *Definitions.* * * *

(c) *Associate.* The term "associate" used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority-owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

The foregoing action is taken pursuant to the Securities Exchange Act of 1934, particularly sections 12, 13 and 23 (a) thereof, and shall become effective immediately upon publication October 25, 1955, provided that any application or report filed prior to December 1, 1955, may be prepared in accordance with the rules, regulations and forms as in effect immediately prior to such publication.

(Sec. 23, 48 Stat. 901 as amended; 15 U. S. C. 78w)

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

OCTOBER 21, 1955.

[F. R. Doc. 55-8906; Filed, Nov. 3, 1955;
8:47 a. m.]

PART 249—FORMS PRESCRIBED UNDER THE SECURITIES EXCHANGE ACT OF 1934

APPLICATION FOR REGISTRATION OF SECURITIES

Forms 10,¹ 8-B¹ and 8-C¹ are revised to read as set forth in copies marked "As revised 10/25/55."

Form 10 (§ 249.210) is the principal form for the registration of securities under the Securities Exchange Act of 1934. The principal purpose of the revision of this form is to conform its requirements, to the extent practicable, with the corresponding requirements of Schedule 14A of the Commission's proxy rules, with the annual report Form 10-K (§ 249.310) under the Securities Exchange Act of 1934 and with revised Form S-1 (§ 239.11) under the Securities Act of 1933.

The revisions of Forms 8-B and 8-C (§§ 249.208b and 249.208c) are designed to simplify and clarify these forms and to conform them to the format and arrangement of Forms 8-A, 10 and 10-K (§§ 249.208a, 249.210 and 249.310). Form 8-B (§ 249.208b) is used for the registration on a national securities exchange of securities of an issuer which has succeeded to one or more predecessors, at least one of which had securities registered on the same exchange, where the balance sheet and capital structure of the successor are substantially the same as those of the predecessor or predecessors. Form 8-C is used for registration of securities on an additional national securities exchange.

Forms 12 and 12A (§§ 249.212 and 249.212a) are rescinded inasmuch as the revised Form 10 makes provision for the use of that form by issuers which heretofore have used Form 12 and 12A.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w)

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

OCTOBER 21, 1955.

[F. R. Doc. 55-8907; Filed, Nov. 3, 1955;
8:47 a. m.]

TITLE 21—FOOD AND DRUGS

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

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PESTICIDE CHEMICALS; FURTHER EXTENDED DATES ON WHICH STATUTE SHALL BECOME FULLY EFFECTIVE

Requests have been received for additional extensions of the date when the statute (68 Stat. 511 et seq., 21 U. S. C. 342, 346a) shall become fully effective for certain pesticide chemicals. Extensions are necessary for the post-harvest and nonseasonal uses of the pesticide chemicals listed below.

Now, therefore, in exercise of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 402

¹ Filed as part of original document.

(a) (2), 408; 68 Stat. 511, 517 (Ch. 559, Secs. 2, 5) 21 U. S. C. 342 (a) (2) and note 1 under section 342, 346a) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F. R. 1936) the following order is promulgated:

Section 3.44 *Pesticide chemicals; further extended dates on which statute shall become fully effective*, published in the FEDERAL REGISTER of October 29, 1955 (20 F. R. 8156) is amended by inserting in paragraph (a) (2) in proper alphabetical order, the following items:

Ethylene oxide: On spices.
Malathion: On citrus.
Orotran (p-chlorophenyl parachlorobenzene sulfonate) On citrus.
TDE: In meat.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interprets or applies secs. 402, 403, 52 Stat. 1046 as amended; 68 Stat. 511; 21 U. S. C. 342, 346a)

Dated: October 28, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner
of Food and Drugs.

[F. R. Doc. 55-8893; Filed, Nov. 3, 1955;
8:45 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO AND THE VIRGIN ISLANDS

Pursuant to section 5 (c) of the Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U. S. C. 201 et seq.) Industry Committee Regulations, Part 511, were issued on September 22, 1938 (3 F. R. 2744) for application to industry committees appointed under the Act. Though section 5 (c) has remained unchanged, there have been statutory changes affecting the scope of the work of such committees, the effect of their recommendations, and the obligation of the Wage and Hour Division to publish the general course and method by which its functions are channeled and determined (63 Stat. 910; 60 Stat. 237, 5 U. S. C. 1001 et seq., P. L. 381, 84th Cong., 1st Session). This amendment adapts the procedures of such industry committees to the changed statutory provisions and states the general course and method of issuing wage orders effective under section 6 (c) of the Fair Labor Standards Act.

Now, therefore, pursuant to authority vested in me by the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, 29 U. S. C. 201 et seq.) and General Order of the Secretary of Labor No. 45A (see 15 F. R. 3290) Part 511 of this title (29 CFR Part 511) is hereby amended to read as follows:

- Sec.
- 511.1 General method for issuance of wage orders.
 - 511.2 Initiation of proceedings; notices of hearings.
 - 511.3 Composition and appointment of committees.
 - 511.4 Compensation of committee members.
 - 511.5 Vacancies and dissolution of a committee.
 - 511.6 Investigation.

.RULES AND REGULATIONS

- Sec.
 511.7 Committee staff.
 511.8 Notice of intention to participate.
 511.9 Prehearing statement.
 511.10 Requirements for quorum and decisions.
 511.11 Subjects and issues.
 511.12 Committee and subcommittee meetings.
 511.13 Evidence.
 511.14 Procedure for receiving evidence.
 511.15 Submittals prior to reports.
 511.16 Reports.
 511.17 Records.
 511.18 Publication and effective date of wage order.
 511.19 Petitions.

AUTHORITY: §§ 511.1 to 511.19 issued under sec. 5, 52 Stat. 1064, as amended, 29 U. S. C. 205. Interpret or apply 60 Stat. 237-244, secs. 6, 8, 52 Stat. 1062, as amended, 1064, as amended; 5 U. S. C. 1001-1011, 29 U. S. C. 206, 208.

§ 511.1 *General method for issuance of wage orders.* Pursuant to authority delegated by the Secretary of Labor, the Administrator of the Wage and Hour Division publishes the orders which are required by statute to make the recommendations of industry committees effective as wage orders under section 6 (c) of the Fair Labor Standards Act. The wage orders issued by the Administrator must by law give effect to the recommendations of the industry committees. All wage order proceedings will be conducted in accordance with the standards provided in the Administrative Procedure Act as interpreted and applied in this part.

§ 511.2 *Initiation of proceedings; notices of hearings.* (a) Wage order proceedings are initiated by order of the Secretary, published in the FEDERAL REGISTER, giving notice of hearings by industry committees to recommend the minimum rate or rates of wages to be paid under section 6 (a) of the act to employees in Puerto Rico or the Virgin Islands engaged in commerce or in the production of goods for commerce. These orders will contain a definition of the industry in Puerto Rico or the Virgin Islands, for which the committee is to make its recommendations, and will make provision for convening the committee. The industry defined in such an order may be a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(b) These orders will also give reasonable notice (1) of the time and place for the commencement of the hearing of such witnesses and receiving of such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the act, (2) of the general nature of the wage order proceedings and the authority under which they are proposed, (3) of the subjects and issues involved, and (4) that the committee will take official notice of the economic report (note § 511.13) and the parties will have an opportunity at the hearing to show any contrary or additional facts.

§ 511.3 *Composition and appointment of committees.* An industry committee will be composed of residents of the island or islands where the employees with

respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. The Secretary will by order appoint as members of each committee an equal number of persons representing (a) the public, (b) employees in the industry, and (c) employers in the industry. The public members shall be disinterested and the Secretary will designate one as chairman. For purposes of this section only, the definition of the industry shall be considered to include all such industry throughout the United States.

§ 511.4 *Compensation of committee members.* Each member of an industry committee will be allowed a per diem of \$50 for each day actually spent in the work of the committee, and will, in addition, be reimbursed for necessary transportation and other expense incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon certification of, the Administrator or his authorized representative.

§ 511.5 *Vacancies and dissolution of committees.* The Secretary by order will appoint persons to fill any vacancies occurring on industry committees. If an industry committee is unable to arrive at a recommendation within a reasonable time, or refuses to make a recommendation, it may be dissolved by the Secretary. An industry committee shall cease to perform further functions when it has filed with the Administrator its report containing its findings of fact and recommendations with respect to the matters referred to it, and shall not again perform any functions with respect to any matter reported on, unless and until directed by the Administrator. An industry committee shall be dissolved automatically when its recommendations are no longer subject to review under section 10 of the act.

§ 511.6 *Investigation.* The Administrator shall prepare an economic report containing such data as he is able to assemble pertinent to the matters to be referred to a committee. A copy of the regulations in this part will be sent to each member of the committee following his appointment, and a copy of the economic report when completed will be furnished promptly. Before making its report the committee will decide whether it will conduct any further investigation, apart from the hearing and the review of the economic report, in connection with the matters referred to it.

§ 511.7 *Committee staff.* Each industry committee will be furnished a lawyer, to serve as committee counsel, and an economist, to serve as committee economist. Committee counsel shall advise the committee on the issues of law, including interpretations of the regulations in this part and the legal scope of the committee's discretion, which arise during the committee proceedings. The

committee counsel and economist shall be available to advise and assist the committee at all of its meetings. The Administrator shall furnish the committee with adequate stenographic, clerical, and other assistance.

§ 511.8 *Notice of intention to participate.* Every employer, employee, trade association, trade union, or group of employers, employees, associations, or unions in the industry as defined, or in such industry elsewhere in the United States, and every other person who, in the judgment of the committee, has an interest sufficient to justify the participation he proposes, shall be considered an interested person. Any interested person who wishes to participate shall file a notice of intention, in writing, with the Administrator of the Wage and Hour Division, Washington, D. C. not later than fifteen days after the notice of hearing is published in the FEDERAL REGISTER. The notice of intention shall describe the person's interest and specify whether he proposes to participate as a party or only as a witness. Neither this notice nor the prehearing statement under § 511.9 (b) shall be required of a witness named in, and appearing solely for the purpose of presenting testimony, summarized in, a party's prehearing statement under § 511.9 (c).

§ 511.9 *Prehearing statement.* (a) At least ten days before the first hearing date set for any committee in the notice of hearing, every person who has filed a notice of intention to participate shall make a prehearing statement. Two copies shall be filed with the Administrator of the Wage and Hour Division, Washington, D. C., and four copies shall be filed with the Territorial Director of the Wage and Hour Division, Post Office Box 9061, Santurce 29, Puerto Rico.

(b) The prehearing statement of each person who has filed notice of intention to participate only as a witness shall contain (1) the written data he proposes to introduce in evidence by his testimony, if any, (2) the prepared statement he proposes to give, if any, and (3) a statement of the approximate length of time his direct testimony should take. The filing of a prehearing statement in accordance with the above requirements shall give a right to testify, but shall not give the rights provided in §§ 511.9, 511.12, 511.13, and 511.14 for parties.

(c) The prehearing statement of each person who has filed notice of his intention to participate as a party shall contain (1) a statement of the classifications and wage rates, if any, which he proposes to support, (2) the written data, if any, which he intends to introduce in evidence, (3) the names and addresses of the witnesses he proposes to call and a summary of the evidence proposed to be developed, (4) a statement of the approximate length of time his case will take, and (5) the name and address of the individual who will present his case. If the prehearing statement is in conformity with the above requirements, the person shall have the right to participate as a party. In accordance with section 6 (c) of the Administrative Procedure Act, industry committees shall, after considering the advice of com-

mittee counsel, issue the subpoenas authorized by section 9 of the Fair Labor Standards Act of 1938, to parties who make a request therefor accompanied by a clear showing of general relevance and reasonable scope of the evidence sought.

(d) Prehearing statements of parties and witnesses shall be made available for examination at the places of filing by anyone who has made or contemplates filing a notice of intention to participate. Each person who files a prehearing statement should, if requested, make himself available for conference with the Committee staff to make any needed clarification of his prehearing statement and arrange the details of presenting his testimony or case.

(e) In exceptional circumstances, a person who has not filed notice of his intention to participate under § 511.3 and made the prehearing statement required by this section and who does not appear on a witness list filed by a party, may, nevertheless, be permitted, in the discretion of the committee, to testify as a witness.

§ 511.10 *Requirements for quorum and decisions.* Two-thirds of the members of an industry committee shall constitute a quorum. Approval by a majority of all of the members of an industry committee or subcommittee shall be required for its report. Except as otherwise provided in this part, the chairman of the industry committee or subcommittee may make other decisions for the committee or subcommittee, but each such decision shall be subject to approval of a majority of the members present if any member objects.

§ 511.11 *Subjects and issues.* In accordance with the declared policy of the act each industry committee shall recommend minimum wages which will reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6 (a) of the act. Each industry committee shall recommend to the Administrator the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States, outside of Puerto Rico and the Virgin Islands. Where the industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the industry committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set out in this section which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in that industry. No classification shall be made, however, and

no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classification within the industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living and production costs; (b) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) the wages paid for work of a like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

§ 511.12 *Committee and subcommittee meetings.* (a) The full committee, or a quorum thereof, will convene at the time and place appointed for an initial prehearing meeting as provided in the Secretary's order initiating the proceedings. (Note § 511.2) The full committee acting through a quorum will decide at that meeting whether it will preside at the reception of evidence at the hearing or will authorize a subcommittee to preside. Any resolution authorizing a subcommittee to hold the hearing shall provide a period of 30 days after (1) the subcommittee has filed its recommended report and (2) a transcript of the subcommittee hearing is made available to the parties, for the parties to file exceptions to the recommended report, and the committee shall meet promptly thereafter on call of its chairman or the Administrator to consider exceptions and prepare its final report.

(b) A committee may adjourn its meeting or hearing, or both, from time to time, and meet again, at hearing or otherwise, pursuant to the terms of adjournment, or on call of its chairman or the Administrator.

§ 511.13 *Evidence.* In accordance with the notice of hearing, the committee, or any authorized subcommittee will take official notice of the facts stated in the economic report to the extent they are not refuted by evidence received at the hearing. Other pertinent evidence available to the Department of Labor may be presented at the hearing. The committee itself may call witnesses not otherwise scheduled to testify. Oral or documentary evidence may be received, but the committee shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every interested person who has met the requirements for participation as a party shall have the right to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross examination of witnesses called by others as may be required for a full and true disclosure of the facts. Testimony on behalf of an employer or group of employers as to inability to absorb wage increases shall be received in evidence only if supported by tangible objective data, such as the pertinent profit and loss statements and balance sheets for a representative period of years.

§ 511.14 *Procedure for receiving evidence.* (a) All testimony shall be given under oath or affirmation. Any party shall have the right to appear in person, by counsel, or by other specified representative. Misconduct at any hearing shall be ground for summary exclusion from the hearing. The committee shall limit the testimony of any witness where appropriate to prevent the hearing from becoming unduly prolonged. The refusal of a witness to answer any question which has been ruled to be proper shall, in the discretion of the committee, be ground for striking all testimony given by the witness on related matters.

(b) Unless otherwise directed by the committee, examination of the witnesses shall be in the following order: The committee economist qualified to testify concerning the content and preparation of the economic report and other witnesses called by the Department of Labor shall be heard first. The evidence of the parties and the testimony of other witnesses shall then be received. Each party in presenting his evidence may designate the order in which his witnesses will be called. All witnesses other than those called by parties shall be examined first by committee counsel, next by committee members and committee economist, and then by parties or their representatives. Witnesses called by the parties shall be examined first by the party calling them or by his specified representative, next by committee counsel, then by committee members and committee economist, and then by the other parties or their representatives. Redirect examination may be permitted in the discretion of the committee. Rebuttal evidence may be offered in the order and manner in this section provided for other evidence. To the extent not specified in this section, the order for calling and examining witnesses shall be designated by the chairman of the committee or subcommittee.

§ 511.15 *Submittals prior to reports.* As soon as the receipt of evidence is concluded, a committee or subcommittee presiding at a hearing shall receive any proposed findings of fact and recommendations together with the reasons therefor submitted by any party. These submittals shall be oral unless otherwise directed by the committee or subcommittee. If, in the discretion of the committee or subcommittee, such proposals should be in writing, it may grant such additional time as it deems essential.

§ 511.16 *Reports.* Promptly after receipt of submissions under § 511.15, the committee or subcommittee will resolve the issues before it and prepare a report containing its findings of fact and recommendations. The report shall contain the committee's or the subcommittee's findings and conclusions as well as the reasons or basis therefor upon all the material issues of fact, law, or discretion presented on the record. When a committee, acting through a quorum, has presided at the reception of evidence, this report shall be its final report on the matters referred to it. Where, however, a subcommittee has presided at the re-

ception of evidence, this report shall be an initial report, and the committee shall meet thereafter to review the report and rule on exceptions in its final report. Where the committee presides at the reception of evidence and proceeds to final decision every party shall be regarded as having objected to any wage rate or classification at variance with any he proposed in his prehearing statement unless he accepted such a rate or classification in any submittal made pursuant to § 511.15. A copy of the report shall be signed by each member of the committee who approves it, either at a meeting of the committee or by circulation of one or more copies among the members of the committee. At any time within 3 days after the committee report is signed by those who approve it, members dissenting therefrom may collectively or individually submit signed reports stating the reasons for their dissent.

§ 511.17 *Records.* Each industry committee shall keep a journal recording the time and place of all its meetings, the members present, the votes, and other formal proceedings, including the appointment of subcommittees. Subcommittees shall keep a similar journal. No report of committee or subcommittee discussions need be included. All hearings shall be reported and transcribed within 45 days after the date of the Administrator's order under § 511.18. Promptly after completion of the committee's final report, the committee chairman shall certify the report and transmit it to the Administrator. As soon as practicable thereafter, the committee staff shall transmit to the Administrator (a) all committee and subcommittee journals, (b) all applications for leave to participate as interested persons or parties together with the record of action thereon, and (c) the transcript of testimony and exhibits together with all papers and requests filed in the proceedings. These documents shall be available for inspection and copying by any interested person at the office of the Administrator during usual business hours.

§ 511.18 *Publication and effective date of wage order.* Promptly after receipt of the committee report the Administrator shall publish the committee recommendations in the FEDERAL REGISTER and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication.

§ 511.19 *Petitions.* Any interested person may at any time file a petition with the Administrator for an amendment to the regulations contained in this part or for an amendment to a wage order applicable to him. In view of the statutory requirement that the minimum rates of wages established under section 6 (c) of the act be reviewed by an industry committee at least once each year, substantial cause must be shown in support of any petition for an amendment of a wage order out of regular course.

These regulations shall take effect upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 31st day of October 1955.

NEWELL BROWN,
Administrator
Wage and Hour Division.

[F. R. Doc. 55-8894; Filed, Nov. 3, 1955; 8:45 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

Subchapter A—Bureau of Accounts
[1955 Dept. Circular 969]

PART 226—PURCHASE OF SURETY BONDS TO COVER CIVILIAN OFFICERS AND EMPLOYEES AND MILITARY PERSONNEL IN EXECUTIVE BRANCH OF THE FEDERAL GOVERNMENT

There are set forth below the regulations issued by the Secretary of the Treasury pursuant to the provisions of Pub. Law 323, 84th Cong., 69 Stat. 618; 6 U. S. C. 14, to govern the purchase of bonds to cover civilian officers and employees and military personnel of the executive branch of the Federal Government.

Notice of the proposed issuance of the regulations contained in this part was published in the FEDERAL REGISTER on October 6, 1955 (20 F. R. 7450) pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U. S. C. 1003)

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226.2	Corporate sureties required; underwriting limitation.
226.3	Selection and review of surety bond coverage.
226.4	Congressional intent with respect to bonds of the "most economical type"
226.5	Bonds of which the penal sums are fixed by statute; bonds of certifying officers.
226.6	Bond obligee and condition.
226.7	Bond penalties.
226.8	Bond premium period.
226.9	Procurement of new bond coverage.
226.10	Advertising for proposals for furnishing of bonds.
226.11	Place of execution of bonds by surety company.
226.12	Cancellation of bonds; limitations on recoveries thereunder.
226.13	Transmittal of bonds to Treasury; filing.
226.14	Bonds procured before January 1, 1956.
226.15	Reports.
226.16	Reservation of right to amend.
226.17	Effective date.
226.18	

AUTHORITY: §§ 226.1 to 226.18 issued under 69 Stat. 618; 6 U. S. C. 14.

§ 226.1 *Definitions.* As used in this part, the term—

(a) "Agency" means each department and independent establishment in the executive branch of the Federal Government, but does not include government corporations;

(b) "Act" means the act entitled "An Act to provide for the purchase of bonds to cover civilian officers and employees and military personnel of the Federal

Government," approved August 9, 1955 (Pub. Law 323, 84th Cong., 69 Stat. 618; 6 U. S. C. 14)

(c) "Employee" means a civilian officer or employee, or an individual within the category of military personnel, of an agency.

(d) "Head of the agency" and "head of each agency" includes a designee authorized pursuant to law by such head of the agency to act under this part for such head of the agency;

(e) "Bond" or "surety bond" includes individual, name schedule, blanket, position schedule and other types of surety bonds covering an employee or employees;

(f) An "individual bond" covers a single employee in a specified amount;

(g) A "name schedule bond" covers, in a specified amount, each employee whose name is listed in a schedule attached to such bond;

(h) A "position schedule bond" covers, in a specified amount, each employee who holds an office or position the title of which is listed in a schedule attached to such bond; and

(i) A "blanket bond" (1) covers a group of employees without the necessity of having attached to such bond any schedule or list of the names of the employees in such group or the titles of the offices or positions held by them, and (2) is either (i) a multiple penalty bond, which permits recovery in an amount equal to as many times the penalty for each employee covered by the bond as there are employees so covered who are involved in the loss, or (ii) an aggregate penalty bond, which limits recovery to the amount of the penalty of the bond regardless of the number of employees involved in the loss.

§ 226.2 *General.* The head of each agency shall obtain, in accordance with the authority contained in the Act and in conformity with this part, surety bonds covering those employees of such agency who are required by law or administrative ruling to be bonded.

