



FEDERAL REGISTER

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Title 3—THE PRESIDENT

Proclamation 3310

NATIONAL EMPLOY THE PHYSICALLY HANDICAPPED WEEK, 1959

By the President of the United States of America
A Proclamation

WHEREAS the employment of physically handicapped workers has materially increased in 1959 as compared with 1958; and

WHEREAS there is every indication that the coming year will show a continuing increase in economic activity and, therefore, a proportionate increase in the demand for qualified workers who have overcome their physical handicaps; and

WHEREAS the expanding national program to develop maximum employment opportunities for the physically handicapped is continuing to attract the interest of additional thousands of dedicated volunteers in national, State, and community committees who are working wholeheartedly with public and private agencies for the rehabilitation and employment of handicapped persons; and

WHEREAS there is an increasing awareness among employers, fellow employees, and the public of the abilities of handicapped men and women as skilled, stable, and efficient workers; and

WHEREAS the Congress, by a joint resolution approved August 11, 1945 (59 Stat. 530), designated the first week in October of each year as National Employ the Physically Handicapped Week:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do call upon the people of our Nation to observe the week beginning October 4, 1959, as National Employ the Physically Handicapped Week. I also urge our citizens to remember, throughout the year, that by their interest and efforts many handicapped persons can be assisted to economic independence and active participation in a productive way of life.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the

Seal of the United States of America to be affixed.

DONE at the City of Washington this eighth day of September in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 59-7695; Filed, Sept. 11, 1959; 2:11 p.m.]

Proclamation 3311

ENLARGING THE MUIR WOODS NATIONAL MONUMENT, CALIFORNIA

By the President of the United States of America
A Proclamation

WHEREAS the United States has acquired the hereinafter-described lands adjoining the Muir Woods National Monument, in California, for addition to that monument, and has also acquired, in connection with the acquisition of those lands, an easement over other hereinafter-described lands adjoining the acquired lands; and

WHEREAS such acquired lands and such easement are essential to the proper care, management, and use of the Muir Woods National Monument; and

WHEREAS it appears that it would be in the public interest to reserve such lands as a part of the monument and to reserve such easement for use in connection with the monument:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do proclaim as follows:

1. Subject to valid existing rights, the following-described lands, in California, are hereby added to and reserved as a part of the Muir Woods National Monument:

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BEGINNING at a point on the easterly boundary line of Ranch "X", being a portion of Lot "D" of the Sausalito or Richardson Rancho, situated in Marin County, California and delineated on that certain Map entitled Tamalpais Land and Water Company Map No. 3, filed in Book 1 of Maps, at page 104, Marin County Records, the field notes of which are recorded in Volume "D" of Miscellaneous Records, at page 1; said beginning point being north 16°05' West 421.93 feet from the most easterly corner of the said Ranch "X", said point being also in the northerly line of that certain 50-foot right-of-way conveyed by William Kent and Elizabeth T. Kent, his wife, to Muir Woods Toll Road Company, and recorded September 14, 1926, in Liber 102 of official records, at page 494, Marin County Records; and running thence along said right-of-way line south 75°05' west 2.69 feet; thence leaving said line north 53°18'30" west 102.25 feet, south 54°40' west 93.23 feet, north 36°38' west 63.61 feet, north 11°10' west 68.02 feet, north 36°56' west 172.17 feet north 8°12'30" west 491.22 feet, north 38°05' east 143.10 feet to the southwesterly line of the aforesaid 50-foot right-of-way; thence along said right-of-way line on a curve to the right whose

SEMIANNUAL CFR SUPPLEMENT

(As of July 1, 1959)

The following semiannual cumulative pocket supplement is now available:

Title 46, Parts 146-149, 1959 Supplement 1 (\$1.25)

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center bears south 43°27'30" west and whose radius is 275 feet, distance 14.20 feet; thence south 43°35' east 216.30 feet; thence on a curve to the left whose center bears north 46°25' east and whose radius is 425 feet distance 82.954 feet; thence south 54°46' east 77 feet; thence on a curve to the right whose center bears south 35°14' west and whose radius is 275 feet, distance 271.42 feet; thence south 1°47' west 47.90 feet; thence on a curve to the right whose center bears north 88°13' west and whose radius is 975 feet, distance 38.57 feet; thence south 4°03' west 200.76 feet; thence on a curve to the right whose center bears north 85°57' west and whose radius is 75 feet, distance 92.98 feet; thence south 75°05' west 31.43 feet to the point of beginning; containing 6.16 acres, more or less.