§ 226.3 *Corporate sureties required, underwriting limitation.* (a) Each bond shall be obtained only from a corporate surety company holding a certificate of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U. S. C. 1-15) as an acceptable surety on Federal bonds.¹

(b) The penal amount applicable to any employee covered by a bond executed by any such corporate surety company shall not exceed the underwriting limitation established for such company unless the excess is protected as provided by Treasury Department regulations contained in § 223.12 of this title.

§ 226.4 *Selection and review of surety bond coverage.* (a) The head of each agency shall obtain appropriate surety bond coverage by selecting and obtaining the type or types of bonds which most economically will meet the bonding needs of such agency in the light of the num-

¹ A list of these companies is published annually (Treasury Department, Fiscal Service, Form 356, Revised).

ber and type of employees to be bonded. To the maximum extent practicable, blanket and schedule bonds should be obtained in order to reduce both the cost of procurement of bonds under the Act and under this part and the administrative expenses incident to the processing and filing thereof. The preceding sentence, however, does not preclude the procurement of individual bonds where individual bonds are clearly more economical or advantageous.

(b) If, in a particular location, region, or district, the number of employees to be bonded is, in the opinion of the head of the agency concerned, sufficient from an operating standpoint to warrant the procurement of a blanket or schedule bond to cover such employees, such head of the agency shall obtain a separate blanket or schedule bond to cover such employees, unless he determines that, by reason of considerations of economy or administrative efficiency or both, it is in the best interests of the Federal Government to include such employees in a bond or bonds covering all employees of such agency or covering employees in more than one particular location, region, or district.

(c) Before the initial procurement of a bond or bonds under the Act and under this part and from time to time after such initial procurement (but not less frequently than every second year thereafter,) the head of each agency shall review the number of employees of such agency, who are bonded, in order to decrease or increase the amounts of bond coverage if he deems such action appropriate and in order to eliminate the bonding of employees in those cases where he deems that no need therefor exists. In each review conducted after such initial procurement, the head of the agency also shall review the particular type or types of bonds procured for employees of such agency in order to determine whether the future procurement of such particular type or types of bonds best serves the needs of such agency and is in the best interests of the Federal Government or whether the procurement of another type or types of bonds would best accomplish such result. Nothing in this paragraph, however, shall be construed to authorize the elimination of the bonding of an employee who is required by statute to be bonded or to authorize a decrease to be made in the amount of any penalty which is fixed by statute.

§ 226.5 *Congressional intent with respect to bonds of the "most economical type."* The act provides that each bond obtained under authority thereof shall be of the most economical type available for the number and type of employees to be bonded. As an aid to the head of each agency in the procurement of bonds under the act and under this part, the attention of each such head of the agency is directed to the following portion of the legislative history of the bonding bill (H. R. 4778, 84th Cong.) contained in the conference report on the bill ((1955) H. Rept. 1568, 84th Cong.) which sets forth the intent of the Congress with respect to this provision:

* * * It is not the intent of this provision that a bond or bonds obtainable at

the lowest premium rate per annum shall constitute in all cases a bond of the "most economical type." Such would seem to be the case as a general rule, all other factors and considerations being equal. However, in many cases, variations in such factors and considerations as differences in the relative financial standing and reliability of the surety, the terms of the respective surety bond contracts available, and the number and types of personnel to be bonded may require, in the interests of the Federal Government other than in the strictly financial sense, the purchase of such bonds at premium rates per annum which are higher than the lowest premium rates per annum actually obtainable, * * *

§ 226.6 *Bonds of which the penalties are fixed by statute; bonds of certifying officers.* (a) Positions for which the penalty of the bond is fixed by statute may be included in a blanket, position schedule, name schedule, or other type of bond, provided the penalty applicable to such positions is equal to the statutory requirement.

(b) The head of each agency may provide bond coverage under this part for those employees who are the certifying officers of such agency (1) by obtaining a name schedule or position schedule bond limited to such certifying officers alone, (2) by including such certifying officers in a blanket or other type bond also covering other bonded employees, or (3) by obtaining individual bonds for such certifying officers where circumstances warrant.

§ 226.7 *Bond obligee and condition.*

(a) Each bond shall run solely in favor of the United States as obligee, except where a specific statutory provision requires that the bond shall run in favor of the United States and an additional obligee or in favor of an obligee other than the United States.

(b) Each bond shall be conditioned upon the faithful performance of the duties of the individual or individuals so bonded. Each bond also shall expressly provide that the term "faithful performance of the duties" shall include the proper accounting for all funds or property received by reason of the position or employment of the individual or individuals so bonded and the discharge of all duties and responsibilities now or hereafter imposed upon such individual or individuals by law or by regulation issued pursuant thereto and shall also expressly provide that the term "regulation" shall include any written rule, order or instruction issued pursuant to law.

§ 226.8 *Bond penalties.* (a) The head of each agency shall fix the bond penalty applicable to employees and positions of such agency included in a bond procured under this part, except where the penalty is prescribed by statute or by other authority.

(b) The penalty in a blanket bond shall be in the minimum amount estimated by the head of the agency as sufficient to protect the interests of the United States. The penalty for each position designated in a schedule bond, in cases not specified by law or other authority, shall be fixed in the minimum amount consistent with the duties and degree of responsibility of the position.

In fixing the penalties of bonds, due regard should be given to past loss experience and the effectiveness of related internal control.

(c) The bond penalties applicable to disbursing officers, assistant disbursing officers, agent officers, agent cashiers, and imprest fund cashiers operating under delegation by the Secretary of the Treasury or the Division of Disbursement, Treasury Department, shall be fixed only with the concurrence of the Chief Disbursing Officer, Treasury Department.

§ 226.9 *Bond premium period.* The bond premium may cover a period not exceeding two years. In view of the economies to be derived, premiums should be paid for a period of two years to the extent funds are available, except where a shorter period is more advantageous to the Federal Government.

§ 226.10 *Procurement of new bond coverage.* The head of each agency shall procure under the act and under this part new bond coverage at least every two years. Timely steps should be taken for such procurement in advance of the expiration of the prior premium period.

§ 226.11 *Advertising for proposals for furnishing of bonds.* (a) If, in the opinion of the head of the agency concerned, the premium cost for any bond procured under the act and under this part will exceed the rate of \$150 per annum, such head of the agency shall procure such bond only after advertising for proposals for the furnishing of such bond.

(b) The following recognized methods of advertising are examples of appropriate methods of advertising under this part: Publication in the FEDERAL REGISTER, publication in newspapers, posting of notices in public places, and the sending of invitations to bid to parties engaged in the business of furnishing surety bonds. In connection with the last method above specified, a notice sent to the head office of each company appearing on the Treasury Department list² of approved surety companies (other than those shown thereon as having authority to do a reinsurance business only) will be regarded as a satisfactory method of advertising under this part.

(c) If, in the opinion of the head of the agency concerned, the premium cost for any bond will not exceed the rate of \$150 per annum, procurement of the bond may be made without advertising, but informal bids should be solicited by the agency from at least three competitive sources.

(d) Specifications of alternate types of bond coverage may be included in invitations of the agency to bid in order to enable the head of the agency concerned to procure the most economical type of bond.

(e) Advertising for proposals for the furnishing of any bond will not be required under this part in any case in which the head of the agency concerned determines that the public exigencies re-

²See footnote 1 *supra*.

quire the immediate procurement of such bond.

§ 226.12 *Place of execution of bonds by surety company.* Bonds procured under this part shall be executed by the surety company in a state or other jurisdiction wherein it has obtained a license to transact a fidelity and surety business and the place of such execution shall be set forth in the bond. This requirement shall not, however, preclude an agency from accepting bonds covering an employee or employees located where the surety is not licensed if the bond is executed by the surety at its home office or within a state or other jurisdiction where it has obtained a license.

§ 226.13 *Cancellation of bonds; limitations on recoveries thereunder* (a) No bond procured under the act and under this part shall contain (1) any provision for cancellation of such bond at the option of the surety company prior to the expiration of the term of such bond, (2) any limitation upon the time within which a loss must be discovered to be recoverable under such bond, or (3) any limitation upon the time within which recovery may be made on account of any loss arising under such bond.

(b) In connection with the matter immediately foregoing, the attention of the head of each agency is directed to the provisions of 6 U. S. C. 5, as follows:

If, upon the statement of the account of any official of the United States, or of any officer disbursing or chargeable with public money, by the accounting officers, it shall thereby appear that he is indebted to the United States, and suit therefor shall not be instituted within five years after such statement of said account, the sureties on his bond shall not be liable for such indebtedness.

§ 226.14 *Transmittal of bonds to Treasury; filing.* All surety bonds obtained under the Act and under this part shall be transmitted, with a transmittal letter in duplicate listing the bond or bonds transmitted, to the Treasury Department, Bureau of Accounts, Surety Bonds Branch, for approval of the authority of the surety executing the bond. Thereafter, the transmitting agency will be advised as to the sufficiency of execution by the surety. The bond will be returned to the agency concerned, or, at its request, will be held in the files of the Surety Bonds Branch.

§ 226.15 *Bonds procured before January 1, 1956.* (a) The head of each agency may permit the continuance in effect, until the expiration of its premium period, of any bond procured prior to January 1, 1956, with funds of such agency

(b) In this connection, the attention of the head of each agency is directed to the fact that a provision of 6 U. S. C. 14, as amended by the act, operates to terminate the liability of a surety on a bond existing prior to the procurement of bond coverage under the act, for any default occurring subsequent to the date of the new coverage, regardless of whether an existing bond was paid for from agency funds or from the personal funds of the employee concerned. The above-mentioned provision is as follows:

Whenever any civilian officers or employees or military personnel are covered by a bond under authority of this section, the surety or sureties on any existing bond of any such civilian officers or employees or military personnel shall not be liable for any defaults occurring subsequent to the date of the new coverage.

§ 226.16 *Reports.* (a) In order for the Secretary of the Treasury to transmit to the Congress on or before June 30, 1956, a comprehensive report of the operations of each agency as required by the act, the head of each agency procuring a bond or bonds under the act and under this part shall transmit to the Treasury Department, not later than June 1, 1956, an initial report with respect to the operations of such agency prior to April 30, 1956, under the act and under this part.

(b) Thereafter, in order for the Secretary of the Treasury to transmit to the Congress, on or before October 1 of each year, beginning with the year 1957, a comprehensive report of the operations of each agency as required by the act, the head of each agency procuring a bond or bonds under the act and under this part shall transmit to the Treasury Department, not later than August 15 of each year, beginning with the year 1957, a report with respect to the operations of such agency, during the preceding fiscal year, under the act and under this part.

(c) The initial report and each subsequent report of each agency shall contain the following information with respect to bonds obtained and related operations under the act and under this part:

(1) The number of employees of such agency covered by such bonds.

(2) The number and types of bonds procured by such agency and the individual penal sums thereof.

(3) The amounts of the premiums paid for bonds procured by such agency.

(4) The number of employees so bonded, by types of bonds and penal sums, classified by the duties for which bonded (such as disbursing, certifying, collecting)

(5) The amounts of losses covered by bonds procured by such agency and the number of employees involved, classified by type of duties. There should be shown in this connection the amounts of claims filed with surety companies, the amounts recovered, and the amounts of pending claims subject to adjustment by the surety companies.

(6) The direct costs of administration of the bond procurement and related operations of such agency.

(7) Such other information relating to the subject matter of the regulations contained in this part as may be requested by the Fiscal Assistant Secretary of the Treasury or as the head of such agency may consider necessary or desirable to enable the Secretary of the Treasury fully to advise the Congress with respect to the results of operations under the act.

(d) The Fiscal Assistant Secretary of the Treasury will issue instructions to each agency covering the form and classification of the information to be con-

tained in the reports to be transmitted by each agency to the Treasury Department.

§ 226.17 *Reservation of right to amend.* The right is expressly reserved to amend, revise, or waive, from time to time, any or all of the provisions of this part, to such extent not inconsistent with law as the Secretary of the Treasury may deem necessary.

§ 226.18 *Effective date.* The foregoing provisions of this part shall take effect on January 1, 1956. The head of each agency should however take such action prior to January 1, 1956 as may be necessary to obtain bonds to be effective on January 1, 1956 or as soon thereafter as may be practicable.

[SEAL] G. M. HUMPHREY,
Secretary of the Treasury.

NOVEMBER 1, 1955.

[F. R. Doc. 55-8945; Filed, Nov. 3, 1955;
8:56 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter B—Transportation

PART 37—SPECIAL INSTRUCTIONS FOR DRIVERS OF MOTOR VEHICLES TRANSPORTING EXPLOSIVES AND CERTAIN OTHER DANGEROUS ARTICLES

Sec.

37.1 Purpose.

37.2 Applicability.

37.3 General.

37.4 Appendix A.

AUTHORITY: §§ 37.1 to 37.4 issued under sec. 202, 61 Stat. 500; 5 U. S. C. 171a.

§ 37.1 *Purpose.* This part provides for the issuance of uniform special instructions to drivers of motor vehicles, both commercial and military, transporting explosives and certain other dangerous articles over public roads within the continental United States for the military departments.

§ 37.2 *Applicability.* This part is applicable to all departments and agencies of the Department of Defense within the continental United States.

§ 37.3 *General.* DD Form 836, Special Instructions for Drivers,¹ shall be employed in issuing instructions to drivers of all commercial and military motor vehicles transporting the articles appearing in the Index of § 37.4 over public roads within the continental United States for the military departments. The Form shall be completed with instructions contained in the commodity groupings in § 37.4, and shall then be given to the driver for his information, with instructions that it must be transferred to each subsequent driver and delivered to the consignee at destination.

§ 37.4 Appendix A—(a) Index.

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¹ Filed as part of original document.

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Ammunition, caliber 20-mm or less, HE and HE-I and 20-mm incendiary rounds.....	G-3
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Ammunition, fixed and semifixed, loaded with high explosives other than ammonal, amatol, composition B, Explosive D, or TNT.....	G-6
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Bombs, demolition, semi AP.....	G-6
Bombs, fragmentation.....	G-6
Bombs, photoflash.....	G-6
Boosters.....	G-4
Boosters, auxiliary for bombs.....	G-6
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Chemical ammunition, groups C and D, when not assembled with explosive components.....	G-2
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Demolition charges, snake.....	G-6
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Detonators.....	G-5
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Dynamite.....	G-6
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Firing devices.....	G-1
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Fuzes, chemically actuated, containing ampoules which may initiate, directly or indirectly, explosives and explosive loaded components which are assembled in the conventional manner to form the finished explosive fuzes.....	G-4
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- | | |
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- Maintain the following indicated distances as minimums:
- | | |
|---------------------------------------------------------------------------------|-----|
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| Public—450 feet..... | G-3 |
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- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
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TH, Thermite.....
IM, Incendiary oil.....
IP, Incendiary oil.....
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| (6) Fuzes, bomb, packed in fin assembly..... | G-2 |
| (7) Fuzes, hand grenade, igniting type..... | G-6 |
| (8) Grenades, practice, spotting charge..... | G-6 |
| (9) Grenades, illuminating..... | G-6 |
| (10) Igniters, JATO, electric (ICC Class B explosives)..... | G-3 |
| (11) Military Pyrotechnics, except photoflash powder and quick-match..... | G-6 |
| (12) Mines, practice, with spotting charge..... | G-6 |
| (13) Nitrocellulose, wet (in accordance with ICC regulations)..... | G-7 |
| (14) Primacord..... | G-6 |
| (15) Primers, artillery and cannon..... | G-6 |
| (16) Primers, detonators for bombs..... | G-2 |
| (17) Projectiles, illuminating, when not assembled with explosive component..... | G-2 |
| (18) Propellants, solid (smokeless powder), when shipped as ICC Explosives, Class B..... | G-2 |
| (19) Rocket Heads, WP (white phosphorus) loaded, when not assembled with explosive components..... | G-3 |
| (20) Rocket Motors, non-propulsive (exclusive of heads)..... | G-2 |
| (21) Rocket Motors (packed with but not assembled to inert head)..... | G-6 |
| (22) Separate Case Cartridges with propellant (ICC Class B)..... | G-3 |
| (23) Spotting Charges (cartridges for miniature practice bombs)..... | G-5 |
- Maintain the following indicated distances as minimums:
- | | |
|--------------------------------------------------------------------|-----|
| Firemen—300 feet..... | G-2 |
| Public—400 feet..... | G-3 |
| Fire-fighting apparatus—Operating distance..... | G-2 |
| Special precautions—Protect against intense heat and missiles..... | G-1 |

(d) Group 3.

- | | |
|-------------------------------------------------------------------------------------|-----|
| (1) Ammunition, blank (caluting and impulse charges)..... | G-6 |
| (2) Ammunition, fixed and semifixed, except pentolite loaded rounds..... | G-6 |
| (3) Ammunition, caliber 20-mm or less, HE and HE-I and 20-mm incendiary rounds..... | G-6 |

(4) Bombs, chemical loaded, with explosive burster.¹

(5) Chemical ammunition, fixed and semi-fixed or separate loading chemical filled items assembled with explosive bursters.¹

(6) Mines, antipersonnel (bounding type).

(7) Rocket, chemical, complete round.¹

(8) Rocket, practice, inert head.

(9) Shell, illuminating, complete rounds.

(10) Shell, separate loading, loaded with Explosive D, and any other Explosive D loaded shell not assembled to or packed with cartridge cases.

For items not containing Group A or B poisons, maintain the following indicated distances as minimums:

Firemen—600 feet.

Public—1200 feet.

Fire-fighting apparatus—1000 feet.

Special precautions—Protect against missiles which may fall beyond 500 feet. Prevent spread of fire.

(e) *Group 4.*

(1) Adapter-boosters.

(2) Boosters.

(3) Fuses, with boosters assembled thereto (detonating fuses).

(4) Fuzes, chemically actuated, containing ampoules which may initiate, directly or indirectly, explosives and explosive loaded components which are assembled in the conventional manner to form the finished explosive fuzes.

(5) Fuzes, hand grenade, detonating type.

(6) Mines, antipersonnel, non-metallic, M14.

Maintain the following indicated distances as minimums:

Firemen—500 feet.

Public—1500 feet.

Fire-fighting apparatus—1000 feet.

Special precautions—Prepare to fight fires started by explosion of entire cargo.

(f) *Group 5.*

(1) Shell, separate loading, fuzed or unfuzed, loaded with any high explosive except Explosive D, pentolite, and composition B.

(2) Blasting caps (ICC Class A quantities).

(3) Detonators.

(4) Percussion elements.

Maintain the following indicated distances as minimums:

Firemen—500 feet.

Public—1800 feet.

Fire-fighting apparatus—1000 feet.

Special precautions—Prepare to fight fires started by explosion of entire cargo.

(g) *Group 6.*

(1) Ammunition, fixed and semifixed, loaded with high explosives other than ammonal, amatol, composition B, Explosive D, or TNT.

(2) Ammunition, separate loading, loaded with high explosives other than ammonal, amatol, TNT, or Explosive D.

¹ For items filled with Group A or B poisons and containing explosive bursters, maintain the following indicated distances as minimums:

Firemen—600 feet on windward side.

Public—Several miles on down wind side; one-half mile on windward side.

Fire-fighting apparatus—Operating distance on windward side, but not closer than 1000 feet.

Special precautions—Protect against missiles which may fall beyond 500 feet. Prevent spread of fire.

NOTE: When technical escorts accompany shipments the minimum distances will be prescribed by escort personnel.

(3) Black powder, spotting charges or bulk.

(4) Bombs, cluster.

(5) Bombs, demolition, semi-AP.

(6) Bombs, fragmentation.

(7) Bombs, photoflash.

(8) Boosters, auxiliary for bombs.

(9) Bursters.

(10) Cartridges, photoflash.

(11) Charges, springing, earth rod, blast driven.

(12) Charges, supplementary, HE (TNT).

(13) Demolition blocks.

(14) Demolition charges, snake.

(15) Depth charges, HE.

(16) Dynamite.

(17) EC powder.

(18) Flash reducers (black powder with potassium sulfate).

(19) Grenade, fragmentation (hand or rifle).

(20) Grenade, hand offensive.

(21) Grenades, rifle, AT.

(22) High explosives, bulk (all types).

(23) Igniters, JATO, electric, such as T-30.

(24) JATOS, complete rounds.

(25) Mines, antipersonnel (cast iron blocks).

(26) Mines, HEAT.

(27) Nitroglycerin.

(28) Photoflash powder.

(29) Picric acid.

(30) Propellants, solid (smokeless powder) when shipped as ICC. Explosives, Class A (High Explosives).

(31) Quickmatch.

(32) Rockets, HE, complete rounds.

(33) Rocket heads, HE loaded.

(34) Shaped Charges.

(35) Shell, HE, heavy mortar, over 81-mm (including 81-mm M56).

(36) Torpedoes, Bangalore.

(37) Torpedoes, HE.

(38) Warheads, HE, for guided missiles or torpedoes.

(39) Zirconium powder.

Maintain the following indicated distances as minimums:

Firemen—500 feet.

Public—2,000 feet.

Fire-fighting apparatus—1,000 feet.

Special precautions—Prepare to fight fires started by explosion of entire load.

(h) *Group 7*

(1) Chemical ammunition, Groups A and B, when not assembled with explosive components, containing the following fillers:

H, Mustard.

HT, Mustard (T-Mixture).

HN-1, Nitrogen Mustard.

Cl, Chlorine.

CK, Cyanogen chloride.

CNS, Tear Gas.

PS, Chloropicrin.

DA, Diphenylchloroarsine.

"G" Agents, Nerve Gas.

RD, Mustard (distilled).

L, Lewisite.

CG, Phosgene.

AC, Hydrocyanic acid.

CN, Chloracetophenone.

CNB, Tear Gas solution.

DM, Adamsite.

CNC, Tear Gas solution.

(2) Rocket heads, chemically loaded, when not assembled with explosive components and containing any of the fillers mentioned in 1, above.

Maintain the following indicated distances as minimums:

Firemen—May approach on windward side when protected with gas or oxygen mask and special clothing.

Public—Several miles on down wind side; one-half mile on windward side.

Fire-fighting apparatus—Operating distance on windward side if possible.

Special Precautions—Not an explosive hazard, but contents may rupture, throwing missiles for short distances.

NOTE: When technical escorts accompany shipments the minimum distances will be prescribed by escort personnel.

T. P. PIKE,
Assistant Secretary of Defense
(Supply and Logistics)

OCTOBER 3, 1955.

[F. R. Doc. 55-8915; Filed, Nov. 3, 1955;
8:49 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 10—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

MISCELLANEOUS AMENDMENTS

At a general session of the Interstate Commerce Commission held at its office in Washington, D. C., on the 11th day of October A. D. 1955.

The matter of accounting regulations prescribed for railroad companies being under consideration pursuant to provisions of section 20 of the Interstate Commerce Act, as amended (54 Stat. 916, 49 U. S. C. 20) and,

It appearing, that certain modifications in the provisions for condensed classifications of operating expense accounts for use by other than Class I carriers are necessary for proper administration of Part I of the Act; and,

It further appearing, that the use of condensed operating expense accounts by those carriers for which the accounts are provided, is permissive, so that the public rule making procedure required by section 4 (a) of the Administrative Procedure Act is deemed to be unnecessary.

It is ordered, That:

(1) *Effective date.* The modifications which are attached hereto and made a part hereof shall become effective January 1, 1956.

(2) *Notice.* A copy of this order with the modifications set forth below shall be served on each railroad company subject to provisions of Part I of the act and not independently operated as an electric line, and on every receiver, trustee, executor, administrator, or assignee of any such railroad company, and notice of the order shall be given to the general public by depositing a copy of the order with the modifications set forth below in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

1. In § 10.04-1 *Accounts for operating expenses* cancel the third paragraph of the instruction and substitute the following provisions for it:

Following the texts of the primary operating expense accounts, there is a condensed grouping of the same accounts to be used by Class II carriers. For purposes of this condensed classification, carriers are divided into two general

RULES AND REGULATIONS

Accounts for Small Carriers—Class II—Con.

Transportation—Rail Line

2245. Miscellaneous yard expenses.

2246. Operating joint yards and terminal—
Dr.2247. Operating joint yards and terminals—
Cr.

2248. Train employees.

2249. Train fuel.

2251. Other train expenses.

2252. Injuries to persons.

2253. Loss and damage.

2254. Other casualty expenses.

2255. Other rail transportation expenses.

2256. Operating joint tracks and facilities—
Dr.2257. Operating joint tracks and facilities—
Cr.

Miscellaneous Operations

2258. Miscellaneous operations.

2259. Operating joint miscellaneous facilities—
Dr.2260. Operating joint miscellaneous facilities—
Cr.

General

2261. Administration.

2262. Insurance

2263. Valuation expenses.

2264. Other general expenses.

2265. General joint facilities—Dr.

2266. General joint facilities—Cr.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12)

[F. R. Doc. 55-8917; Filed, Nov. 3, 1955; 8:49 a. m.]

Accounts for Large Carriers—Class I—Con.

370. Transportation—Rail Line

383. Yard switching power produced.
384. Yard switching power purchased.
385. Water for yard locomotives.
386. Lubricants for yard locomotives.
387. Other supplies for yard locomotives.
388. Enginehouse expenses—Yard.
389. Yard supplies and expenses.
390. Operating joint yards and terminals—
Dr.

391. Operating joint yards and terminals—
Cr.

392. Train enginemen.

401. Trainmen.

394. Train fuel.

395. Train power produced.

396. Train power purchased.

397. Water for train locomotives.

398. Lubricants for train locomotives.

399. Other supplies for train locomotives.

400. Enginehouse expenses—Train.

402. Train supplies and expenses.

403. Operating sleeping cars.

420. Injuries to persons.

418. Loss and damage—Freight.

419. Loss and damage—Baggage.

414. Insurance.

415. Clearing wrecks.

416. Damage to property.

417. Damage to livestock on right of way.

404. Signal and interlocker operations.

405. Crossing protection.

406. Drawbridge operation.

407. Communication system operation.

408. Operating floating equipment.

410. Stationery and printing.

411. Other expenses.

412. Operating joint tracks and facilities—
Dr.413. Operating joint tracks and facilities—
Cr.

440. Miscellaneous Operations

441. Dining and buffet service.

442. Hotels and restaurants.

443. Grain elevators.

445. Producing power sold.

446. Other miscellaneous operations.

447. Operating joint miscellaneous facilities—
Dr.448. Operating joint miscellaneous facilities—
Cr.

450. General

451. Salaries and expenses of general officers.

452. Salaries and expenses of clerks and attendants.

458. General office supplies and expenses.

454. Law expenses.

455. Insurance.

459. Valuation expenses.

456. Relief department expenses.

457. Pensions and gratuities.

458. Stationery and printing.

460. Other expenses.

461. General joint facilities—Dr.

462. General joint facilities—Cr.

data, views, or arguments may be so filed is hereby extended to February 15, 1956.

Done at Washington, D. C., this 26th day of October 1955.

[SEAL]

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.[F. R. Doc. 55-8913; Filed, Nov. 3, 1955;
8:49 a. m.]

Agricultural Marketing Service

[7 CFR Part 906]

[Docket No. AO 210-A7]

HANDLING OF MILK IN TULSA-MUSKOGEE,
OKLAHOMA, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be held at the Hotel Tulsa, Tulsa, Oklahoma, beginning at 10:00 a. m., c. s. t., November 29, 1955, for the purpose of receiving evidence with respect to proposed amendments herewith after set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Tulsa-Muskogee, Oklahoma, marketing area. These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the order, as amended, regulating the handling of milk in the Tulsa-Muskogee, Oklahoma, marketing area, were proposed as enumerated below:

By The Beatrice Foods Company:

1. It is proposed that a definition of "delivery period" be incorporated in the order.

2. It is proposed that § 906.41 (b) (7) be deleted and in lieu thereof the following language inserted: "in inventory variations."

3. It is proposed that the following language be deleted from § 906.43 (b) "any skim milk or butterfat which was classified as Class II in the previous month pursuant to § 906.41 (b) (7) shall be reclassified as Class I milk if it is subtracted in the current month from Class I pursuant to § 906.46 (a) (4) "

4. It is proposed to amend § 906.46 in a manner so as to provide priority in allocation to producers milk over other source milk, on condition that producer receipts were in excess of 115 percent of such handler's Class I utilization for the same delivery period, and provided also that such producer milk was available to the handler at order class prices.

5. It is proposed to amend § 906.53 in a manner so as to make provision for a location adjustment credit to apply on all milk received directly from producers at an approved plant located outside the marketing area and thirty-five (35) or

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 78]

BRUCELLOSIS IN DOMESTIC ANIMALS

INTERSTATE MOVEMENT OF ANIMALS

October 8, there was published in the FEDERAL REGISTER (20 F. R. 7552) a notice of proposed amendments of Subchapter C, Chapter I, Title 9, Code of

Federal Regulations, with respect to brucellosis in domestic animals. The notice provides that any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Chief, Animal Disease Eradication Branch, Agricultural Research Service, United States Department of Agriculture, Washington, D. C., within 30 days after publication in the FEDERAL REGISTER. The period during which such

more from the City Hall in Tulsa or the City Hall in Muskogee.

6. It is proposed to delete § 906.61 (b)
7. It is proposed to delete § 906.70 (c) (1) and (2)

8. It is proposed that such other conforming amendments to the order be adopted as are made necessary in order to effectuate the purposes of the other proposals submitted hereinbefore.

By the Carnation Company of Oklahoma:

9. Section 906.53 *Location adjustment credit to handlers*: This section to be opened for the purpose of considering a location adjustment credit to handlers on milk received at an approved plant in Muskogee, Oklahoma, and moved to and received at another approved plant located in Tulsa, Oklahoma.

10. Section 906.81 *Location adjustment to producers*: This section to be opened to consider a per hundredweight deduction to producers in making payments pursuant to § 906.80 for milk received at an approved plant in Muskogee, Oklahoma, and moved to and received at another approved plant in Tulsa, Oklahoma.

11. Section 906.80 *Time and method of payment*: Open this section to consider the addition of a new subsection which will provide in making payments to producers pursuant to this section an amount not to exceed 15 cents per hundredweight may be deducted with respect to all milk received from producers at approved plants in the City of Muskogee and moved to and received as bulk milk at approved plants in the City of Tulsa.

12. Section 906.51 *Class prices*: Open this section to consider the addition of a new subsection which will provide price of Class I and Class II milk received at approved plants in the cities of Muskogee, Tahlequa and McAlester shall be 15 cents per hundredweight lower than such prices paid for milk received at approved plants in Tulsa, Oklahoma.

13. Open such other sections as may be necessary to make conforming changes.

Copies of this notice of hearing, and the order now in effect, may be procured from the Market Administrator, 2635 East 11th Street, Royal Theatre Building, Tulsa 4, Oklahoma, or the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D. C., or may be there inspected.

Dated: November 1, 1955.

[SEAL] F. R. BURKE,
Acting Deputy Administrator

[F. R. Doc. 55-8932; Filed, Nov. 3, 1955;
8:53 a. m.]

[7 CFR Part 945]

TOMATOES GROWN IN FLORIDA LIMITATION OF SHIPMENTS

Notice is hereby given that the Secretary of Agriculture is considering the approval of the limitation of shipments
No. 216—3

hereinafter set forth, which was recommended by the Florida Tomato Committee, established pursuant to Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945; 20 F. R. 7357), regulating the handling of tomatoes grown in Florida, issued under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047).

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

§ 945.301 *Limitation of shipments.*

(a) During the period from December 5, 1955, to May 31, 1956, both dates inclusive, and except as otherwise provided in this section, no person shall handle tomatoes of any variety grown in the Production area unless such tomatoes meet the requirements of the U. S. No. 2 or better grade.

(b) Pursuant to § 945.53, each person may handle not in excess of 300 pounds of tomatoes per day without regard to the requirements of this part.

(c) The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes (1) to registered handlers within the production area, (2) to all State-operated auction markets and to the Sumter County Farmers Market, Webster, Florida, (3) to canning plants, or (4) for relief or charity.

(d) Each handler making shipments of tomatoes to canning plants or for relief or charity shall file an application pursuant to § 945.56 with the committee for a Certificate of Privilege for such shipments. Further, each handler who ships tomatoes for relief or charity shall, pursuant to § 945.80, furnish a record of such shipments to the committee. In addition, each application for a Certificate of Privilege to ship tomatoes for relief or charity or to canning plants shall be accompanied by the respective consignee's certification that the tomatoes to be shipped to him will be used only for canning or for relief or charity, as the case may be.

(e) No person shall handle any tomatoes for which inspection is required unless an appropriate inspection certificate had been issued with respect thereto and the certificate is valid at the time of handling. For purposes of operation under this part, each inspection certificate is hereby determined, pursuant to paragraph (c) of § 945.60, to be valid for a period not to exceed 72 hours following completion of inspection as shown on the applicable certificate.

(f) "U. S. No. 2 Grade," as used in this section, shall have the same meaning assigned this term in the United States Standards for Fresh Tomatoes (§§ 51.1855 to 51.1876 of this title; 18 F. R. 7142), including the tolerances set forth therein. All other terms used in this section shall have the same meaning as when used in Marketing Agree-

ment No. 125 and Order No. 45 (§§ 945.1 to 945.92; 20 F. R. 7357)

Dated: November 1, 1955.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 55-8934; Filed, Nov. 3, 1955;
8:54 a. m.]

[7 CFR Part 973]

[Docket No. AO 178-A6]

HANDLING OF MILK IN MINNEAPOLIS-ST. PAUL, MINN., MILK MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900) notice is hereby given that the time for filing exceptions to the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order amending the order, as amended, regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area which was issued October 14, 1955 (20 F. R. 7905) is hereby extended until November 4, 1955.

Dated: October 31, 1955.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 55-8912; Filed, Nov. 3, 1955;
8:43 a. m.]

[7 CFR Part 1008]

[Docket No. AO-275]

HANDLING OF MILK IN INLAND EMPIRE MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS 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 formulation or marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Inland Empire marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25,

D. C., not later than the close of business on the 15th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which the proposed marketing agreement and order was formulated, was conducted at Spokane, Washington, on May 24-June 2, 1955, pursuant to notice thereof which was issued April 29, 1955 (20 F. R. 2981).

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; and

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

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

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

(1) *Character of the commerce.* All milk to be regulated by the proposed marketing agreement and order is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and its products.

Substantial quantities of milk produced for the Inland Empire marketing area and received by handlers, and milk products manufactured from such milk, actually cross State lines. Grade A milk moves in bulk to Spokane, Washington, milk plants from producers whose farms are located in the counties of Benewah, Bonner, Boundary, Kootenai, and Latah in Idaho, and from Sanders County in Montana. In February 1955, about 237 milk producers in Idaho and 17 producers in Montana shipped more than 2 million pounds of milk to Spokane milk plants. This represented about one-fourth of the milk shippers and one-fifth of the total receipts of Grade A milk of these plants. A few producers in Washington State ship milk into the portion of the proposed marketing area which lies in Idaho.

Milk from Idaho and Washington are inextricably commingled in some Spokane milk plants prior to bottling for fluid distribution. Processed and packaged fluid milk moves from Spokane plants to such points in Idaho for wholesale and retail distribution as Coeur d'Alene, Sandpoint, Bonners Ferry, and Potlatch, and to Troy, Libby, and Thompson Falls in Montana. Spokane handlers are in competition with each other as well as with local handlers for wholesale and retail business in many areas of Washington and Idaho. For example, in Bonner County, Idaho, a large Spokane handler competes for sales with

another large Spokane handler and a handler operating locally. In Kootenai County, Idaho, two local handlers and a large Spokane handler compete. The three largest Spokane handlers are in competition in Pend Oreille, Stevens, and Spokane Counties in the State of Washington; in addition, six smaller handlers also compete in the city of Spokane. About 4 percent of the fluid milk sales of the Spokane milk plants are made in Idaho and Montana. Milk produced within the State of Washington and sold in fluid form within that segment of the proposed marketing area which lies within the State of Washington is in direct competition with milk produced in Idaho and Montana; likewise milk produced within the State of Idaho and sold in fluid form within the portion of the marketing area which lies in Idaho is in direct competition with milk produced in the State of Washington.

In addition, some milk of Washington producers used for such products as ice cream and cottage cheese moves in the form of these products into Idaho in competition with similar products either locally produced or received from other States. Likewise, the milk of the Idaho and Montana producers supplying the marketing area enters into direct competition with milk of Washington producers in similar uses.

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

Producers supplying milk to the Inland Empire marketing area, as defined herein, are encountering disrupted and unstable marketing conditions. The existing unsatisfactory pricing arrangements and trend of lower returns to producers, if permitted to continue, will jeopardize the production of an adequate supply of Grade A milk to meet market needs. The problems encountered in this area, which have reached an acute state, are not uncommon in fluid milk markets. They arise from the presence of factors, described below, generally inherent in the fluid milk industry. Voluntary efforts of producers to maintain an orderly market have been ineffective.

Milk produced for consumption in fluid form as Grade A milk in the proposed marketing area must be produced under rigid sanitary requirements. Large investments and operating expenses are incurred by producers of Grade A milk. Milk, being a perishable product, requires extra labor, equipment, and care in handling to maintain cleanliness and quality. To produce and regularly deliver needed milk supplies to this market in the fall and winter, as well as in the spring and summer, involve extra costs of purchased feeds and care of breeding herds as compared with the production of manufacturing-type milk.

There are other uses, such as butter, cheese, ice cream, and milk powder, for milk purchased under Grade A health standards. Such products also may be made from milk not requiring the higher sanitary standards of production and handling required for milk for fluid consumption. Such manufactured products may be stored and the production and transportation facilities for manufac-

turing, or "factory," milk do not have to be geared to supply market needs on a daily basis throughout the year. The production of such factory milk is less costly to the farmer.

Although consumer demand for Grade A milk for fluid use in the Inland Empire marketing area is fairly constant throughout the year as a whole, a wider seasonal variation exists in the production of milk. The breeding characteristics of dairy cattle and spring and early summer pasture feeding normally result in a pronounced production cycle with a high point reached in May or June. Thus, production is substantially in excess of market requirements for Grade A milk during the spring (flush) season of production, as compared with the supply-demand relationship in the fall and winter season.

It is necessary at all times to have a supply of Grade A milk available somewhat in excess of the actual fluid milk consumption of the market since the amount of milk sold in fluid form varies from day to day depending upon such factors as the weather, Sundays and holidays; and because the several distributors operate independently of each other, thus necessitating individual daily reserves of milk for their varying operations. In this market there is need for a marketwide "reserve" or "cushion" of about 10 percent on a monthly basis of the amount of milk actually sold in fluid form to provide adequately for these variations in sales.

The existing market surplus above fluid milk and cream needs caused by the conditions described above, is a principal contributor to the difficult pricing and marketing problems which have to be dealt with in providing a stable market for producers.

Until 1949, the market for fluid milk increased about as fast as the milk supply and even seasonal increases in production were paid for at the full fluid milk price. In the spring of 1949, major handlers in the market established base and surplus plans. From 1949 until the end of 1953, milk was sufficiently short in the fall and winter that producers were paid on bases in the spring and summer months only. While there was a seasonal excess in the spring and summer, the production of Grade A milk fell below the level of Class I utilization (as described under the discussion on milk classification) in the fall and winter. The limited amount of seasonal excess was used readily to produce cottage cheese, ice cream, ice cream mix, and some butter, mostly for local consumption. The market had little capacity to process milk in excess of its requirements for ice cream, cottage cheese, and butter. The year 1954 was the first that producers were paid on bases for the entire year.

Producers testified that until the end of 1952 the seasonal surpluses were of short duration and were not unduly burdensome. The operating cooperative in the marketing area stood ready to receive the milk of any Grade A shipper who was "cut off" by another handler or for any other reason needed an outlet for his milk. This situation changed in 1953. With new shippers qualifying for

the Grade A market and an increased production by regular shippers, a year-round excess developed. The major handlers had excess milk in their plants for which they had no immediate outlet and no capacity to manufacture storable dairy products other than ice cream, cottage cheese, and butter for local consumption. Considerable quantities of skim milk had to be dumped.

The operating cooperative felt obliged to discontinue receiving milk from other than its regular producers in 1953 as the result of a higher level of supply.

Since some milk already on the market and other milk from new shippers had no ready outlet at the prices then prevailing, such milk was offered at reduced prices. Handlers purchasing such milk gained a price advantage in procurement, which led to the sale of such milk in the market at reduced retail prices. This, in turn, led to the displacement of fluid milk sales at plants of other handlers and resultant decreases in returns for their producers. The consequent price competition among handlers as an effort to maintain previous sales levels disrupted the marketing situation for producers as a whole. Testimony in the hearing record shows that the first break in the price of milk to consumers occurred in November 1953 with the introduction of the gallon container. One handler sold milk in gallons through his store outlets at 67 cents per gallon when the established home delivered price per quart was 22 cents. By August 1954, a marketwide price "war" developed. Milk sold in gallons as low as 39 cents with week-end specials at 29 cents. The major handlers in the marketing area reduced their retail prices 3 cents a quart in an effort to recapture sales volume. About one-half of such reduction in price, or 76 cents per hundredweight, has been reflected in the producer price level. Even at the time of the hearing continuation of the price war was evidenced by newspaper advertisements exhibited in the record.

The record discloses further evidence of instability in that some handlers have refused to take the milk of some producers even at present prices and other producers have stopped producing milk for lack of satisfactory price and market conditions. Handlers have used various devices in bargaining with individual producers, resulting in unsatisfactory prices. For example, one handler who had "cut off" certain shippers bargained for other shippers' milk using the amount of "base milk," or quota of delivery, for bargaining; this handler also varied the prices paid for base milk among his shippers. Another handler arbitrarily reduced bases 15 percent. A third handler paid a producer the factory price from May 16 to July 31, 1954, thereafter, he paid the producer the Class I price for amounts of milk ranging from $\frac{1}{4}$ to $\frac{1}{2}$ of his production during the October 1–November 3 period in 1954. This producer shipped to another handler beginning with December 1, 1954 and received the Class I price for amounts of his milk ranging from 90 percent in December 1954 to 65 percent in April 1955. The record reveals that another handler used bases calculated on production records of

three years ago. It also shows variations in the methods used by handlers to pay for butterfat above or below a "standard" butterfat test.

Prices paid producers for excess (Class II) milk also declined to below reasonable levels in the Inland Empire market from 1953 to the spring of 1955. In December of 1953, major handlers paid producers from about \$3.75 to \$3.90 per hundredweight for Class II milk of 4.0 percent butterfat test. Class II prices declined to about \$3.00 per hundredweight by July of 1954. This was a decline of 75 to 90 cents per hundredweight. It is officially noticed that the Class II price for 4.0 milk in the Puget Sound area declined only 37 cents per hundredweight in the same period. During the first four months of 1955, the major handlers in the Spokane market paid producers about \$3.06 per hundredweight for Class II milk; thus, little price recovery was evident in the Inland Empire market. On the other hand, Class II prices in the Puget Sound area and for the State as a whole have risen since the summer of 1954. During the January–April period of 1955, Spokane handlers paid producers (for 4.0 percent Class II milk) about 23 cents less than was paid under the Puget Sound order. These price relationships have prevailed during the past several months even though, on a marketwide basis, the milk in excess of Class I needs in the Inland Empire milkshed is utilized in more favorable outlets than in the Puget Sound area. When similar comparison is made with condensery prices on a statewide basis, the four-month average difference in 1955 is even greater, the condensery average exceeding the Spokane price for excess milk by about 31 cents.

One handler questioned the need for an order, alleging that there is no shortage of Grade A milk in the marketing area and no prospect of a shortage this fall. The record, however, shows a declining trend in milk production as compared with a year ago.