2. The easement acquired by the United States in and over the following-described lands is hereby reserved for purposes of ingress and egress between the existing County road and the above-described lands:

BEGINNING at a point in the northerly line of the aforesaid 50-foot right-of-way, said point being the beginning of the second course of the above description; and running thence north 53°18'30" west 102.25 feet, south 54°40' west 93.23 feet, south 35°36' east 59.51 feet to the said right-of-way line; thence along said line on a curve to the right whose center bears south 35°36' east and whose radius is 125 feet, distance 45.12 feet; thence north 75°05' east 85.68 feet to the point of beginning.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any features of this monument and not to locate or settle upon any of the lands thereof.

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

DONE at the City of Washington this eighth day of September in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 59-7696, Filed, Sept. 11, 1959; 2:12 p.m.]

Proclamation 3312

**NATIONAL YOUTH FITNESS WEEK,
1960**

By the President of the United States
of America

A Proclamation

WHEREAS the fitness of our young people is essential to the strength and progress of our Nation; and

WHEREAS we must always strive to improve the well-being of our youth by determined and coordinated efforts in their areas of learning, work, play and matters of the spirit; and

WHEREAS, in this challenging world, fraught with peril on every side, it is

imperative that our young people recognize their obligations to themselves, to their families, and to all of us, in order to prepare themselves for lives of satisfying and useful citizenship; and

WHEREAS the President's Council on Youth Fitness has recommended that the week beginning May 1, 1960, be designated as National Youth Fitness Week:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby proclaim the week beginning May 1, 1960, as National Youth Fitness Week.

I request officials of the Government, and I urge parents, young people, and interested national and local organizations, to use all appropriate means now and during that week to promote programs and activities demonstrating the importance of youth fitness to the end that we may assure the continuing strength and well-being of our people.

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

DONE at the City of Washington this tenth day of September in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 59-7697; Filed, Sept. 11, 1959; 2:12 p.m.]

RULES AND REGULATIONS

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

PROCAINE PENICILLIN, NEOMYCIN, POLYMYXIN, HYDROCORTISONE ACETATE, HYDROCORTISONE SODIUM SUCCINATE; REGULATION ESTABLISHING ZERO TOLERANCE IN MILK FROM DAIRY COWS

A petition has been filed with the Food and Drug Administration by the Upjohn Company, Kalamazoo, Michigan, proposing the issuance of a regulation establishing a zero tolerance for procaine penicillin, neomycin, polymyxin, hydrocortisone acetate, and hydrocortisone sodium succinate in milk from dairy cows to which this preparation has been administered, either in oil or as an ointment, by the intramammary route for the treatment of mastitis.

Based upon an evaluation of the data before him, and proceeding in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (c) (4), 72 Stat. 1786; 21 U.S.C. 348), and under the authority delegated to him by the Secretary of Health, Education, and Welfare (23 F.R. 9500), the Commissioner of Food and Drugs has concluded that a tolerance limitation is required to insure that milk from dairy cows will present no hazard to the public health by reason of the presence therein of procaine penicillin, neomycin, polymyxin, and added hydrocortisone acetate and hydrocortisone sodium succinate. *Therefore, it is ordered*, That the food additive regulations (21 CFR Part 121 (24 F.R. 1095)) be amended by adding thereto, under Subpart D, the following new section:

§ 121.1003 Procaine penicillin, neomycin, polymyxin, hydrocortisone acetate, hydrocortisone sodium succinate in milk from dairy cows.

A tolerance of zero is established for procaine penicillin, neomycin, polymyxin, and added hydrocortisone acetate and hydrocortisone sodium succinate in milk from dairy cows or in any processed

food because of the use therein of such milk.

This order shall become effective on the date of its publication in the FEDERAL REGISTER.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

(Sec. 409 (c) (4), 72 Stat. 1786; 21 U.S.C. 348)

Dated: September 8, 1959.

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

[F.R. Doc. 59-7644; Filed, Sept. 14, 1959; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Pyrrolidinomethyl Tetracycline; Basic Salt and Injection Preparations

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR Part 141c; 21 CFR, 1958 Supp., 146.1; 21 CFR Part 146c) are amended as follows:

1. Part 141c is amended by adding thereto the following new sections:

§ 141c.248 Pyrrolidinomethyl tetracycline.