It is concluded from the above that a marketing order is needed to correct the unstable marketing conditions that exist in the Inland Empire marketing area caused by lack of uniformity in buying prices by handlers and other factors enumerated above, to promote a framework for orderly marketing and to insure an adequate supply of Grade A milk for consumers. An order will provide:

(a) A regular and dependable method for determining prices to producers at levels comparable to those contemplated under the Agricultural Marketing Agreement Act, as amended;

(b) The establishment of uniform pricing to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(c) An impartial audit of handler's records of receipts and utilization to further insure uniform prices for milk purchased;

(d) A means for insuring accurate weights and tests of milk;

(e) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns for sale of reserve milk;

(f) Uniform rules for the operation of a base and excess plan which will encourage producers to adjust production seasonally in closer alignment with the relatively even monthly needs for inspected milk; and

(g) Marketwide information on receipts, sales, and other data relating to milk marketing in the area.

(3) *Order provisions*—(a) *Scope of regulation*. In order to accomplish orderly marketing under Federal milk orders, certain techniques have been authorized under the Agricultural Marketing Agreement Act of 1937, as amended. Two important techniques are: (1) That regulated distributors (handlers) should be required to pay at least specified minimum prices to producers in accordance with a classified-use plan established, and (2) that the resulting payments due each producer should be distributed uniformly through either "individual-handler" pools or a "marketwide" pool. To implement these basic techniques, it becomes necessary to establish clearly which plants and milk will be subject to the pricing provisions of an order and which producers will participate in the returns from the operation of a specified type of pool.

The Inland Empire marketing area (hereinafter called the "marketing area") should be defined to include the following territories in the States of Washington and Idaho: In Washington—Spokane County that portion of Stevens County lying south of Township 37 and that portion of Pend Oreille County lying south of Township 35, and in Idaho—that portion of Bonner County lying south of Township 60 and west of Range 2 east Boise Meridian, and all of Kootenai County, except that portion lying east of Range 3 west Boise Meridian and south of Township 53. As used in this definition, "territory" includes all municipal corporations, Federal military reservations, facilities and installations and State institutions lying wholly or partly within the above described area.

The marketing area as defined above comprises the markets in which about three-fourths of the milk of the competing handlers concerned is marketed. The cities of Spokane, Washington, and Coeur d'Alene, Idaho, are the major cities involved. The marketing area includes most of the centers of considerable population where the major handlers are in competition. This is the area in which the problem of market instability for producers prevails. According to the 1950 Census, about 275,000 people reside in this area. The surrounding area is sparsely populated.

All the milk distributed in this marketing area is received and packaged within the area. Sanitation and inspection requirements for Grade A milk for the Washington and Idaho counties included in the marketing area are quite comparable.

The proponents of the order first suggested a larger marketing area, including portions of Whitman County, Washington, and Latah County, Idaho, to the south, and Lincoln, Adams, Grant Counties and portions of Douglas, Okanogan, and Chelan Counties to the west. Upon further consideration, proponents aban-

done their request for such additional area, which included the communities of Moscow, Idaho, Pullman and Wenatchee, Washington, and the Columbia Basin area in the latter State. Other proposals set forth in the hearing notice (but later abandoned by proponents) related to the inclusion of all of Latah and Nez Perce counties, in Idaho; and Asotin, Douglas, Chelan, and the southern portion of Okanogan County, in Washington.

One handler testified that the exclusion of Grant County (Columbia Basin) from the marketing area would give his locally situated competitors a competitive advantage in that area. Except for a distributor with a very small business at Grand Coulee, there appear to be no bottling facilities in operation in Grant County. Most of the producer milk in this area moves to milk plants in Spokane or Wenatchee for processing and packaging. Milk is returned from Spokane plants and distributed in packaged form. A spokesman for a newly organized cooperative at Ephrata testified that the cooperative is planning to build a milk plant for processing and bottling milk in the Columbia Basin. This plant, however, may not be expected to be in operation for some months to come. At the present time the milk of all the principal competitors for sales in the Columbia Basin would be regulated by the Inland Empire order even though the marketing area is not extended to cover the Columbia Basin. Thus, there appears to be little reason to believe that any Spokane handler would be disadvantaged competitively as far as such advantage might result from the price of milk paid to the producer. The record indicates that Grant County has not been and is not at present a problem area for producers.

Testimony also was given by the same handler in support of further enlargement of the marketing area to additional portions of northeastern Washington, and Boundary, Bonner, Benewah, Kootenai, and Latah Counties in Idaho, and the western portions of Lincoln and Sanders Counties in Montana. These latter proposals for enlargement of the marketing area (except Latah County, Idaho) were omitted from the notice of hearing. Based on the testimony submitted, there is no indication that a disorderly marketing situation exists in these sparsely settled fringe areas or that the position of handlers operating in them who would be subject to regulation in the Inland Empire marketing area will be jeopardized.

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.

The record shows that regulated handlers sell a substantial proportion of the milk consumed in most counties located

outside the defined marketing area which were suggested for inclusion. Individual handlers will not be disadvantaged significantly in making sales in these out-of-area counties because (1) in many instances 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) in some of the outlying counties the only competition encountered by regulated handlers are local producer-handlers (who would be exempt from the pricing provisions of the attached 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 define a territory in which there would not be some competition with unregulated distributors. However, if it appears that the area should be extended at a future time it may be done by the usual amendment proceedings.

Marketwide 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. 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 establishment of minimum prices for milk which are required to be paid by handlers, and the distribution to producers of the returns from the sale of milk by means of a marketwide pool as herein provided, make it necessary to identify precisely (a) the milk to which such minimum prices apply, and (b) the farmers or producers who are to share in the returns from the sale of milk for which minimum prices are established. Primarily for these purposes the order should include definitions of "dairy farmer," "producer," "pool plant," "non-pool plant," "producer milk," and "other source milk."

It is also necessary, of course, to define the term "handler" essentially for the purpose of identifying those persons on whom obligations and requirements are, or may be, imposed by the order, including the obligation to pay the minimum prices established. It is provided, however, that a "producer-handler" shall be exempt from all the regulatory provisions of the order except that requiring the filing of reports as requested by the market administrator. The producer-handler maintains control of his milk until ultimate disposition and in this respect his situation is entirely different from the regular producer whose milk is marketed through a handler. On the other hand, such persons frequently change their status and it is necessary for the market administrator to have

authority to require reports from the producer-handler in order to verify his continued status as such as well as to supplement other market information.

The Washington State Uniform Fluid Milk Act, together with county and municipal milk ordinances and codes, requires that milk for consumption in that segment of the marketing area located in the State of Washington in the form of milk and the milk products defined herein (§1008.41 (a)) as Class I milk to be derived exclusively from Grade A milk. Milk of similar quality is required for such products in the Idaho portion of the defined marketing area. Such laws and regulations prescribe the conditions under which such milk may be produced and distributed. In general, however, any Grade A milk is eligible for distribution within the marketing area, insofar as health authority regulations are concerned, regardless of whether or not it was produced primarily for, and as a part of the regular supply for, the particular communities included in the marketing area.

While it is not the purpose of the order to prescribe the area from which milk may be obtained for distribution in the marketing area, it must be recognized that a marketwide pooling arrangement is subject to certain abuses against which reasonable safeguards must be provided. The institution of a marketwide pool could create incentive for producers and handlers who had not previously supplied milk for the marketing area to become eligible to share in the Class I sales of the market without actually supplying the market with fluid milk or assuming any responsibility for maintenance of the necessary reserve supply. Such a development would not only fail to contribute to the orderly marketing of milk in the area or to any of the purposes sought to be accomplished by the order, but rather would tend to conflict with such objectives. On the other hand, all sources from which milk is obtained as a necessary part of the supply for the area during the season of lowest production should be entitled to participation in the pool on a year-round basis.

Accordingly, "producer milk" (intended to identify the milk for which minimum prices are required to be paid) is defined as Grade A milk received at (or caused to be diverted from) a "pool plant." The term "pool plant" is defined in a manner designed to include all those plant sources, and only those sources, of Grade A milk which may reasonably be considered as an integral part of the year-round supply for the marketing area.

All plants, except those operated by producer-handlers, from which some Class I milk is distributed within the marketing area on wholesale or retail routes are included under the definition. Thus, the definition will cover all plants at which producer milk is received and from which such distribution is made at the present time and any additional plants from which Class I milk may be distributed on wholesale or retail routes wholly or partially within the marketing area in the future. Since, as previously indicated in this decision, all such plants actively compete for con-

sumer outlets within the confines of the marketing area, it is deemed necessary to regulate all such plants on equivalent terms.

Route distribution, in this connection is intended to include, but not to be limited to, any delivery (including a sale to the public at the plant or plant store) in customary consumer packages to various types of consumer outlets such as homes, stores, hotels, restaurants, or miscellaneous other establishments which themselves are not primarily engaged in the handling and processing of milk or milk products.

The definition will cover also those plants from which milk is not distributed on wholesale or retail routes but which serve as plant sources of milk for distributing plants provided the quantities supplied meet a minimum standard. At the present time there is only one plant of this type known to be serving the marketing area. It is apparent from the testimony in the record that the total volume of Grade A milk produced and received at such plant is an integral part of the supply for the marketing area. That being the case, such plant should have no difficulty in meeting the delivery requirements of the pool plant definition.

Pursuant to the definition, this type of plant would be included in the pool in the period October through December (period of seasonally lowest production) if 50 percent or more of the milk received at the plant directly from producers was shipped in the form of milk to a plant engaged in the distribution of milk on routes within the marketing area. A plant so supplying the marketing area with at least 50 percent of its milk received directly from producers for the entire period October through December would be eligible for pool participation without additional requirements during the following months of January through September. A plant supplying the marketing area with less than 50 percent of its receipts in the season of shortest production should be considered a source primarily for some other market or markets. Such a plant, nevertheless, could participate in the pool during any of the following months of January through September if 20 percent or more of the milk received from producers at the plant was shipped to a plant distributing in the area.

Such limitations on pool participation is expected to affect only those plants which have no record of having supplied the marketing area with Grade A milk. Such a plant should be included in the marketwide pool under the order only in those months of the year in which it actually supplies a substantial quantity of milk to the area, or in months when because of shipments in the recent past it may reasonably be considered to constitute an integral part of the market.

Withdrawal from the market of the milk received at a particular plant during the months of January through September would not be likely to seriously threaten the marketing area with an insufficient supply. It seems justified, therefore, to permit the voluntary withdrawal from the pool during that period

of any pool plant unless it is a plant from which Class I milk is distributed to consumer outlets in the marketing area.

If milk other than producer milk as defined is distributed as Class I milk within the marketing area, it is necessary to require payments to be made into the producer-settlement fund on such milk in order to maintain reasonable uniformity of cost of milk and equity among handlers, and to preserve the integrity of the classified-price plan for milk. Accordingly, there is included in § 1008.70 of the order a provision for including in the value of milk computed for each handler receiving milk from producers a payment at the difference between the Class I price and the Class II price per hundredweight on "other source milk" received by him in excess of his total volume of Class II milk.

As stated previously, all the Grade A milk produced for consumption in fluid form in the State of Washington is subject to uniform statewide sanitary standards administered by the State government. As a consequence of this uniform code of sanitary requirements and under reciprocal arrangements with health authorities in Idaho, milk produced under the code anywhere in the State of Washington is eligible from a sanitation standpoint for sale in the Inland Empire marketing area. Although all Grade A milk produced in the State is eligible for sale in the marketing area, it is obvious, of course, that all the milk so produced does not constitute the regular and normal supply of milk for the regulated marketing area. For this reason, it is necessary to develop standards which distinguish that Grade A milk which is in fact the normal and regular supply for the Inland Empire area from that Grade A milk which is not a part of the regular and normal supply, so that regulation by the order may be imposed fully on that milk which is the regular and normal supply for the area while with respect to that milk which is not a part of such supply, the regulation may be applied only to the extent necessary to integrate the other source milk into the regulatory scheme. Since the sanitation standards for Grade A milk are uniform throughout the State, it is not possible to identify the regular and normal supply for this marketing area on the basis of distinctive sanitation requirements.

Neither is the unqualified shipment of milk to the marketing area for Class I utilization a practical basis for identifying the milk which should be fully regulated under the order. If any small, incidental, or accidental shipment of milk into the marketing area were to bring under total regulation all the milk at the plant from which such shipment was made, great hardship could be caused to the operator of such plant and to the farmers delivering milk to such an operator. Because of the uniformity of health requirements throughout the State, small quantities of milk may be disposed of in the regulated marketing area as Class I from plants which are not normal or regular sources of supply for the marketing area. Moreover, the operators of the plants from which such shipments arise may not wish to bring

their plants under total regulation. There are many situations in which plant operators may find it economical or desirable to make shipments of small quantities of milk to the marketing area and in which it is neither necessary nor desirable in terms of effective regulation to bring the operators of such plants fully under the regulation. For instance, a plant which is associated with a market outside the Inland Empire area may find it advantageous to ship milk to a plant regulated by the order in order to have such milk converted into manufactured dairy products. It is quite possible, however, through misunderstanding, or from errors of estimating the utilization of milk, for milk which was intended for utilization in Class II products to be assigned a Class I classification. If through such accident or misunderstanding a plant were placed completely under regulation, considerable hardship, unnecessary to effective regulation, might result. For this reason, it is not practical nor desirable to place a plant totally under regulation merely because a small quantity of milk shipped by it to the market finds its way into a Class I utilization.

The Inland Empire order provides for a marketwide pool. Under this pooling plan, handlers whose proportion of utilization in Class I is greater than the market as a whole make payments into an equalization fund and those handlers whose proportion of utilization in Class I is less than the average for the market receive payments out of the equalization fund. This method of payments into and out of the equalization fund is the essential mechanism for providing uniformity of payments to farmers irrespective of the handler to whom they deliver their milk and provision for equalized payments to farmers is necessary to the maintenance of stable and orderly marketing conditions in the defined marketing area.

Because handlers with less than the market average proportion of milk in Class I may draw payments out of the producer-settlement, or equalization, fund, there is an advantage to any plant operator who has less than the marketwide average proportion of milk in Class I to place himself under regulation in order to obtain these payments and, thereby, make it possible for him to pay the uniform prices established under the order to his producers. The smaller the plant operator's proportion in Class I, the greater is the advantage of regulation to him. Under these circumstances, plants which are engaged primarily in the manufacture of milk into dairy products, rather than as suppliers of Class I milk to the marketing area, will attempt to place their plants under regulation for the sole purpose of obtaining payments out of the equalization fund. The result of this, however, will be to reduce the returns to those farmers whose milk actually constitutes the regular source of supply of Class I milk for the marketing area.

It is necessary for the reasons stated, therefore, that milk which in fact constitutes the regular and normal sources of supply for the marketing area be distinguished from other milk which

might enter the marketing area. Section 1008.8 of the order is designed to identify the regular and normal sources of supply for the Inland Empire marketing area. Under the definition of "pool plant" provided in such section, any plant no matter where located which is associated with the Inland Empire market only as a source of supply for a local distributing plant may bring itself under regulation by performing in the manner required, and any such plant may relieve itself of regulation when it no longer operates in a way that brings it within the scope of this section of the order. Under these circumstances, the decision as to whether a plant will be fully regulated under the order or will not be subject to regulation is determined by the decision of the plant operator himself.

Since the order provides for the identification of that milk which is subject to total regulation under the order, the possibility remains that some milk (i. e. other source milk) will be disposed of in the marketing area as Class I which is not subject to total regulation.

The provision requires that on all other source milk classified as Class I, a payment shall be made into the equalization fund at a rate equal to the difference between the Class I price and the Class II price. Payments at this rate are necessary to maintain the integrity of the pricing and pooling provisions of the order.

Essentially all the other source milk which might be utilized as Class I in the marketing area would be produced as part of a supply intended primarily to meet the demand for milk for fluid consumption (or the equivalent of Class I milk uses under the order) in some area in the States of Washington or Idaho other than the area regulated by this order but not used for such purposes in the area for which it was produced. It could only be milk which became surplus to the needs for milk for fluid disposition in the area for which it was produced. If the plant operator could not find a Class I sale for such milk within the regulated marketing area, it would be necessary for him to convert the milk into a manufactured milk product. The most likely surplus disposition of this other source milk would be as butter and nonfat dry milk solids, or cheese. Its value, therefore, to the plant operator would be a surplus milk value. The Class II price for milk under the Inland Empire order is based on the value of milk when it is converted into butter and nonfat dry milk solids and this is the price which regulated handlers are required to pay for milk when they convert it into these two products. The Class II price, therefore, is an accurate and fair representation of the value to the receiving plant operator of surplus milk which is disposed of as other source milk for Class I purposes in the marketing area.

If unregulated plant operators were allowed to dispose of surplus milk for Class I purposes in the regulated marketing area without some compensating, or neutralizing, provision in the order, it is clear that the disposition of such

milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress, as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated marketing area, would be defeated. Moreover, inefficiencies in the marketing of milk would be encouraged, for the regulated market would obtain its Class I milk not from the regular and normal sources of supply for the market but from other sources of supply generated solely as a result of the price advantage created for unregulated milk by the regulation itself. Providing for some method of compensating for, or neutralizing the effect of, the advantage created for unregulated milk, therefore, is an essential and necessary provision of this order. Since the value for Class I milk in a regulated market is established at the level of the Class I price provided for in the order and since the true value of other source milk when disposed of in the marketing area is the Class II value, a payment computed as the difference between the Class I price and the Class II price will remove the advantage which other source milk would have when disposed of for Class I purposes in the marketing area.

It may be noted also that other source milk not of Grade A quality as well as that of Grade A quality is received and handled by handlers subject to the regulation. Although from the standpoint of health standards, it is not legal to use such milk for Class I uses except under emergency dispensation granted by the applicable health authorities, the possibility remains that this grade of milk may find its way at times into fluid, or Class I, products. If this occurs, the same rate of payment should apply to such milk since its value is established by a lack of eligibility, on a Grade A standard, for regular use as Class I milk. This characteristic stamps it the equivalent, from a use standpoint, as surplus Grade A milk, and for the same general grounds as are set forth above with respect to the payment applicable to other source milk of Grade A quality, a similar payment should apply.

On the other hand, such payments should not apply to milk entering this marketing area from a plant regulated under another order since its proper classification and price will be determined pursuant to the other order, and if used in Class I milk as defined in this order will be priced equivalently (with due allowance for the transportation cost between markets) under the other order.

(b) *Classification of milk.* A classified-use plan should be established to insure that: (a) minimum prices for milk will be uniform among handlers according to use, (b) a price may be fixed for milk disposed as Class I at a level which will bring forth an adequate supply of pure and wholesome milk, and (c) a necessary reserve of inspected milk may be maintained at all times (and priced in appropriate relationship with manufacturing milk prices) without disrupting

marketing and pricing conditions within the established marketing area.

Two classes of milk should be established. Class I milk should include all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid (including concentrated fluid) and frozen form as milk, skim milk, skim milk drinks, buttermilk, flavored milk and milk drinks, cream, and closely related-cream products. It should include also all skim milk and butterfat represented by variations in inventory and that not specifically accounted for as Class II milk, except for a reasonable allowance for shrinkage. Class II milk should include milk and butterfat used to produce manufactured milk products such as cottage cheese, ice cream, ice cream mix, and frozen desserts (which products are hereinafter referred to as Class II A) evaporated milk, cheddar cheese, nonfat dry milk solids, aerated cream products, etc., and a reasonable allowance for shrinkage.

Milk, cream, and certain products of milk and cream disposed of for consumption in fluid form are required to be made from Grade A milk in accordance with health regulations effective in the marketing area. Extra expenses incurred in the production and delivery of milk for these purposes warrant the classification of this milk as Class I milk and the pricing of it above the level of prices for Class II uses.

Except for cottage cheese, none of the products included in Class II milk are required by health regulations to be processed from Grade A milk. These products, although they may contain some Grade A milk, must be priced so as to meet competition from products which may be made from milk produced for manufacturing purposes. It is considered necessary to permit the free movement of excess milk, when not needed to supply the market for Class I uses, into manufacturing channels without burdensome disadvantage to handlers. Health authorities in the city of Spokane require that cottage cheese be made from Grade A milk or from nonfat dry milk solids produced from Grade A milk; however, some communities in the marketing area do not have this requirement. The net result is that a considerable amount of Grade A producer milk is used in the manufacture of cottage cheese to supply the marketing area.

Although Grade A milk is not required for ice cream sold in the marketing area, a substantial amount of excess Grade A milk is used in making ice cream. Handlers testified that high quality milk is desired and is used for this product. One large handler indicated that for some time he had been paying a 25-cent premium over the price for other Class II uses for milk used for both cottage cheese and ice cream. The record shows that other handlers also place a higher value on milk so used than for use in other manufactured products. If nonfat dry milk solids from outside sources are substituted for the skim milk derived from producer milk for cottage cheese use, such solids must be produced from Grade A milk at the point of origin and

such solids command a premium of about 3 cents a pound (or 25 cents per hundredweight of milk, assuming a nonfat dry milk solids yield of 8.5 pounds to the hundredweight) over the market for nonfat dry milk solids as expressed in the Class II price formula. This quality of nonfat dry milk solids is frequently used in the manufacture of ice cream and ice cream mix also, because of the resulting improved quality and yield of the product. There is a year-round market for producer milk within the marketing area in these products.

Because considerable Grade A milk is desired for these products in the marketing area, and for the other reasons given, this milk should be priced somewhat higher than Class II milk which represents primarily an outlet for excess reserve supplies of milk in manufactured products which must compete on a nationwide basis with products produced from ungraded milk. It is recommended, therefore, that producer milk used to produce cottage cheese, ice cream, ice cream mix, and frozen desserts be designated as Class II A milk and be priced 25 cents per hundredweight higher than the remainder of Class II milk.