(a) *Potency.* Use the *N*-(pyrrolidinomethyl) tetracycline working standard as the standard of comparison, and proceed as directed in § 141c.218(a), except in lieu of the directions prescribed in § 141c.218(a) (1) and (5), proceed as follows:

(1) Prepare the standard stock solution by dissolving an appropriate amount of the working standard in sufficient methanol to give a concentration of 1,000 µg. per milliliter. This stock solution may be kept in refrigerator for 5 days.

(2) Dissolve the sample to be tested in sufficient methanol to give an appropriate stock solution. Further dilute in *M*/10 monopotassium phosphate buffer, pH 4.5, to give an estimated concentration of 0.24 µg. per milliliter.

(b) *Toxicity.* Proceed as directed in § 141a.4 of this chapter, using a test dose of 0.5 milliliter of an aqueous solution containing 2 milligrams per milliliter.

(c) *Moisture.* Proceed as directed in § 141a.26(e) of this chapter.

(d) *pH.* Proceed as directed in § 141a.5(b) of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(e) *Absorptivity.* Proceed as directed in § 141c.218(e), except calculate on the anhydrous basis.

(f) *Crystallinity.* Proceed as directed in § 141a.5(c) of this chapter.

(g) *Identity.* Place approximately 100 milligrams of the sample to be tested in a test tube, add 5 milliliters of 1 *N* NaOH and heat gently to boiling for

about 15 seconds. (The musty, amine-like odor of pyrrolidine is detectable.) Allow to cool to room temperature. The clear solution has a deep Burgundy-red color.

§ 141c.249 Pyrrolidinomethyl tetracycline for intravenous use.

(a) *Potency.* Reconstitute the sample as directed on the label. Using a suitable syringe, withdraw a one-dose aliquot and place in a flask. Add sufficient methanol to give a solution containing 1 milligram per milliliter (estimated), and proceed as directed in § 141c.248(a). Its potency is satisfactory if it contains not less than 90 percent of the number of milligrams that it is represented to contain.

(b) *Sterility.* Proceed as directed in § 141c.201(b).

(c) *Toxicity.* Proceed as directed in § 141c.248(b).

(d) *Pyrogens.* Proceed as directed in § 141c.218(c).

(e) *Histamine.* Proceed as directed in § 141b.105 of this chapter, using as a test dose 0.6 milliliter of a solution containing 5 milligrams per milliliter prepared by using sodium chloride solution as the diluent.

(f) *Moisture.* Proceed as directed in § 141a.5(a) of this chapter.

(g) *pH.* Proceed as directed in § 141a.5(b) of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

§ 141c.250 Pyrrolidinomethyl tetracycline for intramuscular use.

(a) *Potency.* Proceed as directed in § 141c.249(a). Its potency is satisfactory if it contains not less than 90 percent of milligrams that it is represented to contain.

(b) *Sterility.* Proceed as directed in § 141c.201(b).

(c) *Pyrogens.* Proceed as directed in § 141c.218(c).

(d) *Moisture.* Proceed as directed in § 141a.5(a) of this chapter.

(e) *pH.* Proceed as directed in § 141a.5(b) of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(f) *Histamine in the Pyrrolidinomethyl tetracycline used in making the batch.* Proceed as directed in § 141b.105 of this chapter, using as a test dose 0.6 milliliter of a solution containing 5 milligrams per milliliter prepared by using sodium chloride solution as the diluent.

§ 146.1 [Amendment]

2. Section 146.1 is amended in the following respects:

a. The section headnote is changed to read: § 146.1 *Definitions and interpretations applicable to Parts 146, 146a, 146b, 146c, 146d, 146e, and 147.*"

b. Paragraph (b) *Definitions of master standards* is amended to provide for the insertion of definitions for new chlortetracycline and tetracycline salts. As amended, the text following subparagraph (4) reads as follows:

(5) [Reserved]

(6) The term "tetracycline master standard" means a specific lot of crystalline tetracycline hydrochloride that is

designated by the Commissioner as the standard of comparison in determining the potency of the tetracycline working standard.

(7) The term "*N*-(pyrrolidinomethyl) tetracycline master standard" means a specific lot of crystalline *N*-(pyrrolidinomethyl) tetracycline that is designated by the Commissioner as the standard of comparison in determining the potency of the *N*-(pyrrolidinomethyl) tetracycline working standard.

(8) The term "chloramphenicol master standard" means a specific lot of crystalline chloramphenicol that is designated by the Commissioner as the standard of comparison in determining the potency of the chloramphenicol working standard.

(9) The term "bacitracin master standard" means a specific lot of bacitracin that is designated by the Commissioner as the standard of comparison in determining the potency of the bacitracin working standard.

c. Paragraph (c) *Definitions of the terms "unit" and "microgram" as applied to antibiotic substances* is amended to provide for the insertion in subparagraph (2) of additional definitions to cover new chlortetracycline and tetracycline salts. As amended, the text following subparagraph (2) (iii) reads as follows:

(iv) [Reserved]

(v) The term "microgram" applied to tetracycline means the tetracycline activity (potency) contained in 1.0 microgram of tetracycline master standard.

(vi) The term "microgram" applied to *N*-(pyrrolidinomethyl) tetracycline means the *N*-(pyrrolidinomethyl) tetracycline activity (potency) contained in 1.0 microgram of the *N*-(pyrrolidinomethyl) tetracycline master standard.

(vii) The term "microgram" applied to chloramphenicol means the chloramphenicol activity (potency) contained in 1.0 microgram of the chloramphenicol master standard.

d. Paragraph (d) *Definitions of working standards* is amended to provide for the insertion of definitions of working standards for additional chlortetracycline and tetracycline salts. As amended, the text following subparagraph (6) reads as follows:

(7) [Reserved]

(8) The term "tetracycline working standard" means a specific lot of a homogeneous preparation of one or more tetracycline salts.

(9) The term "*N*-(pyrrolidinomethyl) tetracycline working standard" means a specific lot of a homogeneous preparation of one or more *N*-(pyrrolidinomethyl) tetracycline salts.

(10) The term "chloramphenicol working standard" means a specific lot of a homogeneous preparation of one or more chloramphenicols.

(11) The term "bacitracin working standard" means a specific lot of a homogenous preparation of one or more bacitracins.

The potency or purity of each preparation has been determined by comparison

with its master standard, and each has been designated by the Commissioner as working standards for use in determining the potency or purity of antibiotic substances subject to the regulations in this chapter.

e. The introduction to paragraph (h) is amended to read as follows:

(h) The regulations in Parts 141a, 141b, 141c, 141d, 141e, and 147 of this chapter, prescribing tests and methods of assay, shall not be construed as preventing the Commissioner from using any other test or method of assay in his investigations to determine whether or not:

3. Part 146c is amended by adding thereto the following new sections:

§ 146c.248 Pyrrolidinomethyl tetracycline.

(a) *Standards of identity, strength, quality, and purity.* Pyrrolidinomethyl tetracycline is the crystalline N-(pyrrolidinomethyl) derivative of a kind of tetracycline. It is so purified and dried that:

(1) Its potency is not less than 900 µg. per milligram on the anhydrous basis.

(2) It is nontoxic.

(3) Its moisture content is not more than 3.0 percent.

(4) Its pH is an aqueous solution prepared by adding 10 milligrams per milliliter is not less than 7.0 and not more than 9.0, and such solution is substantially clear.

(5) Its absorptivity, $E \frac{1\%}{1 \text{ cm.}}$, is 342 ± 15

at 380 mµ, calculated on the anhydrous basis.

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

(c) *Labeling.* Each package of pyrrolidinomethyl tetracycline shall bear on its outside wrapper or container and the immediate container, as hereinafter indicated, the following:

(1) The batch mark.

(2) The number of micrograms of pyrrolidinomethyl tetracycline per milligram and the total number of grams in the immediate container.

(3) The statement "Expiration date _____," the blank being filled in with the date that is 18 months after the month during which it was certified.

(4) The statement "Caution: Federal law prohibits dispensing without prescription."

(5) The statement "For manufacturing use only."

(6) The statement "Not sterile."

(d) *Request for certification, check tests, and assays; samples.* (1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number

of packages of each size in the batch, and (unless it was previously submitted) the date on which the latest assay of the drug comprising the batch was completed. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, toxicity, moisture, pH, crystallinity, absorptivity, and identity.