A proposal for classifying milk sterilized and packaged in hermetically sealed cans by the "Winger Process" as Class II milk was made at the hearing. Proponent was not actually in business at the time of the hearing, but stated that he is in the process of equipping a plant in Moses Lake, Washington, to handle milk, including excess Grade A milk, for this purpose. It was contended that the principal markets sought for this sterilized whole milk product would be the armed services and commercial outlets for shipment overseas to remote areas where fresh fluid milk is not available. It was further contended that this product would provide an outlet for excess Grade A milk in the Spokane area as well as for any excess of production in the Columbia Basin area which may develop. There is indication on the record that Grade A milk will not be required for this sterilized product. Under the circumstances it is concluded that milk used to produce such product should be classified as Class II milk.

The hearing record shows further that some skim milk customarily is either dumped or disposed of as livestock feed during the seasonal surplus period for lack of manufacturing facilities. The attached order provides that under certain limited conditions milk disposed of in these outlets may be classified and paid for by handlers as Class II milk. In order to forestall improper accounting for such milk, it is recommended that such dispositions be limited to skim milk and apply only to the months of April, May, June, and July. Furthermore, in the case of skim milk dumped, such classification should be allowable only when the market administrator, or his representative, is provided the opportunity to witness the dumping. Six hours' advance notice to the market administrator by the handler concerning his intention to dump skim milk should be adequate considering the locations of the

various plants to be regulated. Otherwise, dumped milk should be classified "unaccounted for" and priced as Class I milk.

Some shrinkage is unavoidable in operating a milk plant. Testimony in the hearing record indicates that a fluid milk operation efficiently operated, and for which accurate and complete records are maintained, should not experience normal shrinkage in excess of 2 percent of producer milk, and perhaps less. Fluid milk operations comprise the bulk of the milk handled by handlers in the marketing area. If experience under regulation indicates a smaller percentage of shrinkage, this fact may be given consideration in a subsequent hearing. Thus, all unaccounted-for milk, other than actual shrinkage up to 2 percent of total receipts of skim milk and butterfat from producers which may be classified as Class II milk, should be classified as Class I milk. Since Class II milk is accounted for on a used-to-produce basis, this shrinkage provision should result in no hardship to handlers with regard to milk used for manufacturing purposes. Shrinkage on other source milk, however, will be allowed in the lowest available use classification under the allocation provisions, since other source milk is deducted on the basis of receipts rather than on product use.

In most milk markets, there are a certain number of transactions between handlers such as transferring milk from one handler's plant to that of another or to the plant of a person who is not a handler. Administratively, since milk is readily converted into other products, a method of classifying milk transferred between plants is necessary. With regard to such movements of milk, the order provides that the responsibility for correct classification should be placed on the handler who first receives the milk from producers. In case any milk is transferred without adequate proof of use, such milk should be classified as Class I milk.

A suggestion was made in the brief filed by a proponent producer organization that a reasonable distance should be fixed beyond which the market administrator should not be required to send auditors to verify the utilization of milk involved in interplant transactions. A radius of 200 miles from the Spokane Courthouse was offered as a reasonable distance for the purpose. This suggestion was not discussed at the time oral evidence was being taken. Since the record does not indicate that reserve milk has been transported such a distance at any time in the past, it does not appear necessary at this time to establish a definite geographical area beyond which milk moved will be Class I without audit. A future hearing will provide opportunity for full consideration of the proposal.

The order also provides for the reclassification of milk originally classified in one class, but later used or reused in another class. The classification of milk is designed particularly to assure producers of the proper return for milk used in each class and to place handlers on an equitable cost basis with respect to the

minimum purchase price of milk from producers. Such a provision is necessary to achieve this objective.

The handler who first receives the milk from producers should bear the responsibility of accounting for the use of such milk. This will be facilitated by requiring such handler to show an actual Class II or Class II A use of milk, or, as an alternative, have such milk classified as Class I milk. Other source milk should be allocated first to Class II uses in the handler's plant. The reason for this is to prevent other source milk from displacing in Class I uses the milk of producers, on which the market relies for a continuous milk supply.

Skim milk and butterfat are not used in all 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.

Although there appears to be no contention concerning the propriety of classifying both fortified and reconstituted fluid products as Class I milk, a question was raised as to the method to be used to compute the volume of skim milk included in fortified milk to which the payment required by § 1008.70 (a) (5) applies.

The record discloses that nonfat dry milk solids which might be utilized to fortify Class I milk products would be required to come from Grade A milk but would be paid for on the basis of the Class II price if derived from milk covered by the order or at a price for manufacturing milk, if derived from milk processed at a non-regulated plant. The additional solids utilized increase the value and salability of the end product. 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 after their value to the handler for this purpose and they may not be distinguished on the basis of cost of production, need for regular supplies, sanitary requirements, seasonality of production, or value to consumers. Since the Class I price provisions are designed to encourage producers to deliver

an adequate and dependable supply of milk in all seasons, the returns to producers for one portion of Class I milk should not be reduced below the level of the remaining portion disposed of in such class. The effect of computing the value of the added nonfat solids on actual weight rather than on a skim milk "equivalent" basis, in a Class I product, is to alter the accounting method for such solids as compared with an equivalent quantity of such solids contained in skim milk in fluid form which is utilized in the same product, in another Class I product, or even in Class II milk. The actual weight basis of accounting for the added solids used in fortified skim milk (Class I) has the effect, from a pricing standpoint, of retaining in Class II milk a portion of the producer milk utilized in the production of such Class I product even though it represents the only end use resulting from the producer milk involved. This is equivalent to granting the handler a price reduction with respect to a portion of his Class I milk. 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.

Because the order class prices apply only to 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) Receipts from other handlers (according to classification) and
- (4) 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.

Class prices. Class I prices should be established at a level which, together with appropriate Class II A and Class II prices, will return to producers a uniform price sufficient to bring forth the required supply of Grade A milk throughout the year. Class prices established too low will result in the production of insufficient milk to meet the Class I needs of the market. On the

other hand, prices at too high a level will stimulate production and bring to the market more milk than is necessary to satisfy Class I needs, including a reasonable "reserve." The development of uneconomic reserves of Grade A milk in the past have tended to depress the price for all milk produced for the market.

In their proposal, producer proponents suggested that a basic formula price and differential method of pricing be established. It was testified that 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 nationwide, 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. In this market 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 milk markets. For these reasons, many fluid milk markets have found it appropriate to use 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. It was pointed out that the differential 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 Inland Empire marketing area. The use of alternative components as included in the attached order in the determination of the basic formula price will reflect the basic factors affecting the value of manufactured milk at any given time.

The concept of adjusting minimum class prices in response to changes in supply and demand conditions, and thereby influencing the 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 advance 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. The hearing record reveals a gradual widening of the Inland Empire milkshed as well as an extension of the marketing area in which Spokane handlers distribute milk. The testimony shows the need for reflecting any basic changes in milk prices affecting the industry as a whole, and particularly for maintaining a reasonable price alignment with other areas such as Puget Sound, central Washington, and the Columbia Basin from which milk may be readily shipped to Spokane under favorable price levels.

The basic formula price adopted is the higher of (a) prices paid by 13 Wisconsin and Michigan condenseries with butterfat content adjusted to a 4-percent basis, or (b) a price calculated from a formula based on the prices of butter and nonfat dry milk solids. This basic formula pricing plan is comparable to that proposed at the hearing and is similar to that used in the Puget Sound order and in many other fluid milk markets in the country under similar type regulations. It is designed to reflect the factors described above.

(1) **Class I price.** The Class I price should be established at a differential of \$1.85 per hundredweight over the basic formula price.

Proponents proposed a differential of \$2.15 per hundredweight over the basic formula price. They presented testimony to the effect that the costs of production and transportation are generally higher in eastern Washington and in northern Idaho than in the Puget Sound area, also, that historically Spokane area milk prices have been higher than in western Washington by about 50 cents per hundredweight. The proposal amounts to exactly 50 cents per hundredweight over the minimum Class I price as established by the order regulating the handling of milk in the Puget Sound marketing area.

One handler proposed and gave testimony in support of a Class I price differential ranging between \$1.65 and \$1.85 over the basic formula price. It was alleged that the level of prices paid by Spokane handlers in 1953 resulted in surpluses in excess of the needed reserve supply, and that his proposed price differential would suffice to bring forth an adequate supply of Grade A milk to satisfy market needs. Another handler contended that a Class I price differential closely paralleling that of the Puget Sound order would result in an adequate supply of milk to meet Class I needs. Both handlers contended that the costs of milk production are no higher in the Inland Empire area than in the Puget Sound area.

The record reveals that the price for milk for bottling (termed Class I milk) in the Spokane market was \$5.96 for the years 1952 and 1953. It appears that this was an important factor in the development of the excessive supply of milk and unstable marketing conditions. If the Class I price differential of \$2.15 per hundredweight over the basic formula price, as proposed by the proponents, had been in effect during this

period, the average Class I price would have been even higher (\$6.21 per hundredweight). The record shows that from January 1, 1952, to January 1, 1955, the number of dairy cows and heifers two years old and older increased about 12 percent in Washington as compared with about 4 percent for the United States. During this period costs of dairy roughages and concentrate rations declined considerably, both in Washington and over the country as a whole. Inasmuch as all principal parties participating in the hearing, including the producer proponents, indicated that the \$5.96 price per hundredweight was too high under the conditions prevailing in 1952 and 1953, resulting in an excess of Grade A milk for market needs, and because many of the production cost factors are no higher than during such period, obviously the Class I price, resulting from a \$2.15 per hundredweight price differential over the basic formula price would not be reasonable.

Proponents have stressed the importance of the relationship between Puget Sound and Spokane prices in making their case for a Class I differential of \$2.15 per hundredweight; and thus it is appropriate to discuss such relationship as well as factors directly affecting the production of milk in eastern Washington and northern Idaho. It was contended that historically the price of milk for bottling in the Spokane market has been about 50 cents higher than that for similar use under Puget Sound order. This was approximately the case for the years 1953 and 1954. But if the comparison is carried back to 1951 and 1952, the record reveals that the average Spokane Class I price was 14 cents per hundredweight lower than the Puget Sound Class I price for the period June-December 1951, and averaged 11 cents per hundredweight lower for the year 1952.

Record evidence indicates that costs of hay and farm labor are lower in the Inland Empire area than in the Puget Sound area. On the other hand, pastures are somewhat less productive and the pasturing season is shorter in the Inland Empire milkshed than in the Puget Sound area. Also, dairy ration costs and costs of transporting milk from the farms to the milk plants are higher in the Inland Empire milkshed.

Official notice is taken of the basic formula price under the Puget Sound order which applies to the month of October 1955 (\$3.50 per hundredweight). The addition of a Class I price differential of \$1.85 per hundredweight would have resulted in an October Class I price (4.0 percent milk) of \$5.35 per hundredweight in the Inland Empire marketing area, had the proposed order been in effect.

With a higher Class I utilization in the Spokane market than in Puget Sound, a Class I price differential of 20 cents over that of Puget Sound might be expected to result in net returns to producers approximately 40 cents per hundredweight higher than in the latter area. Such a price should provide the Inland Empire marketing area with an adequate supply of Grade A milk and be in a sound rela-

tionship with prices in Puget Sound and other surrounding production and marketing areas. It is important to recognize that Grade A milk is available both in the Puget Sound area and at sources nearer to Spokane not currently associated with the market. A potential surplus producing area exists in the Columbia Basin.

A higher differential at this time could result in an over-stimulation of production of milk by regular producers for the market, conversion of cream shippers to producers of Grade A milk, and the attraction of milk from production areas not customarily supplying this market. Such developments would result in the building up of excessive reserves of Grade A milk, dilution of the pool, and depressed blend prices to the detriment of producers upon whom the market depends for a regular supply of milk. The recommended price differential in conjunction with other stabilizing influences provided by the order should create the incentive needed for the production of an adequate supply.

As a revision of their original proposal, proponents recommended that a "supply-demand adjustment factor" be added to the Class I price formula to further reflect changes in local supply and demand conditions as well as general conditions in the industry. Although a supply-demand adjustment factor in the pricing formula conceived from local market data would be desirable and serve a useful purpose, it is concluded that the development of such a factor should be delayed until the market has had at least a year's experience under the order. This is desirable as a basis for determining the seasonal patterns of production and demand more accurately than is possible from information available at this time. The class prices included in this order will be terminated eighteen months after this order becomes effective, providing an opportunity for review of the market situation, based on more detailed information.

(2) *Class II price.* The Class II price formula should reflect a reasonable value of milk for manufacturing purposes in the supply area. The Class II price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I needs may be produced from time to time. The price should not be so low that handlers will be encouraged to procure or retain milk supplies solely for the purpose of converting substantial quantities into Class II products.

Proponents proposed a formula based on the central market prices of butter and nonfat dry milk solids with an 80-cent per hundredweight "make-allowance" (the same allowance as in the Puget Sound order). At the hearing, one handler proposed a similar-type formula with a make-allowance of \$1.02. Another handler proposed that the allowance be set at 90 cents. The latter alleged that manufacturing costs are higher than in Puget Sound, because of the lower volume handled in manufacturing uses.

In the Spokane area, most of the excess milk is used for cottage cheese and

ice cream as adjuncts to the fluid operations of handlers. The manufacture of storable products, such as butter, cheese, and nonfat dry milk solids, is more sporadic than in the Puget Sound area and occurs principally in the flush season of production.

It is concluded that the butter-powder formula, including a make-allowance of 80 cents per hundredweight, will result in reasonable pricing for Class II milk in the Spokane area in line with its value as reported by condenseries, creameries, and cheese factories in the State of Washington. Although such items as butter, nonfat dry milk solids, and cheese are not processed to the same extent as in the Puget Sound area, it should be recognized that the formula pertains mainly to milk in Class II A (used to produce cottage cheese, ice cream, and ice cream mix) in which category there is practically a year-round outlet available as an adjunct to fluid milk operations, rather than to the storable dairy products which might represent a "distress" disposition in this market.

When nonfat dry milk solids must be purchased by Inland Empire handlers, spray process solids for human consumption are desired and used to produce Class II A products. In the case of cottage cheese in the Spokane market, skim milk from Grade A milk, or nonfat dry milk solids manufactured from Grade A milk, are required in its manufacture. Handlers testified that when locally produced Grade A milk is not available for ice cream, or for cottage cheese to be sold outside the marketing area, high quality, low temperature spray process nonfat dry milk solids are desired and used for these products. Premiums of about 3 cents per pound are paid to procure the high quality solids used to produce quality cottage cheese and ice cream. The principal, and nearest, source of such nonfat dry milk solids is the Puget Sound milkshed, where manufacturing milk prices (and Class II prices under the Federal order) approximate the level contemplated by the formula adopted here. Milk used for such purposes in the Inland Empire should be worth as much as the cost of obtaining comparable milk ingredients from alternative sources of supply. The hearing record also indicates that handlers generally have recognized the extra value of producer milk used for cottage cheese and ice cream by paying more for milk used to produce these products than for other Class II uses. It is therefore concluded that milk used to produce cottage cheese, ice cream, and ice cream mix (herein referred to as Class II A) should be priced at 25 cents per hundredweight above the Class II price as determined by the Class II formula.

Butterfat differentials. Because of variations in the butterfat content of milk delivered by individual producers and in milk and milk products sold by different handlers, it is necessary to provide "butterfat differentials" to insure equitable payments for such variations in butterfat.

Since it is concluded that the class prices should be established for milk

containing 4.0 percent butterfat, it is necessary to adjust Class I and Class II prices in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in the value of milk products within the class caused by variations in butterfat content. The values resulting from multiplying the average price of 92-score butter at San Francisco by 0.123 for Class I milk and by 0.115 for Class II milk will provide an appropriate basis for adjusting such prices in this marketing area. These adjustments will reflect reasonable values for the butterfat used in each class of milk. The higher butterfat differential for Class I milk is necessary to provide an appropriate relationship between the values of skim milk and butterfat in this class. The use of butterfat differentials in this manner follows standard practice in most fluid milk markets for adjusting prices of milk of various butterfat contents. The proponents have proposed a Class II butterfat differential of 0.110 times the price of San Francisco 92-score butter. It is concluded a factor of 0.115 would more appropriately reflect the value of all butterfat in such milk and would place the pricing of such butterfat in closer alignment with alternative sources.

It is appropriate to adjust for butterfat variations in base milk at the Class I butterfat differential to the extent that Class I milk is reflected in base milk deliveries and at the Class II butterfat differential on Class II milk included in base milk, and to use the Class II butterfat differential in adjusting for butterfat variations in excess milk delivered by producers.

Location adjustments. In order to recognize the cost of moving Class I milk from distant plants which are, or may become, regular sources of supply for the Inland Empire market, it is necessary to provide location adjustments to allow for variation in the payments handlers are required to make to producers whose milk is received at such plant locations based upon their relative distances from the market.

One handler in Spokane operates a receiving station at Sand Point, Idaho, at which milk is weighed, cooled, and sampled for butterfat testing. The milk is then transported by tanker to the Spokane plant for pasteurization and bottling. Another handler operates a bottling plant involving local fluid milk distribution in Sand Point. Thus, to provide equity among handlers in procurement a location adjustment is needed to reflect a reasonable price for milk at this location in the milkshed as compared with the price effective for the main consuming communities of the marketing area. The proximity of the marketing area to other milk producing areas, especially areas to the west, from which milk now is being sold in other markets, also requires that location adjustments be provided to properly price such milk at such locations in case it may be shipped to the Inland Empire market at some future time.

The schedule of location adjustment rates provided in the attached order,

which was proposed and supported by the proponents, appears to be in line with the costs of moving milk in tank trucks in the area. The particular adjustment of the Sand Point location could amount to as much as 24 cents per hundredweight, depending upon the precise distance by hard-surfaced highway. Thus, at Sand Point, which is approximately 75 miles from Spokane, the Class I price and the producer price for base milk f. o. b. plant would be 24 cents per hundredweight less than at Spokane.

Location adjustments should apply only to milk received at pool plants more than 50 miles from the City Hall in Spokane. Milk produced closer than 50 miles can be readily transported directly from producers' farms to handlers' bottling plants in the principal consuming communities in the marketing area. The rates of location differential are 3 cents per hundredweight for each 10 miles, or major fraction thereof, measured from the City Hall in Spokane, in the 50-100 mile zone, an additional 2.0 cents per hundredweight for each 10 miles, or major fraction thereof, in the 100-200 mile zone, and an additional 1.0 cent per hundredweight for each 10 miles, or major fraction thereof, beyond 200 miles. Such rates apply to the shortest hard-surfaced highway distances such pool plants are from the City Hall in Spokane and to milk assigned to or otherwise classified as Class I. A variation in the rate of location differential is justified because a large part of hauling charges consist of the loading and unloading of trucks, and thus somewhat higher rates are appropriate for relatively short distances as compared with long-distance movements.

(d) **Distribution of proceeds among producers**—(1) **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 "marketwide" type of equalization pool. Under this type of pool each producer will receive minimum prices that are uniform, subject, of course, to butterfat and location differentials. The "blend" price, and the "base" and "excess" prices, will represent a weighting of the proportions of all producers' milk paid for at the 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 prevailing and the organizational structure of the industry in the Inland Empire area, as set forth in the record, it is clear that the marketwide type of equalization pool is a necessary part of any effective program to establish and maintain orderly marketing and pricing conditions.

Only a small number of handlers in marketing area are equipped to process substantial quantities of 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 in-

evitable with an adequate and necessary reserve of milk. Because many plants do not have facilities for processing all their reserve and surplus milk, the adoption of an individual-handler pool, wherein plants operating on a Class I basis could pay a higher price to producers than those who would assume responsibility for disposing of the reserve milk supplies of the market, would automatically deter handlers from handling such milk or from equipping their plants for that purpose. The inability of certain supplies to find a ready outlet has been an important factor contributing to the unstable marketing conditions. 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 marketwide pool will permit any handler to bid on such business at 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. A marketwide pool also will aid the market in retaining qualified, experienced and willing producers during periods of seasonal surpluses (by permitting them to receive the marketwide 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 marketwide pool.

(2) **Base-excess plan.** A base and excess plan of distributing returns for milk among producers should be employed in connection with the marketwide pool established herein. Record evidence indicates that milk receipts vary between the spring and fall months to a greater extent than Class I sales. In addition, some 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 fall months relative to that of the spring and summer months.

Handlers and producers serving the Inland Empire market are now relying 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 deliveries in the

winter and spring. 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. Any movement in this direction will work against market stability in this area, since some handlers in the market have difficulty in disposing of all milk delivered to them in the months of seasonally high production. It is concluded, therefore, that a base-excess plan 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 area. However, from a practical standpoint, because time is required to establish the plan, the order provides that all milk delivered by producers will be regarded as base milk from the effective date of the order until March 1, 1956. Thus, producers will receive a straight "blend," or uniform, price for all deliveries for the first few months of regulation which will occur mainly in the season of low production.

The base-excess plan adopted herein, to begin March 1, 1956, would establish for each producer who delivers at least 120 days in the months of September through January immediately preceding a base equal to his average daily deliveries during such five-month period. The base so computed would be in effect for the twelve months' period March through February following, and would be recomputed in a similar manner each year.

Since the base-excess plan is designed to distribute to each individual producer his share, according to the seasonal pattern of his milk deliveries, of the total value of all milk pooled in each month, certain rules must be established also for computing bases for producers who come on the market for the first time. 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 120 days during the specified period. If a producer did not deliver milk to the market during a major portion of this fall and winter period, however, he would receive, temporarily, a base computed as a specified percentage (to vary each month) of his deliveries during the month. This percentage would represent the relationship of established bases to current milk deliveries by all producers, adjusted downward by 10 percent. Such producer would establish a base in the regular manner as soon as he had delivered at least 120 days in a September-January period and thus had demonstrated his ability to deliver in the period when the market most needs his milk.

These rules necessarily must guard against giving preferential status to new producers as compared to those who have been supplying the market. On the other hand, the rules are not intended to deter the movement of milk from new sources into the Inland Empire market. In providing a year-round base and excess operating period in the order, it is necessary especially to insure that the base and excess plan will not impede the

movement of qualified Grade A milk into the marketing area from plants not currently associated with the Inland Empire market but which may qualify as pool plants in the future. Thus, producers of milk received at such plants should be given opportunity to establish bases on equal terms with producers whose milk was received at a pool plant during the applicable base-forming period. In order to provide such opportunity, it is necessary, of course, that any such plant furnish records of the production of such producers for the base-forming period. If such information is not made available to the market administrator with respect to any such producer, a monthly base computed as a specified percentage of his deliveries during the month would apply (§ 1008.60 (c))

Beginning with March 1956 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.