(2) Such person shall submit with his request an accurately representative sample of the batch consisting of 10 packages, each containing approximately 250 milligrams taken from a different part of such batch, and each packaged in accordance with the requirements of paragraph (b) of this section.

(3) In connection with contemplated requests for certification of batches of another drug in the manufacture of which pyrrolidinomethyl tetracycline is to be used, the manufacturer of the batch that is to be so used may request the Commissioner to make check tests and assays on a sample of such batch taken as prescribed in subparagraph (2) of this paragraph. From the information required by subparagraph (1) of this paragraph may be omitted results of tests and assays not required for the batch when used in such other drug. The Commissioner shall report to such manufacturer the results of such check tests and assays as are so requested.

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

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

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

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

§ 146c.249 Pyrrolidinomethyl tetracycline for intravenous use.

(a) *Standards of identity, strength, quality, and purity.* Pyrrolidinomethyl tetracycline for intravenous use is a dry mixture of N-(pyrrolidinomethyl) tetracycline and one or more suitable buffer substances. It is sterile. It is nontoxic. It is nonpyrogenic. It contains no histamine nor histamine-like substances. Its moisture content is not more than 5 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.0 and not more than 4.5. The pyrrolidinomethyl tetracycline used conforms to the requirements of § 146c.248(a). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate containers shall be tight containers as defined by the U.S.P., shall be

sterile at the time of filling and closing, shall be so sealed that the contents cannot be used without destroying the seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. The immediate containers shall be of colorless transparent glass, closed by a substance through which a hypodermic needle may be introduced and withdrawn without removing the closure or destroying its effectiveness. Each such container shall contain not less than 100 milligrams of pyrrolidinomethyl tetracycline, and each may be packaged in combination with a container of a suitable and harmless diluent.

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

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

(i) The batch mark.

(ii) The number of milligrams of pyrrolidinomethyl tetracycline in the immediate container.

(iii) The name and quantity of each other ingredient in the immediate container.

(iv) The statement "Expiration date _____," the blank being filled in with the date that is 12 months after the month during which the batch was certified: *Provided, however,* That such expiration date may be omitted from the immediate container holding only an amount of the drug which supplies a single dose, if such immediate container is packaged in an individual wrapper or container.

(2) On the outside wrapper or container:

(i) The statement "Caution: Federal law prohibits dispensing without prescription."

(3) On the circular or other labeling within or attached to the package:

(i) Adequate directions and warnings for its use by practitioners licensed by law to administer such drug.

(ii) A statement of the conditions under which solutions prepared from the drug should be stored and the statement "Use within 6 hours after reconstitution."

(d) *Request for certification; samples.*

(i) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the pyrrolidinomethyl tetracycline used in making such batch was completed, the number of milligrams of pyrrolidinomethyl tetracycline in each package, the date on which the latest assay of the drug comprising the batch was completed, the quantity of each other ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this

section. If such batch or any part thereof is to be packaged with a diluent, such request shall also be accompanied by a statement that such diluent conforms to the requirements prescribed therefor by this section.

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

(i) The batch: Potency, sterility, toxicity, pyrogens, histamine, moisture, pH.

(ii) The pyrrolidinomethyl tetracycline used in making the batch: Potency, absorptivity, crystallinity, and identity.

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

(i) The batch:

(a) For all tests except sterility: One immediate container for each 5,000 immediate containers in the batch, but in no case less than 10 immediate containers.

(b) For sterility testing: 10 immediate containers.

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

(ii) The pyrrolidinomethyl tetracycline used in making the batch: 10 packages containing approximately equal portions of not less than 250 milligrams, packaged in accordance with the requirements of § 146c.248(b).

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

(iv) In case of an initial request for the certification of a batch that is to be packaged in combination with a diluent that is not recognized by the U.S.P. or when any change is made in the composition of such diluent: Five packages of the diluent included in the combination.

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

(i) For all tests except sterility: 10 packages, each containing approximately 0.25 gram.

(ii) For sterility testing: 10 packages, each containing approximately 40 milligrams of pyrrolidinomethyl tetracycline.

Each such package shall be packaged in accordance with the requirements of paragraph (b) of this section.

(5) The result referred to in subparagraph (2) (ii) of this paragraph and the sample referred to in subparagraph (3) (ii) of this paragraph are not required if such result and sample have been previously submitted.