It would be preferable to provide advance notice to producers regarding the original period to be used for establishing bases. However, producer organizations urged that bases be employed under the order from the outset in order not to interrupt a method of payment which has been customary for both cooperative and independent producers over a long period. Handlers offered no objection to this suggestion. In order to adopt the plan on a date as early as provided (March 1, 1956), it is necessary to require handlers to report delivery information concerning each producer's milk beginning with September 1955.

Contingencies such as changes in the operation of a farm because of the change of ownership, or death, retirement, or entry into military service of a producer, and changes in partnership or tenant-landlord arrangements, also should be provided for to give clarity and workability to the plan. Therefore, certain rules in connection with the establishment and transfer of bases have been included.

Proponents of the order suggested that the individual producer's base be established by ascertaining the average of his deliveries in the five months of his lowest delivery during the most recent twelve-month period and then adjusting such average delivery figure by a percentage which would result in an aggregate base for all producers equal to the market's Class I sales plus a 10 percent reserve.

As pointed out by proponents, the problem of distributing the proceeds for milk on a base and excess plan of payment hinges about the relatively constant demand for Class I milk

throughout the year as contrasted to the normally wide seasonal variations in the production of milk. It is highly important that production of Class I milk be adjusted so that there will be an adequate supply even during the normally short production season in the fall and winter. The market must be supplied. In equity, each producer's share of the proceeds of the market should be based upon his demonstrated ability to supply the market.

The record shows the season of normally low production to be the fall and winter months. It is at this time of the year that the producer, under present conditions, must demonstrate his ability to produce if the market is to be adequately supplied. To the extent that the producer performs to meet the market's needs in these months and reduces production relatively in the spring and summer, the market is benefited to the same degree. A producer's ability to deliver when the market has the greatest need for milk cannot be measured by his failure to deliver in months when milk is not needed as adequately as by taking account of his deliveries when the need is present. Proponents' plan would permit low delivery by the producer in a spring or summer month to carry equal weight with possible higher deliveries in the fall and winter in measuring his ability to meet the needs of the market. The record indicates that even if some producers may experience a low point in production during May and June, the market as a whole has a seasonal excess in these months. Moreover, the use of delivery information several months old would not appear to be as good an indicator of a producer's ability to supply milk in the future as his performance in the most recent period of low production. Since a base and excess plan looks to the future rather than to the past, it would appear that the plan could be applied with greatest equity if the recent performance of the producer were used to measure his future ability to deliver.

The producer's ability to deliver in a seasonal pattern best suited to the market will not be determined more accurately by adjusting producer deliveries in aggregate to the Class I sales (plus necessary reserves) of the market. Proponents state that a total of bases greatly in excess of Class I sales plus 10 percent is insupportable on the basis that "shares in the market cannot be assigned in excess of the market." If the class prices are set at a level which will maintain a reasonable balance between supply and demand, deliveries by producers in the months of lowest production will not exceed greatly the amount of milk actually needed for Class I use, plus the minimum reserve supply. Thus, producers will share equitably in the Class I market and necessary reserve. If, however, the total delivery should be substantially in excess of Class I sales plus the minimum reserve supply, it would be appropriate to review the level of class prices in the market.

In view of the above, it is concluded that the suggested proposals for determining amounts of bases and for ad-

justment to Class I sales to which reference is made should not be adopted.

Proponents offered a suggestion for a "merit-grading plan" under which those producers meeting a specified "score" for milk quality would receive a blended, or uniform, price and deduction from such price would be made in the case of milk meeting health department standards, but considered of lesser quality. By alternative suggestion, it was indicated that "premiums" might be established for grade or quality ratings above the lowest acceptable grade.

The statute permits the adoption of provisions for the adjustment of producer prices based on grade or quality. However, in order to delineate between grades of milk within the framework of minimum prices and pooling under the order, it would be necessary from an administrative viewpoint to have a specific set of standards by which the market administrator could fairly determine differences in quality. Anything less would be impractical and obviously inequitable as among producers. The problems of administering such a plan equitably on a marketwide basis differ appreciably from those encountered in the application of the plan by a producer association with respect to milk in its own plant.

The merit-grading plan which has been made applicable to a portion of the milk in the market by proponents has not been adopted universally by handlers. Only the proponent producers' associations spoke in its behalf. Other handlers were noncommittal as to its value. The plan outlined was not specific in its terms and it does not appear to be supported by any official action or program of the local health authorities. The price formulas included in the attached order are designed to bring forth the necessary supply of milk under the minimum standards established by the local health authorities. Additional payments for extra quality may be made, if handlers so desire.

It is concluded from the above that the merit-grading plan as suggested should not be adopted on the basis of the evidence available at this time.

(3) *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. 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 made 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 the functions authorized by the enabling act, i. e., blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers. A cooperative association, if it is to carry out such functions, must have full authority in the collective bargaining and marketing of members' milk.

(4) *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.

(1) *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 assure 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.

(2) *Market 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.

(3) *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 such class by such handler.

One handler objected to the adoption of such a provision. It was contended that such reports would contain valuable competitive information which would not be available to proprietary handlers.

The record shows that, at the present time, there is only one cooperative in the Inland Empire market which would be entitled to receive this information. This association does not operate a plant, and is not engaged in marketing milk in competition with handlers. Its sole function is bargaining on behalf of its producer-members and in check-weighing and check-testing their milk. It is concluded that the reporting of such information to the cooperative will facilitate the efficient utilization of the available market supply and thus minimize the total quantity of milk which must be produced to meet the Class I needs of all handlers in the marketing area.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, including financial records, 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.

One handler contended that it was not necessary for the market administrator to have access to financial records in auditing reports of handlers for order purposes. The record indicates there may be instances in which a handler, wittingly or unwittingly, may fail to report all receipts and/or sales of milk. In such cases, it would be necessary for the market administrator to have access to the financial as well as other pertinent records as a means of discovering omissions or inaccuracies in accounting for milk under the order. Assuring proper accounting for milk is an important feature of an order; thus, it is essential that the market administrator have access to any and all records necessary for him to properly perform his duty and broad authority is granted, in this respect, under the Agricultural Marketing Agreement Act of 1937, as amended.

One handler alleged that when handlers report to producers concerning payments for milk received, it should not be necessary that they indicate the amount of premiums paid as long as appropriate minimum prices are exceeded. Inasmuch as in the bulk of cases a number of deductions will be made by the handler in arriving at the net amount due a producer for his milk which will result in a net payment to the producer less than the uniform price(s) required to be paid by the order f. o. b. plant, it is only reasonable that the producer be made aware of the starting point from which deductions are made as well as the amounts of the specific deductions which he has specifically authorized. Thus, the producer and the market administrator will be in a position to ascertain readily whether or not the full minimum price(s) provided by the order has been paid to the producer.

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 under-payment 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 received 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 may 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.

(4) *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 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.

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 may be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

(5) *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 qualified cooperative association is found to be performing such services for any member-producers, this will be accepted by the market administrator 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 a cooperative having a plant(s) 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. The bargaining association in the area is attempting to perform check-weighing and check-testing services for its members under an association check-off. In order to place such services on a marketwide basis, the market administrator should also provide them for producers not 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 dis-

semination of current information on a marketwide 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, each handler would be required to pay to the cooperative association such association dues as are authorized by its members who deliver to such handler.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. The briefs contained suggested findings of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions herein before set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied.

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, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order. The following order regulating the handling of milk in the Inland Empire marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The proposed marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the recommended order.

DEFINITIONS

§ 1008.1 *Act.* "Act" means Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the

Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

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

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

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

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

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

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

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

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

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

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

area as a plant for the receiving of milk qualified for consumption as fluid milk in the marketing area and from which:

(a) Class I milk pursuant to § 1008.41 (a) (1) (2), or (3) is distributed on wholesale or retail routes wholly or partially within the marketing area (for the purpose of this section, route shall mean a delivery to retail or wholesale outlets, including delivery by a vendor or a sale from a plant or plant store, of milk or any milk product classified as Class I milk pursuant to § 1008.41 (a) (1) (2), or (3) other than a delivery to another pool plant), or (b) milk, skim milk, or cream is forwarded to a plant described in paragraph (a) of this section: *Provided*, That no such plant shall be a pool plant if the percentage which the quantity of either butterfat or skim milk in milk, skim milk, and cream so forwarded bears to the amount thereof contained in milk received from dairy farmers at such plant is less than 50 percent in the current month during the period October through December and 20 percent in the current month during the period January through September, except if the percentage forwarded was more than 50 percent of such receipts for the entire period October through December, no percentage shall be required for such months of January through September immediately following: *And provided further*, That any such plant which otherwise meets the requirements of this paragraph, but is not a plant from which Class I milk is distributed on wholesale or retail routes wholly or partially within the marketing area, may withdraw from pool plant status for any month in the January-September period if the operator of such plant files with the market administrator prior to the first day of such month a written request for such withdrawal.

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

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

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

§ 1008.12 *Producer milk.* "Producer milk" or "milk received from producers" means milk of any producer qualified as described in § 1008.11 and either (a) received directly from a farm at a pool plant, or (b) caused to be diverted by a handler for his account from such plant to a nonpool plant during any of the months of February through August: *Provided*, That milk from the same producer was received at a pool plant during some portion of the period September through January immediately preceding.

§ 1008.13 *Other source milk.* "Other source milk" means all skim milk and

butterfat (including that received from a producer-handler and other order milk defined in § 1008.14) other than (a) producer milk, (b) milk and milk products in any of the forms specified in § 1008.41 (a) (1) (2) and (3) received from a pool plant(s)

§ 1008.14 *Other order milk.* "Other order milk" means all skim milk and butterfat received in any form by a handler, the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing order issued pursuant to the act for any other milk marketing area.

§ 1008.15 *Handler.* "Handler" means:

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

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

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

§ 1008.18 *Base milk.* "Base milk" means milk delivered by a producer during the month which is not in excess of (a) his daily base computed pursuant to § 1008.60 multiplied by the number of days of delivery in such month: *Provided,* That with respect to any producer on "every-other-day" delivery to a pool plant the days of non-delivery shall be considered as days of delivery for the purposes of this section and of § 1008.60.

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

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

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

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

(d) Pay out of funds provided by § 1008.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1008.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

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

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

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

producer milk by such handler were used in each class;

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

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

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

(ii) the amount of any charge made pursuant to § 1008.70 (a) (4)

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

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

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

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

(2) Each handler whose total value of milk is computed pursuant to § 1008.70

(b) of the pounds of other source milk on which payment is required to be made and the amount due the producer-settlement fund from such handler.

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

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

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

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

REPORTS, RECORDS, AND FACILITIES

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

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

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

(c) The quantities of skim milk and butterfat contained in other source milk (including other order milk) received (except manufactured Class II milk

products disposed of in the form in which received without further processing by the handler)

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

(e) The aggregate quantities of base milk and excess milk received; and

(f) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 1008.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of base milk and the total pounds of excess milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 1008.32 *Other reports.* (a) At such times and in such manner as the market administrator may prescribe each handler shall report to the market administrator such information in addition to that required under § 1008.30 as may be requested by the market administrator with respect to milk and milk products handled by him.

(b) As requested by the market administrator, each producer-handler shall report to the market administrator relative to his receipts, utilization, and disposition of milk and milk products.

(c) As requested by the market administrator, each handler shall report the total quantity of milk received from each producer and the number of days of such delivery for each month beginning with September 1955.

§ 1008.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations (and summaries thereof customarily maintained) and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to the information required to be reported pursuant to §§ 1008.30, 1008.31, and 1008.32 and to payments required to be made pursuant to §§ 1008.80 through 1008.88.

§ 1008.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain. *Pro-*

vided, 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 § 8 (c) (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market 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.

§ 1008.35 *Handler report to producers.* (a) In making payments to producers pursuant to § 1008.80, each handler, on or before the 17th day of each month, shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month (1) the identification of the handler and the producer; (2) the total pounds of milk delivered by the producer and the average butterfat test thereof, the pounds of base and excess milk, and the pounds per shipment if such information is not furnished to the producer each day of delivery; (3) the minimum rate(s) at which payment to the producer is required under the provisions of § 1008.80; (4) the rate(s) used in making the payment, if such rate(s) is other than the required minimum rate(s); (5) the amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and (6) the net amount of payment to the producer.

(b) In making payment to a cooperative association in aggregate pursuant to § 1008.80 (b) each handler upon request shall furnish to the cooperative association, on or before the 16th day of each month, with respect to each producer for whom such payment is made, all the information specified in paragraph (a) of this section.

CLASSIFICATION

§ 1008.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 1008.30 shall be classified by the market administrator pursuant to the provisions of §§ 1008.41 through 1008.45, inclusive.

§ 1008.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1008.42, 1008.43, and 1008.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in fluid or frozen form as milk, skim milk (including fortified skim milk) skim milk drinks, buttermilk, flavored milk, flavored milk drinks, and cream (sweet or sour), (but not including any of the above items if packaged in hermetically sealed containers) (2) used in the production of concentrated milk, skim milk, flavored milk and flavored milk drinks not sterilized (but not including (i) those

products commonly known as evaporated milk, condensed milk, and condensed skim milk, (ii) flavored milk or flavored milk drink in hermetically-sealed containers; and (iii) any item named in this subparagraph disposed of pursuant to paragraph (b) (3) of this section), (3) disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes disposed of to a commercial processor, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt), (4) contained in monthly inventory variations, (5) shrinkage of producer milk in excess of that pursuant to paragraph (b) (4) of this section and shrinkage allocated to receipts from other handlers pursuant to § 1008.42 (b), and (6) not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those included under paragraphs (a) (1) (2) (3), and (c) of this section, (2) disposed of (skim milk only) for livestock feed or dumped during April, May, June, or July; *Provided,* That in the case of skim milk dumped the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition, (3) disposed of in bulk in any of the forms specified in paragraph (a) (1) (2) and (3) of this section (1) to bakeries, soup companies and candy manufacturing establishments in their capacity as such, (ii) in hermetically-sealed containers, or (iii) to nonpool plants subject to the conditions of § 1008.44 (c) (2) (4) in actual shrinkage of producer milk computed pursuant to § 1008.42 but not in excess of 2 percent of the quantities of skim milk and butterfat, respectively, in producer milk, and (5) in actual shrinkage of other source milk computed pursuant to § 1008.42.

(c) Class II A milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, and cottage cheese (and shall be included in Class II milk for all purposes of this order except as otherwise expressly stated)

§ 1008.42 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

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

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, among the pounds of producer milk, other source milk, and receipts from other handlers; *Provided,* That if milk is transferred from a pool plant to a nonpool plant located on the same premises as the transferor plant, the transfer to the nonpool plant shall be reduced by an amount determined by multiplying the total shrinkage in such nonpool plant by the percentage which the amount so transferred is to the total receipts at such nonpool plant.

§ 1008.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat proves that such skim milk and butterfat should be classified as Class II milk.

(b) The burden shall rest upon each handler to establish the sources of milk and milk products required to be reported by him pursuant to § 1008.30.

(c) Except as provided in § 1008.44 (b) (1) any skim milk or butterfat classified on the basis of its use in one product shall be reclassified if used or reused by any handler in another product.

§ 1008.44 *Inter-plant movements.* Skim milk and butterfat transferred as any item specified in § 1008.41 (a) (1) (2) and (3) from a pool plant to another plant shall be assigned (separately) to each class in the following manner:

(a) From a pool plant to another pool plant: As Class I milk unless another class use is indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the month within which such transfer was made: *Provided*, That if either or both plants received any other source milk, the quantity transferred shall be classified at both plants so as to allocate the highest possible utilization to producer milk: *And provided further* That for the purpose of applying location adjustment credits pursuant to § 1008.53 the quantity classified as Class I milk on interplant transfer shall not be greater than the amount by which Class I milk disposed of by the transferee-plant exceeds the quantity of milk received directly from producers at such plant.

(b) From a pool plant to a nonpool plant: Such transfer(s) (also diverted milk) shall be classified as provided below, except that if the market administrator is not permitted to audit the records of the nonpool plant(s) for the purpose of use verification, the entire transfer shall be classified as Class I milk:

(1) As Class I milk, if the transfer (or diversion) is to a nonpool plant which is engaged in the distribution of milk for consumption in fluid form (except as provided in subparagraph (2) of this paragraph) to the extent that milk is disposed of as any of the items specified in § 1008.41 (a) (1) (2) and (3) from the receiving plant.

(2) As Class II milk, if the transfer (or diversion) is to a nonpool plant which is not engaged in the distribution of milk for consumption in fluid form or is engaged in the processing and distribution of milk for fluid consumption packaged in hermetically-sealed containers: *Provided*, That if such nonpool plant disposes of skim milk or butterfat in any of the forms specified in § 1008.41 (a) (1) (2) and (3) to any other nonpool plant distributing milk in fluid form, such disposition, up to the quantity of milk transferred or diverted to the first nonpool plant, shall be classified as Class I milk: *And provided further*, That if the

proceeding proviso does not apply, the transferred or diverted quantity shall be deemed to have been utilized first for the manufacture of Class II milk products other than ice cream, ice cream mix, frozen desserts, and cottage cheese to the extent that such Class II milk products were produced at such nonpool plant.

§ 1008.45 *Computation of the quantity of producer milk in each class.* For each handler the market administrator shall:

(a) Correct for mathematical and for other obvious errors the monthly report submitted by such handler and compute the total pounds of skim milk and butterfat in each class: *Provided*, That when nonfat milk solids derived from nonfat dry milk solids, condensed skim milk, or any other product condensed from skim milk, are utilized by such handler (1) to fortify (or as an additive to) fluid milk, flavored milk, skim milk, or any other milk product, or (2) for disposition in reconstituted form as skim milk or a milk drink, the total pounds of skim milk computed for the appropriate class of use shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids; and

(b) Allocate skim milk in the following manner:

(1) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk shrinkage allowed pursuant to § 1008.41 (b) (4)

(2) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk in other source milk received (other order milk to be subtracted last) and in overage allocated to other source milk: § 1008.70 (a) (5) *Provided*, That if the receipts of skim milk in other source milk plus the overage allocated to other source milk are greater than the pounds of skim milk in Class II milk, the balance shall be subtracted in sequence from the pounds of skim milk in Class II A milk and in Class I milk;

(3) Subtract from the remaining pounds of skim milk in each class, respectively, the skim milk received from other pool plants and assigned to such class pursuant to § 1008.44,

(4) Add to the remaining pounds of Class II milk, the amount subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class beginning with Class II milk.

(c) Allocate butterfat in accordance with the procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add together for each class the quantities of skim milk and butterfat in such class computed pursuant to paragraphs (b) and (c) of this section and compute the weighted average butterfat content of such class.

MINIMUM PRICES

§ 1008.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in computing the price per hundredweight of

Class I milk for the current month shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section for the preceding month:

(a) Divide by 3.5 and then multiply by 4.0 the average of the basic, or field, prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from dairy farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department.

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

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

(1) Multiply by 4.8 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the simple average of the weighted averages of carlot prices per pound for nonfat dry milk 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; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 67 cents.

§ 1008.51 *Class prices.* Subject to the differentials provided in §§ 1008.52 and 1008.53 the following are the minimum prices per hundredweight to handlers for Class I milk, Class II A, and Class II milk:

(a) *Class I milk.* For each month during the eighteen-month period following the effective date of this order, the price for Class I milk shall be the basic formula price rounded to the nearest cent, plus \$1.85.

(b) *Class II A milk.* The price for Class II A milk shall be the price computed pursuant to paragraph (c) of this section, plus 25 cents per hundredweight.

(c) *Class II milk.* The price for Class II milk shall be that computed by the market administrator from the formula set forth in subparagraphs (1), (2) and (3) of this paragraph.

(1) Multiply by 4.8 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score)

bulk creamery butter per pound at San Francisco, as reported by the Department during the month: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

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

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 80 cents and round to the nearest cent.

§ 1008.52 *Butterfat differentials to handlers*. If the average butterfat content of Class I milk or Class II milk, computed pursuant to § 1008.45, for any handler for any month differs from 4.0 percent, there shall be added to, or subtracted from, the applicable class price (§ 1008.51) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 4.0 percent, a butterfat differential computed by the market administrator as follows:

(a) *Class I milk*. Multiply by 1.23 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at San Francisco, as reported by the Department during the preceding month, divide the result by 10, and round to the nearest tenth of a cent.

(b) *Class II milk and Class II A milk*. Multiply by 1.15 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at San Francisco, as reported by the Department during the month, divide the result by 10, and round to the nearest tenth of a cent.

§ 1008.53 *Location adjustment credits to handlers*. The price for Class I milk at a pool plant located more than 50 miles from the City Hall, Spokane, Washington, shall be, regardless of point of sale within or outside the marketing area, the same as the price for Class I milk pursuant to § 1008.51 (a) less a location adjustment per hundredweight of milk computed as follows: 3 cents for each 10 miles, or major fraction thereof, up to 100 miles, an additional 2.0 cents for each 10 miles, or major fraction thereof, for distances in excess of 100 miles but not more than 200 miles, and an additional 1.0 cent for each 10 miles, or major fraction thereof, in excess of 200 miles, by the shortest hard-surfaced highway distance, as determined by the market administrator, from such pool plant to the City Hall, Spokane, Washington: *Provided*, That for the purpose of calculating such location differential skim milk or butterfat transferred between pool plants shall be assigned to

any remainder of Class II milk at the transferee-plant after making the calculations pursuant to § 1008.45 (b) (1) and (2) and the comparable steps in § 1008.45 (c) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

DETERMINATION OF BASE

§ 1008.60 *Computation of producer bases*. Subject to the rules set forth in § 1008.61 the market administrator shall determine bases for producers in the following manner:

(a) For the period from the effective date of this part through February 1956 the daily base of each producer shall be the daily average of his total deliveries of milk to a pool plant(s) for the respective month.

(b) Beginning with March 1956 the daily base of each producer whose milk was received at a pool plant(s) on not less than 120 days during the months of September through January, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered to a pool plant in such five-month period by the number of days from the date of his first delivery to the end of such five-month period: *Provided*, That the daily base of any producer who delivered milk on not less than 120 days during such September-January period to a plant which subsequently qualified as a pool plant shall be computed, in similar manner, on the basis of such producer's deliveries to such plant in such September-January period. The base so computed, which shall be recomputed each year, shall become effective on the first day of March next following and shall remain in effect through the month of February of the next succeeding year.

(c) The daily base of any producer who is not eligible to receive a base computed pursuant to paragraph (b) of this section (including any producer for whom a base may not be computed pursuant to paragraph (b) of this section because of lack of available information concerning such producer's deliveries in the applicable September-January period) shall be a quantity, to be effective for the current month only, computed by dividing such producer's total pounds of milk delivered to a handler(s) in the current month by the number of days from the date of first delivery to the end of such month, and multiplying the result by the percentage applicable for such month computed by the market administrator as follows: Divide the amount represented by the aggregate of all daily bases in effect on the preceding March 1 by the daily average deliveries of all producers to handlers in the current month and reduce such figure by 10 percent.

§ 1008.61 *Base rules*. The following rules shall be observed in determination of bases:

(a) A base computed pursuant to § 1008.60 (b) may be transferred upon written notice to the market administrator on or before the last day of the month of transfer, but only if a producer

sells, leases, or otherwise conveys his herd to another producer and it is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this part.

(b) A producer who ceases deliveries to a pool plant for more than 45 days shall lose his base if computed pursuant to § 1008.60 (b) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 1008.60 (c) until he can establish a new base under § 1008.60 (b) to begin the next March 1.

(c) By notifying the market administrator in writing on or before the 15th day of any month, a producer holding a base established pursuant to § 1008.60 (b) may relinquish such base by cancellation, and effective from the first day of the month in which notice is received by the market administrator until the next March 1 such producer's base shall be computed in the manner provided by § 1008.60 (c).

(d) As soon as bases computed by the market administrator under § 1008.60 (b) and (c) are allotted, notice of the amount of each producer's base shall be given by the market administrator to the handler receiving such producer's milk and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place at each of his plants a list (or lists) showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm, he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 1008.11 may establish or earn a base pursuant to the provisions of § 1008.60 (b) or (c) and only one base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment used are jointly owned or operated.

DETERMINATION OF UNIFORM PRICE

§ 1008.70 *Computation of value of milk*. (a) The total value of milk received during any month by each handler, including any cooperative association which is a handler, shall be a sum of money computed by the market administrator as follows:

(1) Multiply the pounds of producer milk in each class for such month by the class price (§ 1008.51) and add together the resulting amounts;

(2) Deduct the total amount of all location adjustment credits computed in accordance with § 1008.53

(3) Add or subtract, as the case may be, the amount necessary to correct errors as disclosed by the verification of the reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made;

(4) Add, if such handler had overage, an amount computed by multiplying the pounds of such overage (except overage prorated to other source milk) deducted

from each class pursuant to § 1008.45 by the applicable class price: *Provided*, That if (i) overage results in a pool plant having receipts of other source milk, the total overage shall be prorated between other source milk and all other receipts, and (ii) overage results in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, and the transferor handler shall be charged at the applicable class price for the amount of overage allocated to the transferred quantity.

(5) Add, with respect to other source milk (including overage allocated to other source milk but excluding other order milk) received at each pool plant of such handler in excess of the total volume of his Class II milk (except allowable shrinkage) at such plant, an amount computed by multiplying the hundredweight of such other source milk by the difference between the Class I milk and Class II milk (other than Class II A) prices adjusted, respectively, by the butterfat differentials provided in § 1008.52 (based on the butterfat test of such other source milk) *Provided*, That if the nonpool plant supplying such milk is located outside the marketing area and more than 50 miles from the City Hall, Spokane, Washington, the rate of payment per hundredweight of milk otherwise required by this subparagraph shall be reduced by the rate of location adjustment provided in § 1008.53 for the distance such plant is located from the City Hall, Spokane, Washington, but not to exceed \$1.85 per hundredweight.

§ 1008.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk (uniform price for excess milk to be computed beginning with March 1956) received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1008.70 for all handlers who made the reports prescribed in § 1008.30 and who made the payments pursuant to § 1008.84 for the preceding month;

(b) Add the aggregate of values of the location adjustments on base milk allowable pursuant to § 1008.81,

(c) Add an amount representing not less than one-half the unobligated cash balance in the producer-settlement fund;

(d) Subtract, if the average butterfat content of the milk represented by the values included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 1008.82 and multiplying the resulting figure by the total hundredweight of such milk;

(e) Multiply the hundredweight of excess milk by the Class II (other than Class II A) price for 4.0 percent milk;

(f) Compute the total value of base milk by subtracting the amount computed pursuant to paragraph (c) of this section from the net amount computed pursuant to paragraph (d) of this section: *Provided*, That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I milk price (for 4.0 percent milk) plus 4 cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

(g) Divide the net amount obtained in paragraph (f) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 4.0 percent butterfat content; and

(h) Divide the sum of the amount obtained in paragraph (e) of this section and any amount subtracted pursuant to the proviso of paragraph (f) of this section by the hundredweight of excess milk. This result shall be known as the uniform price per hundredweight of excess milk of 4.0 percent butterfat content.

PAYMENTS

§ 1008.80 *Time and method of payment to producers and to cooperative associations.* (a) On or before the 17th day after the end of each month, each handler, including a cooperative association which is a handler, shall make payment to each producer, for milk received at his plant from such producer during such month pursuant to subparagraphs (1) and (2) of this paragraph: *Provided*, That such payment shall be made, upon request, to a cooperative association, or to its duly authorized agent, qualified under § 1008.5 with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 16th day after the end of such month: *And provided further* That, if by such date such handler has not received full payment for such month pursuant to § 1008.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator:

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the location adjustment computed pursuant to § 1008.81 and by the butterfat differential computed pursuant to § 1008.82.

(2) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1008.82.

(b) On or before the 16th day after the end of each month each handler shall pay to each cooperative association which operates a pool plant for skim milk and butterfat received from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class (pursuant to § 1008.41) by the class price.

(c) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c (5) (F) of the act from making payment for milk to its producers in accordance with such provision of the act.

§ 1008.81 *Location adjustments to producers.* In making payment to producers pursuant to § 1008.80 for milk received at a pool plant to which the provisions of § 1008.53 apply the uniform price per hundredweight for base milk shall be reduced at the same rate per hundredweight as is applicable to Class I milk: at such plant pursuant to § 1008.53.

§ 1008.82 *Producer butterfat differential.* In making payments pursuant to § 1008.80 (a) for base milk and for excess milk, there shall be added to, or subtracted from, the uniform prices thereof for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, butterfat differentials computed by the market administrator as follows:

(a) The butterfat differential for base milk shall be computed by multiplying the butterfat differential for Class I milk by the percentage of the butterfat contained in base milk that is allocated to Class I, and by multiplying the remaining percentage of butterfat within base milk by the butterfat differential for Class II milk, adding together the resulting amounts, and rounding to the nearest tenth of a cent.

(b) The butterfat differential for excess milk shall be the same as the butterfat differential for Class II milk.

§ 1008.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to § 1008.84 and out of which he shall make all payments to handlers pursuant to § 1008.85.

§ 1008.84 *Payments to the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total value of such handler's milk as determined pursuant to § 1008.70 is greater than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 1008.80 (a)

§ 1008.85 *Payments out of the producer-settlement fund.* On or before the 15th day after the end of the month during which the milk was received, the

market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the total value of such handler's milk as determined pursuant to § 1008.70 is less than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 1008.80 (a) and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1008.84, 1008.86, 1008.87, and 1008.88: *Provided*, That, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1008.86 *Adjustments of accounts.* Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

§ 1008.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1008.80 (a) shall make a deduction of 5 cents per hundredweight of milk, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(3) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth below in this paragraph is not being performed by such association(s) as determined by the market administrator on or before the 14th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market adminis-

trator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1008.80 (a) the amount per hundredweight of milk authorized by such producer and shall pay over, on or before the 16th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

§ 1008.88 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler, including any cooperative association which is a handler but not including a producer-handler, shall pay to the market administrator on or before the 14th day after the end of each month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within such month of (a) other source milk classified as Class I milk, and (b) milk received from producers, including such handler's own production.

§ 1008.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last-known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler falls or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claims was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1008.90 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated pursuant to § 1008.91.

§ 1008.91 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision of this order whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 1008.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1008.93 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expense of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1008.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1008.101 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 1st day of November 1955.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 55-8931; Filed, Nov. 3, 1955; 8:53 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

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

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCES FOR RESIDUES OF ENDRIN

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

A petition has been filed by Shell Chemical Corporation, 460 Park Avenue, New York 22, New York, proposing the establishment of a tolerance of 0.1 part per million for residues of endrin in or on the following raw agricultural commodities: Cabbage, cottonseed, cucumbers, eggplant, peppers, potatoes (Irish) sugar beets (including tops) summer squash, sweet corn (grain) and tomatoes.

Two analytical methods are proposed in the petition for determining residues of endrin. The first method is a microbiassay referred to as a dry film method. It is described in the following:

1. Sun, Y. P., and Pankaskie, J. E.. *Drosophila*, a Sensitive Insect, for the Microbioassay of Insecticide Residues; *Journal of Economic Entomology*, Volume 47, page 180 (1954)

2. Sun, Y. P., and Tung Sun, J. Y.. Microbioassay of Insecticides, with Special Reference to Aldrin and Dieldrin; *Journal of Economic Entomology*, Volume 45, page 26 (1952)

The second method is known as the dechlorination-phenylazide-photometric method. The essential features of this method consist of the following: Endrin, in a hydrocarbon solution, is taken to dryness and dechlorinated with metallic sodium in the presence of isopropyl and methyl alcohols to activate the double bond. The dechlorinated endrin is recovered by diluting the reaction mixture with petroleum ether and separated from alcohols and sodium salts by washing

with water. The petroleum ether solution is concentrated to a few milliliters and heated with phenyl azide to form the phenyldihydrotriazole of dechlorinated endrin.

Evaluation of the endrin concentration of the sample can be accomplished by a color-formation procedure. This procedure consists of reacting the endrin phenyldihydrotriazole with diazotized

sulfanilic acid which, when acidified with dilute sulfuric acid, gives an intense red color which has maximum absorption at 515 m μ .

Dated: October 31, 1955.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.
[F. R. Doc. 55-8927; Filed, Nov. 3, 1955; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order 177-7]

BUREAU HEADS

DELEGATION OF AUTHORITY WITH RESPECT TO OBTAINING SURETY BONDS TO COVER CIVILIAN OFFICERS AND EMPLOYEES AND MILITARY PERSONNEL

NOVEMBER 1, 1955.

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950, there are hereby transferred to the head of each Treasury bureau, to be exercised by him in accordance with regulations promulgated by the Secretary of the Treasury pursuant to the Act of August 9, 1955, Public Law 323, 84th Congress,¹ the functions of the Secretary of the Treasury under such act and the regulations issued pursuant thereto in respect to the obtaining of blanket, position schedule, or other types of surety bonds covering the civilian officers and employees and military personnel of his bureau who are required by law or administrative ruling to be bonded.

[SEAL] G. M. HUMPHREY,
Secretary of the Treasury.

[F. R. Doc. 55-8946; Filed, Nov. 3, 1955; 8:56 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3409]

COLUMBIA GAS SYSTEM, INC.

SUPPLEMENTAL ORDER RELEASING JURISDICTION HERETOFORE RESERVED WITH RESPECT TO CERTAIN FEES

OCTOBER 31, 1955.

The Commission having, by order dated September 13, 1955, permitted to become effective the declaration, as amended, of The Columbia Gas System, Inc. ("Columbia"), a registered holding company, regarding the issuance and sale of \$40,000,000 principal amount of 3½ percent Debentures, Series E, due 1980; and

The Commission having in said order reserved jurisdiction with respect to all requested legal, engineering, and accounting fees and expenses as follows:

¹ See Title 31, Part 226, in Rules and Regulations Section, *supra*.

	Fees	Expenses
Crawth, Swain & Meese, counsel for Columbia.....	\$15,000	
Shearman & Sterling & Wright, independent counsel for the successful bidders.....	12,500	\$1,700
Arthur Anderson & Co., accountants.....	17,950	2,000
Ralph E. Davis, consulting engineer.....	15,000	

¹ To be paid by the underwriters.

Columbia having filed further amendments to its declaration setting forth the nature and extent of the services covered by the aforesaid requests; and

The Commission having considered the record, and it appearing to the Commission that the requested fees and expenses are not unreasonable and that jurisdiction with respect thereto should be released:

It is ordered, That the jurisdiction heretofore reserved over the legal, engineering, and accounting fees and expenses incurred herein be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8908; Filed, Nov. 3, 1955; 8:47 a. m.]

[File No. 24S-1357]

PACIFIC ALASKAN LAND AND LIVESTOCK CO.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

OCTOBER 31, 1955.

I. Pacific Alaskan Land and Livestock Company, an Alaska corporation, P. O. Box 2111, Fairbanks, Alaska, having filed with the Commission on April 14, 1955, a notification on Form 1-A, relating to a proposed public offering of 2,992 shares of common stock, par value 25 cents per share; 2,992 shares of 7 percent non-accumulative preferred stock, par value \$100 per share; and 1,200 investment contracts (animal units) at \$250 per unit, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder; the Staff of the Commission having informed the issuer by letters dated April 21, and May 6,

1955, that said notification and offering circular filed as part thereof did not appear to comply with the terms and conditions of said Regulation A in the respects therein specified; and

II. The Commission having reasonable cause to believe:

A. That the terms and conditions of Regulation A have not been complied with in that the issuer failed to file, as required by Rule 221 of Regulation A, certain advertisements relating to the offering which were published on behalf of the issuer on August 9, 1955, in the Seattle Times and sales literature dated August 25, 1955, relating to such offering.

B. That such advertisements, sales literature and offering circular which were used in connection with the offering contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

(1) The problems and hazards of transporting cattle from the United States to certain islands in and near the Aleutian chain southwest of Alaska;

(2) The difficulty and cost of obtaining a vessel suitable for such transportation of livestock;

(3) The estimate of anticipated future profits and the projection of possible earnings from the proposed cattle raising venture on such islands;

(4) The background, experience and qualifications of Cline S. Koonz as the manager of the proposed cattle raising venture;

(5) Present and proposed slaughter, storage and marketing facilities necessary for the successful operation of the cattle raising venture;

(6) The difficulties of transportation between the several islands on which cattle are to be placed and to the mainland of Alaska and the costs of such transportation;

(7) The use of the proceeds to be secured from the sale of the issuer's securities;

(8) The interests of Cline S. Koonz and other persons in this promotional group and the consideration, if any, paid to the issuer for such interests;

(9) The financial statements of the company including statement of assets, liabilities, capital shares and cash receipts and disbursements;

(10) The terms and conditions of the grazing leases held by the issuer including the exact location of the leasehold and the number of acres covered thereby.

(11) The amount and quality of the grass on these leaseholds on which the issuer intends to graze its cattle and the requirements, if any, for supplemental winter feed and the cost thereof.

C. That oral representations made by Cline S. Koonz in connection with the offering contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

(1) The existence of a Texas financier willing to invest \$150,000 in the venture;

(2) The existence of a leased surplus vessel immediately available for transporting livestock to Alaska,

(3) The names of various cattlemen and farmers who had already invested in the venture;

(4) The financial worth of Cline S. Koonz;

(5) The past successful experience of Cline S. Koonz in a hog raising venture;

(6) The existence of an Idaho rancher who had invested \$10,000.

D. That the use of such advertisements, sales literature and offering circular as well as such oral representations would and did operate as a fraud and deceit upon the purchasers.

III. *It is ordered*, Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933 that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

It is further ordered, That this order and notice shall be served upon Pacific Alaskan Land and Livestock Company, Paul M. Anderson, 700 American Building, Second and Madison, Seattle 4, Washington, and Herbert H. Freise, Jones Building, Walla Walla, Washington, personally or by registered mail or by conformed telegraphic notice, and shall be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8909; Filed, Nov. 3, 1955;
8:48 a. m.]

[File No. 54-72, etc.]

STANDARD POWER AND LIGHT CORP. ET AL.
ORDER POSTPONING DATE OF HEARING WITH
RESPECT TO FEE CLAIM

In the matter of Standard Power and Light Corporation, Standard Gas and Electric Company, Philadelphia Company File Nos. 54-72, 54-173, 54-191, 54-199.

Upon the written request of counsel for Standard Gas and Electric Company, petitioner, and for good cause shown,

It is ordered, That the hearing with respect to the fee claim of James P. McGranery heretofore set for November 7, 1955, be, and the same hereby is, postponed to November 21, 1955 at 10 o'clock a. m.

In all other respects the notice of and order for hearing issued herein on Octo-

ber 5, 1955, will stand as heretofore issued.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8910; Filed, Nov. 3, 1955;
8:48 a. m.]

[File No. 812-955]

MINNEAPOLIS ASSOCIATES, INC., AND
E. W. AXE & CO. INC.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION REGARDING AMENDMENT TO ADVISORY CONTRACT WITHOUT STOCKHOLDER APPROVAL

OCTOBER 31, 1955.

Notice is hereby given that Minneapolis Associates, Inc. ("Associates"), investment adviser and principal underwriter for Minnesota Fund, Inc. ("Minnesota"), a registered open-end investment company, has filed an amended application pursuant to section 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 15 (a) of the act until the next annual meeting of shareholders of Minnesota set for January 26, 1956, a proposed amendment to an investment advisory contract dated May 28, 1952, between Associates and E. W. Axe & Co. Inc.

Axe is also an investment adviser of Minnesota by virtue of the said contract between Axe and Associates. Under the terms of said contract Axe furnishes Associates with information, advice and recommendations concerning the investment of funds and the management of the portfolio of Minnesota. Axe's compensation under said contract for its advisory service amounts to 40 percent of the fee payable to Associates by Minnesota under its investment advisory contract. Under the latter contract, Minnesota pays a quarterly fee of 1/4 of 1 percent of the value of the net assets of Minnesota.

On September 21, 1955, Associates and Axe executed an amendment to the present advisory contract which will result in an overall reduction in the amount of the fee to be paid by Associates to Axe. Under the amended contract Axe will receive for its advisory services to Associates each quarter an amount equal to:

0.075 of 1 percent of the first \$2,500,000 of the net asset value of Minnesota plus
0.0375 of 1 percent of the second \$2,500,000 of the net asset value of Minnesota plus
0.025 of 1 percent of the excess over \$5,000,000 of net asset value of Minnesota.

The net asset value for the above purpose is to be computed on the last full business day of the second month of each quarter.

The amendment is to become effective when approved by a majority of the outstanding voting securities of Minnesota or when exempted from the requirements of section 15 (a) of the act by this Commission.

Section 15 (a) of the act provides, among other things, that no person shall

serve as investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 6 (c) of the act provides that the Commission, upon application, may exempt any person or transaction from any provisions of the act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Applicant requests that the proposed fee reduction agreement, and the advisory agreement dated May 28, 1952, between it and Axe as amended by the said fee reduction agreement be exempted from the requirements of section 15 (a) of the act until the annual meeting of shareholders of Minnesota to be held on January 26, 1956, or until any adjournment thereof held no later than February 23, 1956.

In support of the amended application, Associates declares that the proposed reduction in the fee to be paid to Axe can have no adverse effect on the shareholders of Minnesota and that the long-term effect of such reduction may be expected to be beneficial to such shareholders to the extent that it will help enable Associates eventually to reduce the fee payable to it by Minnesota under their contract. Associates points out that substantial deficits incurred by it in connection with the promotion and management of Minnesota have not yet been eliminated through earnings derived from its underwriting or management contracts with Minnesota. In addition, Associates states that the cost of calling a special meeting of the shareholders of Minnesota does not seem to be warranted, in view of the fact that the annual meeting of such shareholders is to be held within less than six months from the date of this amended application. It is also stated that the directors of Minnesota have indicated their approval of the proposed fee reduction and the instant amended application.

Notice is further given that any interested person may, not later than November 15, 1955, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reason 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 communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission,

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 55-8911; Filed, Nov. 3, 1955; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 1, 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. 31266: *Formaldehyde—South Point, Ohio, to Calvert, Ky.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on formaldehyde, liquid, tank-car loads from South Point, Ohio to Calvert, Ky.

Grounds for relief: Market competition and circuitry.

Tariff: Supplement 248 to Agent Spaninger's I. C. C. 1062.

FSA No. 31267: *Iron or steel pipe or tubing—Houston, Tex., to South.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on pipe or tubing, iron or steel, carloads from Houston, Tex., to specified points in Kentucky, Mississippi and Tennessee.

Grounds for relief: Circuitous routes. Tariff: Supplement 17 to Agent Kratzmeir's I. C. C. 4170.

FSA No. 31268: *Pulpboard or fibreboard—Pekin, Ill., to Sherman, Tex.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on pulpboard or fibreboard, carloads from Pekin, Ill., to Sherman, Tex.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 34 to Agent Kratzmeir's I. C. C. 4134.

FSA No. 31269: *Grain and products from and to Mayer and St. Francis, Tex.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on grain and grain products, carloads between Mayer and St. Francis, Tex., on one hand, and interstate points, on the other.

Grounds for relief: Grouping and circuitry.

Tariffs: Supplement 41 to Agent Kratzmeir's I. C. C. 3818 and two other tariffs.

FSA No. 31270: *Creosote oil—Official Territory to the South.* Filed by C. W. Boin, Agent, for interested rail carriers. Rates on creosote oil and creosote oil distillate or solution, carloads, including tank-car loads from points in official territory to points in southern territory.