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

(1) \$4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (a), (ii), (iii), (iv), and 4(i) of this section; \$10.00 for all containers submitted in accordance with paragraph (d) (3) (i) (b) and (4) (ii) of this section.

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

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

§ 146c.250 Pyrrolidinomethyl tetracycline for intramuscular use.

(a) *Standards of identity, strength, quality, and purity.* Pyrrolidinomethyl tetracycline for intramuscular use is a dry mixture of *N*-(pyrrolidinomethyl) tetracycline and one or more suitable buffer substances and anesthetic agents. It is sterile. It is nonpyrogenic. Its moisture content is not more than 5 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.0 and not more than 4.5. The pyrrolidinomethyl tetracycline used conforms to the requirements of § 146c.248 and it contains no histamine nor histamine-like substances. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate containers shall be tight containers as defined by the U.S.P., shall be sterile at the time of filling and closing, shall be so sealed that the contents cannot be used without destroying the seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. The immediate containers shall be of colorless transparent glass, closed by a substance through which a hypodermic needle may be introduced and withdrawn without removing the closure or destroying its effectiveness. Each such container shall contain not less than 100 milligrams of pyrrolidinomethyl tetracycline, and each may be packaged in combination with a container of a suitable and harmless diluent.

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

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

(i) The batch mark.

(ii) The number of milligrams of pyrrolidinomethyl tetracycline in the immediate container.

(iii) The name and quantity of each other ingredient in the immediate container.

(iv) The statement "Expiration date -----" the blank being filled in with the date that is 12 months after the month during which the batch was certified: *Provided, however,* That such expiration date may be omitted from the immediate container holding only an amount of the drug which supplies a single dose, if such immediate container is packaged in an individual wrapper or container.

(v) The statement "For intramuscular use only."

(2) On the outside wrapper or container, the statement "Caution: Federal law prohibits dispensing without prescription."

(3) On the circular or other labeling within or attached to the package:

(i) Adequate directions and warnings for its use by practitioners licensed by law to administer such drug.

(ii) A statement of the conditions under which solutions prepared from the drug should be stored and the statement "Use within 6 hours after reconstitution."

(d) *Request for certification: samples.*

(1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the pyrrolidinomethyl tetracycline used in making such batch was completed, the number of milligrams of pyrrolidinomethyl tetracycline in each package, the date on which the latest assay of the drug comprising the batch was completed, the quantity of each other ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this section. If such batch or any part thereof is to be packaged with a diluent, such request shall also be accompanied by a statement that such diluent conforms to the requirements prescribed therefor by this section.

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

(i) The batch: Potency, sterility, pyrogens, moisture, pH.

(ii) The pyrrolidinomethyl tetracycline used in making the batch: Potency, toxicity, histamine, absorptivity, crystallinity, and identity.

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

(i) The batch:

(a) For all tests except sterility: One immediate container for each 5,000 immediate containers in the batch, but in no case less than 10 immediate containers.

(b) For sterility testing: 10 immediate containers.

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

(ii) The pyrrolidinomethyl tetracycline used in making the batch: 10 packages containing approximately equal portions of not less than 250 milligrams, packaged in accordance with the requirements of § 146c.243(b).

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

(iv) In case of an initial request for the certification of a batch which is to be packaged in combination with a diluent that is not recognized by the U.S.P. or when any change is made in the composition of such diluent: Five packages of the diluent included in the combination.

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

(i) For all tests except sterility: 10 packages, each containing approximately 0.25 gram.

(ii) For sterility testing: 10 packages, each containing approximately 40 milligrams of pyrrolidinomethyl tetracycline.

Each such package shall be packaged in accordance with the requirements of paragraph (b) of this section.

(5) The result referred to in subparagraph (2) (ii) of this paragraph and the sample referred to in subparagraph (3) (ii) of this paragraph are not required if such result and sample have been previously submitted.

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

(1) \$4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (i) (a), (ii), (iii), (iv), and (4) (i) of this section; \$10.00 for all containers submitted in accordance with paragraph (d) (3) (i) (b) and (4) (ii) of this section.

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

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

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for tests and

methods of assay and certification of the antibiotic drugs covered by this order.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: September 8, 1959.

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

[F.R. Doc. 59-7645; Filed, Sept. 14, 1959;
8:46 a.m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

United States Standards for Rough Rice, Brown Rice, and Milled Rice

Correction

In F.R. Doc. 59-6752, appearing at page 6611 of the issue for Friday, August 14, 1959, the following correction is made in the table under § 68.303(a):

The percents "0.13" and "0.17", listed for Grades U.S. No. 4 and U.S. No. 5 in the column "Broken kernels—Removed by No. 5 sizing plate," should read "0.3" and "0.7", respectively.

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

PART 961—MILK IN THE PHILADELPHIA, PA., MARKETING AREA

PART 1010—MILK IN THE WILMINGTON, DEL., MARKETING AREA

Determination of Equivalent Index of Prices Received by Pennsylvania Farmers for Farm Products Except Dairy

The index of prices received by Pennsylvania farmers for farm products, except dairy, as published by the Pennsylvania Federal-State Crop Reporting Service is one of the basic factors included in the Class I pricing formula under the Philadelphia and Wilmington orders. The index has been used continuously since April 1951 to determine the Class I price under the orders. The basis of computing this index was revised effective June 2, 1958 and publication of

the old index was discontinued by the Pennsylvania Federal-State Crop Reporting Service in favor of its revised index. It became necessary at that time to adjust the revised index to establish an index value which in combination with other formula factors under the orders would result in a price per hundred-weight comparable to that price which would have been effective had publication of the old index been continued. It was determined on the basis of available information and under the applicable provisions of the orders that an equivalent index resulted from the subtraction of 15 points from the revised index of prices received by Pennsylvania farmers for farm products, except dairy, as published currently by the Pennsylvania Federal-State Crop Reporting Service.

The Pennsylvania Federal-State Crop Reporting Service has again revised the basis of computing the published index of prices received by Pennsylvania farmers for farm products, except dairy, and it becomes necessary to provide an adjustment to the index as used in the Class I pricing formula under the orders which will result in an equivalent price to that which would be effective if no revision of the currently effective index had been made.

The orders provide that if for any reason a price or index specified in the orders for use in computing class prices or other purposes is not reported or published in the manner described therein, the market administrator shall use a price or index determined by the Secretary to be equivalent or comparable with the factor which is specified.

Pursuant to the applicable provisions of the orders and on the basis of available information, it is hereby found and determined that an index equivalent to or comparable with the discontinued index may be determined by subtracting four points from the index of prices received by Pennsylvania farmers for farm products, except dairy, as published currently by the Pennsylvania Federal-State Crop Reporting Service.

In accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1001 et seq.), it is hereby found and determined that notice and public procedure with respect to this determination, and the postponement of the effective date of this decision until 30 days after publication thereof in the FEDERAL REGISTER are impractical, unnecessary and contrary to the public interest in that the equivalent price index must become effective upon issuance to facilitate, promote, and maintain orderly marketing of milk in the Philadelphia, Pennsylvania and Wilmington, Delaware marketing areas. The changes effected by this determination do not require preparation prior to the effective date by the persons affected.

Issued at Washington, D.C., this 14th day of September 1959.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-7718; Filed, Sept. 14, 1959;
10:02 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 13—ADMISSION, GUIDE, ELE- VATOR, AND AUTOMOBILE FEES

Commercial Passenger-Carrying Ve- hicles, Shenandoah National Park and Blue Ridge Parkway

Basis and purpose. The purpose of this amendment to 36 CFR 13.2 is to change the fee schedule for commercial vehicles at Shenandoah National Park.

Subparagraphs (3) and (4) of paragraph (a) of § 13.2 are amended to read as follows:

(3) Permit good for one day, 11-passenger vehicle or less: \$2.00.

(4) Permit good for one day, more than 11-passenger vehicle: \$10.00.

Since the effect of this amendment is merely to correct a minor inequity, notice and public procedure thereon are considered to be unnecessary.

(Sec. 3, 39 Stat. 535, as amended; 16 U.S.C. 3)

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 9, 1959.

[F.R. Doc. 59-7639; Filed, Sept. 14, 1959;
8:46 a.m.]

PART 20—SPECIAL REGULATIONS

Wind Cave National Park

By notice of proposed rule making published in the FEDERAL REGISTER on May 29, 1959 (24 F.R. 4342), interested persons were invited to submit written comments, suggestions, or objections on the proposed establishment, by the Superintendent thereof, of a special regulation specifying a speed limit in the headquarters area of the Wind Cave National Park, South Dakota. Such written comments, suggestions, or objections were required to be filed with the Superintendent of Wind Cave National Park, Hot Springs, South Dakota, within thirty days from the publication of the notice in the FEDERAL REGISTER.