Grounds for relief: Market competition with producers in southern territory.

Tariffs: Supplement 6 to Agent Boin's tariff I. C. C. A-1067. Supplement 3 to Agent R. G. Raasch's tariff I. C. C. 845.

FSA No. 31271: *Fertilizer and materials—Tibbee, Miss., to Columbus, Ohio.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on fertilizer and fertilizer materials, carloads from Tibbee, Miss., to Columbus, Ohio.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 57 to Agent Spaninger's I. C. C. 1366.

FSA No. 31272: *Scrap iron or steel to Barberton, Ohio.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on scrap iron or steel, carloads from specified points in southern territory to Barberton, Ohio.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 89 to Agent Spaninger's I. C. C. 1329.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-8916; Filed, Nov. 3, 1955; 8:49 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 53A]

ATLANTIC AND EAST CAROLINA RAILWAY CO.

REROUTING OR DIVERSION OF TRAFFIC

Upon further consideration of Taylor's I. C. C. Order No. 58 and good cause appearing therefor: *it is ordered*, That:

(a) Taylor's I. C. C. Order No. 58, be, and it is hereby vacated and set aside.

(b) *Effective date.* This order shall become effective at 11:59 p. m., October 30, 1955.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., October 28, 1955.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F. R. Doc. 55-8323; Filed, Nov. 3, 1955; 8:52 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Exchange Authority

BOARDS OF TRADE DESIGNATED AS CONTRACT MARKETS UNDER THE COMMODITY EXCHANGE ACT

Under the authorization and direction contained in the Commodity Exchange Act, as amended (42 Stat. 998, 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, 61 Stat. 941, 62 Stat. 992, 63 Stat. 107, 68 Stat. 913, 69 Stat. 160, 375, 535; 7 U. S. C. 1952 ed. Supp. II, 1-17a) various boards of trade have, from time to time since October 24, 1922, been designated as contract markets under the provisions of the said act. The names of such boards of trade whose designations are presently in effect, the dates when the said designations were issued, the effective dates thereof, and the commodities in which trading is authorized under such designations are as follows:

Board of Trade	Date of designation	Effective date	Commodities
Board of Trade of the City of Chicago..	May 3, 1923	May 3, 1923	Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
	Sept. 14, 1936	Sept. 13, 1936	Cotton.
	Nov. 26, 1940	Dec. 8, 1940	Soybeans, lard, cottonseed oil.
	June 30, 1950	June 30, 1950	Soybean oil.
	Aug. 22, 1951	Aug. 22, 1951	Soybean meal.
Chicago Mercantile Exchange.....	Sept. 11, 1936	Sept. 13, 1936	Butter, eggs, Irish potatoes.
	Aug. 22, 1955	Sept. 24, 1955	Onions.
Chicago Open Board of Trade.....	Oct. 24, 1922	Oct. 24, 1922	Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
	Dec. 7, 1940	Dec. 8, 1940	Soybeans.
	May 11, 1923	May 11, 1923	Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
Duluth Board of Trade.....			Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
Board of Trade of Kansas City.....	May 5, 1923	May 5, 1923	Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
	Sept. 14, 1936	Sept. 13, 1936	Mill feeds.
	Dec. 7, 1940	Dec. 8, 1940	Cottonseed meal, soybean meal.
Memphis Board of Trade Clearing Association. ¹	Aug. 20, 1953	Aug. 20, 1953	Soybeans.
Milwaukee Grain Exchange ²	Oct. 24, 1922	Oct. 24, 1922	Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
Minneapolis Grain Exchange ³	May 2, 1923	May 2, 1923	Wheat, corn, oats, rye, barley, flaxseed, grain sorghums.
	Sept. 11, 1950	Sept. 11, 1950	Soybeans.
	Sept. 8, 1936	Sept. 13, 1936	Cotton.
	Nov. 26, 1940	Dec. 8, 1940	Cottonseed oil.
New Orleans Cotton Exchange.....	Sept. 11, 1936	Sept. 13, 1936	Cotton.
New York Cotton Exchange.....	Sept. 11, 1936	Sept. 13, 1936	Butter, eggs.
New York Mercantile Exchange.....	Nov. 28, 1941	Dec. 1, 1941	Irish potatoes.
	May 5, 1949	May 5, 1949	Rice.
	Aug. 17, 1955	Sept. 24, 1955	Onions.
New York Produce Exchange.....	July 21, 1926	July 21, 1926	Wheat, corn, oats, barley, rye, flaxseed, grain sorghums.
	Nov. 26, 1940	Dec. 8, 1940	Cottonseed oil, soybean oil, tallow.
Portland Grain Exchange.....	Apr. 30, 1929	Apr. 30, 1929	Wheat.
Merchants' Exchange of St. Louis.....	May 12, 1923	May 12, 1923	Wheat, corn, oats, barley, rye, flaxseed, grain sorghums.
	Sept. 11, 1936	Sept. 13, 1936	Mill feeds.
	Apr. 19, 1939	Apr. 19, 1939	Wheat, barley.
San Francisco Grain Exchange ⁴	Jan. 29, 1926	Jan. 29, 1926	Wheat.
Seattle Grain Exchange ⁵	June 1, 1938	June 1, 1938	Wool tops.
Wool Associates of the New York Cotton Exchange, Inc.	Oct. 14, 1954	Oct. 27, 1954	Wool.

¹ Originally designated as Memphis Merchants Exchange Clearing Association, designation changed to present name effective April 19, 1954.

² Originally designated as the Chamber of Commerce of the City of Milwaukee, designation changed to Milwaukee Grain & Stock Exchange effective July 20, 1931, and to present name effective December 21, 1946.

³ Originally designated as the Chamber of Commerce of Minneapolis, designation changed to present name effective January 1, 1947.

⁴ Successor to the Grain Trade Association of the San Francisco Chamber of Commerce, designated as a contract market for barley, October 31, 1922, and for wheat, November 3, 1930.

⁵ Originally designated as the Merchants Exchange Clearing House of Seattle, designation changed to present name effective October 1, 1927.

Done at Washington, D. C., this 27th day of October 1955.

[SEAL]

ROGER R. KAUFFMAN,
Administrator

[F. R. Doc. 55-8914; Filed, Nov. 3, 1955; 8:49 a. m.]

Commodity Stabilization Service

[Notice No. 3 of Requirement of Certification—1955, Amdt.]

CUBA

ENTRY OF SUGAR OR LIQUID SUGAR INTO CONTINENTAL UNITED STATES

Notice No. 3 of Requirement of Certification—1955 (20 F. R. 7945) which was published in the FEDERAL REGISTER of October 21, 1955, is hereby amended to show the 1955 sugar quota for Cuba to be 2,859,840 short tons, raw value, instead of 2,763,840 short tons, raw value.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153, 13 F. R. 127; 14 F. R. 1169; 16 F. R. 12847)

Issued this 26th day of October 1955.

[SEAL]

LAWRENCE MYERS,
Director Sugar Division,
Commodity Stabilization Service.

[F. R. Doc. 55-8935; Filed, Nov. 3, 1955; 8:54 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

GREAT LAKES-BORDEAUX/HAMBURG RANGE WESTBOUND CONFERENCE AND ATLANTIC (PASSENGER) CONFERENCE

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. 814.

(1) Agreement No. 7830-2, between the member lines of the Great Lakes—Bordeaux/Hamburg Range Westbound Conference modifies the basic agreement of that conference (No. 7830) to include therein a specific provision for the establishment of contract/non-contract rates in the westbound trade from ports within the Bordeaux/Hamburg Range to ports of the Great Lakes of the United States served by the member lines of such conference.

(2) Agreement No. 7840-27, between the member lines of the Atlantic (Passenger) Conference modifies the basic conference agreement (No. 7840) to amplify the provision governing the nomination of arbitrators.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 1, 1955.

By order of the Federal Maritime Board:

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 55-8937; Filed, Nov. 3, 1955; 8:55 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7278]

LINEAS AEREAS DE NICARAGUA, S. A.
(LANICA)

NOTICE OF CANCELLATION OF HEARING

In the matter of the application of Lineas Aereas de Nicaragua, S. A. for a foreign air carrier permit authorizing it to engage in indirect foreign air transportation with respect to property or as a foreign freight forwarder between points in the United States and points in Nicaragua.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding assigned for November 21, 1955, is hereby cancelled.

Dated at Washington, D. C., October 28, 1955.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 55-8892; Filed, Nov. 3, 1955; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-9568]

HUNT OIL Co.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Hunt Oil Company (Applicant) on September 22, 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 filing which is proposed to become effective on the date shown:

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 21, 1955

Issued: October 28, 1955

By the Commission

[SEAL]

J H GURRIDE,
 Acting Secretary

[F R Doc 55-8896; Filed, Nov 3 1955; 8:45 a. m.]

[Docket No G-9870]

W H COCKE

ORDER SUSPENDING PROPOSED CHANGES IN RATES

W. H. Cocke (Applicant), on September 29, 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 filing which is proposed to become effective on the date shown:

been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:
 (1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956 and until such further time as it is made

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept 29, 1955	United Gas Pipe Line Co	Supplement No 5 to Applicant's FPO Gas Rate Schedule No 5	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St Mary and St Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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 supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956 and until such further time as it is made

ment be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is 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 21, 1955

Issued: October 28, 1955

By the Commission.

[SEAL]

J H GURRIDE,
 Acting Secretary

[F R Doc 55-8896; Filed, Nov 3, 1955; 8:45 a. m.]

[Docket No G-9569]

C N JOHNSTON ET AL

ORDER SUSPENDING PROPOSED CHANGES IN RATES

C. N. Johnston et al (Applicant), on September 30, 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 filing which is proposed to become effective on the date shown:

been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:
 (1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956 and until such further time as it is made

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept 29, 1955	United Gas Pipe Line Co	Supplement No 2 to Applicant's FPO Gas Rate Schedule No 1	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St Mary and St Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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 supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956 and until such further time as it is made

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 29, 1955	United Gas Pipe Line Co	Supplement No. 2 to Applicant's FPO Gas Rate Schedule No 1	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St Mary and St Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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,

been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:
 (1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956 and until such further time as it is made

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept 29, 1955	United Gas Pipe Line Co	Supplement No. 2 to Applicant's FPO Gas Rate Schedule No 1	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St Mary and St Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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 supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956 and until such further time as it is made

pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is 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 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8897; Filed, Nov. 3, 1955;
8:46 a. m.]

[Docket No. G-3861]

HOLLY NESTER

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 31, 1955.

Take notice that Holly Nester, Agent—Garretson Lease (Applicant) an individual whose address is Millstone, West Virginia, filed on September 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sells natural gas which is produced from Garretson Lease, Sherman District, Calhoun County, West Virginia, to Godfrey L. Cabot, Inc., for transportation in interstate commerce for resale.

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 December 2, 1955, at 9:50 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 (c) (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 Commis-

sion, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 18, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission hereof of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8819; Filed, Nov. 3, 1955;
8:50 a. m.]

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change (undated)...	United Gas Pipe Line Co...	Supplement No. 3 to Applicant's FPC Gas Rate Schedule No. 13.	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St. Mary and St. Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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

Description	Purchaser	Rate schedule designation	Effective date ¹
Supplement agreement, dated Sept 29, 1955.	United Fuel Gas Co.....	Supplement No. 16 to Applicant's FPC Gas Rate Schedule No. 12.	Nov. 1, 1955
Notice of change, dated Sept. 29, 1955.do.....	Supplement No. 17 to Applicant's FPC Gas Rate Schedule No. 12.	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.

On October 14, 1955, Applicant filed a petition requesting a shortened suspension period of one week.

The increased rates and charges proposed in the aforesaid filings have not been shown to be justified, and may be

[Docket No. G-9571]

ARKANSAS FUEL OIL CORP.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Arkansas Fuel Oil Corporation (Applicant) on September 30, 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 filing which is proposed to become effective on the date shown:

thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is 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 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8898; Filed, Nov. 3, 1955;
8:46 a. m.]

[Docket No. G-9572]

UNITED CARBON CO.

ORDER SUSPENDING PROPOSED CHANGES IN RATES AND DENYING PETITION FOR SHORTENED SUSPENSION PERIOD

United Carbon Company (Applicant), on September 30, 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 date shown:

unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Applicant's petition requesting a shortened suspension period does not

present sufficient facts to warrant shortening the suspension period to one week.

(2) 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, for lack of sufficient grounds to warrant shortening the suspension period, 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) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f))

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8299; Filed, Nov. 3, 1955; 8:46 a. m.]

[Docket No. G-4223]

PROGRESS PETROLEUM COMPANY OF TEXAS
ET AL.

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 31, 1955.

In the matter of Progress Petroleum Company of Texas, E. Weber Ogden and Dan J. White, Jr., Docket No. G-4223.

Take notice that Progress Petroleum Company of Texas (a Texas corporation, whose address is Commerce Building, Houston, Texas, and E. Weber Ogden and Dan J. White, Jr. (individuals) whose address is Esperson Building, Houston, Texas (Applicants) filed on October 7, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicants sell natural gas which is produced from Hutchins South Field, Wharton County, Texas, to Tennessee Gas Transmission Company for trans-

portation in interstate commerce for resale.

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 December 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 (c) (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

Description	Purchaser	Rate schedule designation	Effective date ¹
Supplemental agreement, dated Sept. 27, 1955.	United Fuel Gas Co.....	Supplement No. 11 to Applicant's FPC Gas Rate Schedule No. 10.	Nov. 1, 1955
Notice of change, dated Sept. 29, 1955.do.....	Supplement No. 12 to Applicant's FPC Gas Rate Schedule No. 10.	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.

On October 14, 1955, Applicant filed a petition requesting a shortened suspension period of one week.

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:

(1) Applicant's petition requesting a shortened suspension period does not present sufficient facts to warrant shortening the suspension period to one week.

(2) 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, for lack of sufficient

with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 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] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8320; Filed, Nov. 3, 1955; 8:50 a. m.]

[Docket No. G-9573]

COLUMBIAN FUEL CORP.

ORDER SUSPENDING PROPOSED CHANGES IN RATES AND DENYING PETITION FOR SHORTENED SUSPENSION PERIOD

Columbian Fuel Corporation (Applicant) on September 30, 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 date shown:

grounds to warrant shortening the suspension period, 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) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f))

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8300; Filed, Nov. 3, 1955; 8:46 a. m.]

[Docket No. G-9574]

HUMBLE OIL AND REFINING CO.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Humble Oil and Refining Company (Applicant), on September 28, 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 filing which is proposed to become effective on the date shown:

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 26, 1955.	United Gas Pipe Line Co...	Supplement No. 3 to Applicant's FPC Gas Rate Schedule No. 35.	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St. Mary and St. Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement be suspended and the use thereof deferred as hereinafter orders.

The Commission orders:

(A) Pursuant to the authority contained in section 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 change in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

ment be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is 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 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8901; Filed, Nov. 3, 1955; 8:46 a. m.]

[Docket No. G-9575]

R. H. GOODRICH

ORDER SUSPENDING PROPOSED CHANGES IN RATES

R. H. Goodrich (Applicant) on September 29, 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 filing which is proposed to become effective on the date shown:

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 27, 1955.	United Gas Pipe Line Co...	Supplement No. 2 to Applicant's FPC Gas Rate Schedule No. 1.	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St. Mary and St. Martin Parishes, Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement be suspended and the use thereof deferred as hereinafter ordered.

ness of the said proposed changes, and that the above-designated supplement 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 supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is 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 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8902; Filed, Nov. 3, 1955; 8:46 a. m.]

[Docket No. G-6921]

NOLLEM OIL AND GAS CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 31, 1955.

Take notice that Nollem Oil and Gas Corporation (Applicant), a Pennsylvania corporation whose address is Pittsburgh, Pennsylvania; filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sells natural gas which is produced from Middle Fork and Roaring Creek Districts, Randolph County, West Virginia, to Cumberland and Allegheny Gas Company for transportation in interstate commerce for resale.

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 December 1, 1955, at 9:50 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 (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 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]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8921; Filed, Nov. 3, 1955; 8:50 a. m.]

[Docket No. G-2306, etc.]

**AMERICAN LOUISIANA PIPE LINE CO. ET AL.
NOTICE OF APPLICATIONS, CONSOLIDATION
OF PROCEEDINGS, AND DATE OF RESUMED
HEARING**

OCTOBER 31, 1955.

In the matters of American Louisiana Pipe Line Company, Docket No. G-2306; Texas Gas Transmission Corporation, Docket No. G-2311, Michigan Wisconsin Pine Line Company, Docket No. G-2327; Michigan Consolidated Gas Company, Docket No. G-2328; Lincoln Natural Gas Company, Inc., Docket No. G-9270; Illinois Power Company, Docket No. G-9293.

Take notice that applications pursuant to section 7 (a) of the Natural Gas Act have been filed by the following applicants on the dates indicated:

Docket No.	Applicant	Date filed
G-9270	Lincoln Natural Gas Co., Inc.	Aug. 29, 1955
G-9293	Illinois Power Co.	Aug. 31, 1955

Illinois Power Company seeks an order directing Michigan-Wisconsin Pipe Line Company to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver to Applicant its natural gas requirements for the Village of Cambridge, Illinois. Illinois Power Company will construct the facilities necessary to connect the Village of Cambridge with Michigan-Wisconsin Pipe Line Company at an estimated cost of \$130,000, and estimates its third year peak-day requirements at 610 Mcf.

Lincoln Natural Gas Company, Inc., of Rockport, Indiana, seeks an order directing American Louisiana Pipe Line Company to establish physical connection of its transportation facilities with the facilities to be installed by Applicant, at an estimated cost of \$200,000, to connect the Town of Rockport, Indiana, to the transmission line of American Louisiana. Lincoln Natural Gas Company, Inc., estimates its third year peak-day requirements at 1,600 Mcf.

The applications are on file with the Commission and open for public inspection.

Take further notice that, on September 16, 1955, American Louisiana Pipe Line Company, Michigan-Wisconsin Pipe Line Company, and Michigan Consolidated Gas Company, filed a Joint Motion for Resumption of Hearings in the above proceedings with respect to the matters which were reserved for further hearings by the Commission's Opinion No. 276 and accompanying Order, issued October 1, 1954.

In paragraph (B) (ii) of said order, the Commission provided:

(ii) The deliveries and sales of gas to be made by American Louisiana, together with the question of the authorization of the 117 miles of 22-inch line hereinbefore referred to, are hereby made subject to further order of the Commission in this proceeding.

In paragraph (D) of said order, the Commission further provided:

(D) Hearings on the applications of Michigan Wisconsin Pipe Line Company, Docket No. G-2327, and Michigan Consolidated Gas Company, Docket No. G-2328, together with all petitions seeking gas service from American Louisiana and Michigan Wisconsin in these proceedings and the matters specifically reserved for further disposition in American Louisiana Pipe Line Company, Docket No. G-2306, shall be subject to further order of the Commission.

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, hearings in the above proceedings with respect to the matters which were reserved for further hearings by paragraph (B) (ii) and paragraph (D) of the Commission's Opinion No. 276 and accompanying Order, issued October 1, 1954, will be resumed on December 7, 1955, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission,

441 G Street NW., Washington, D. C., hearing will also be held concerning the matters involved in and the issues presented by the applications in Docket Nos. G-9270 and G-9293.

Protests or petitions to intervene in Docket Nos. G-9270 and G-9293 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 November 15, 1955.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8318; Filed, Nov. 3, 1955; 8:50 a. m.]

[Docket No. G-9576]

TEXAS CO.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

The Texas Company (Applicant) on September 30, 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 filing is proposed to become effective on the date shown:

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 23, 1955.	United Gas Pipe Line Co.	Supplement No. 3 to Applicant's FPC Gas Rate Schedule No. 192.	Nov. 1, 1955

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 aforesaid filing would increase the rate for gas sold to United Gas Pipe Line Company in the Duck Lake Field, St. Mary and St. Martin Parishes Louisiana, from the presently effective rate of 13.5 cents per Mcf to 21.2 cents per Mcf.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) The statement submitted by Applicant in support of the increase from 13.5 cents per Mcf to 21.2 cents per Mcf does not in any way justify the proposed rate.

(2) 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 supplement 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 supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is 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 21, 1955.

Issued: October 23, 1955.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8303; Filed, Nov. 3, 1955; 8:47 a. m.]

[Docket No. G-7343]

REEF FIELDS GASOLINE CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 31, 1955.

Take notice that Reef Fields Gasoline Corporation (Applicant) a Texas corpo-

ration whose address is Houston, Texas, filed on December 1, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sells natural gas which is produced from Good, Vealmoor, Oceanic, Von Raeder, East Vealmoor, Hobo, Reinecke, North Luther, and Good Northeast fields in Borden and Howard Counties, Texas, to El Paso Natural Gas Company for transportation in interstate commerce for resale.

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 December 1, 1955, at 9:40 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 (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 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]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8923; Filed, Nov. 3, 1955;
8:50 a. m.]

[Docket No. G-6963]

RANDOLPH GAS CO.

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 31, 1955.

Take notice that Randolph Gas Company (Applicant) a Virginia corporation whose address is Alexandria, Virginia, filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sells natural gas which is produced from Hiram Anticline, Randolph County West Virginia, to Cumberland and Allegheny Gas Corporation for transportation in interstate commerce for resale.

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 December 2, 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 (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 18, 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]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8922; Filed, Nov. 3, 1955;
8:50 a. m.]

[Docket No. G-8340]

PAUL M. RAIGORODSKY

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 31, 1955.

Take notice that Paul M. Raigorodsky (Applicant) an individual whose address is Dallas, Texas, filed on January 12, 1955, an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sells natural gas which is produced from Unionville and North Rushton fields, Lincoln Parish, Louisiana, to Mississippi River Fuel Corporation for transportation in interstate commerce for resale.

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 December 2, 1955, at 9:40 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 (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 18, 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]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8924; Filed, Nov. 3, 1955;
8:51 a. m.]