No comments, suggestions, or objections having been received in response to the said notice, the following regulation, to become effective upon publication in the FEDERAL REGISTER, is adopted:

1. A new section entitled § 20.59 *Wind Cave National Park* is hereby added as follows:

§ 20.59 Wind Cave National Park.

(a) *Speed.* Speed of automobiles and other vehicles, except in emergencies as provided in § 1.42(b) of this chapter, is limited to 25 miles per hour on Highways U.S. 385 and S.D. 87 from a point 0.4 of a mile north of the Visitor Center to a point 0.4 of a mile south of the Visitor Center.

(Sec. 3, 39 Stat. 535, as amended; 16 U.S.C., 1952 ed., sec. 3)

Issued this 30th day of June 1959.

EARL M. SEMINGSSEN,
*Superintendent,
Wind Cave National Park.*

[F.R. Doc. 59-7640; Filed, Sept. 14, 1959;
8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[S.O. 927, Amdt. 1]

PART 95—CAR SERVICE

Illinois Central Railroad Co. Author- ized To Operate Over Certain Track- age of Chicago Aurora and Elgin Railway Co.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 9th day of September, A.D., 1959.

Upon further consideration of Service Order No. 927 (24 F.R. 4994), and good cause appearing therefor:

It is ordered, That:

Section 95.927 *Illinois Central Railroad Company authorized to operate over certain trackage of the Chicago Aurora and Elgin Railway Company*, of Service Order No. 927, be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This section shall expire at 11:59 p.m., December 31, 1959, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 10, 1959.

(Sec. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies sec. 1(10-17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4)).

It is further ordered, That a copy of this amendment shall be served upon the Illinois Commerce Commission, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-7664; Filed, Sept. 14, 1959;
8:48 a.m.]

[S.O. 928, Amdt. 1]

PART 95—CAR SERVICE

Indiana Harbor Belt Railroad Co. Au- thorized To Operate Over Certain Trackage of Chicago Aurora and Elgin Railway Co.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 9th day of September, A.D., 1959.

Upon further consideration of Service Order No. 928 (24 F.R. 4995), and good cause appearing therefor:

It is ordered, That:

Section 95.928 *Indiana Harbor Belt Railroad Company authorized to operate over certain trackage of the Chicago Aurora and Elgin Railway Company*, of Service Order No. 928, be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This section shall expire at 11:59 p.m., December 31, 1959, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 10, 1959.

(Sec. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies sec. 1(10-17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4)).

It is further ordered, That a copy of this amendment shall be served upon the Illinois Commerce Commission and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-7665; Filed, Sept. 14, 1959;
8:48 a.m.]

[S.O. 929, Amdt. 1]

PART 95—CAR SERVICE

Chicago, Burlington & Quincy Railroad Co. Authorized To Operate Over Certain Trackage of Chicago Au- rora and Elgin Railway Co.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 9th day of September, A.D., 1959.

Upon further consideration of Service Order No. 929 (24 F.R. 4995), and good cause appearing therefor:

It is ordered, That:

Section 95.929 *Chicago, Burlington & Quincy Railroad Company authorized to operate over certain trackage of Chicago Aurora and Elgin Railway Company*, of Service Order No. 929, be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This section shall expire at 11:59 p.m., December 31, 1959, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 10, 1959.

(Sec. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies sec. 1(10-17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4))

It is further ordered, That a copy of this amendment shall be served upon the Illinois Commerce Commission and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with

the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-7666; Filed, Sept. 14, 1959; 8:48 a.m.]

[S.O. 930, Amdt. 1]

PART 95—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Certain Trackage of Chicago Aurora and Elgin Railway Co.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 9th day of September, A.D., 1959.

Upon further consideration of Service Order No. 930 (24 F.R. 4994), and good cause appearing therefor:

It is ordered, That:

Section 95.930 *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over certain trackage of the Chicago Aurora and Elgin Railway Company*, of Service Order No. 930, be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This section shall expire at 11:59 p.m., December 31, 1959, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 10, 1959.

(Sec. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies sec. 1(10-17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4))

It is further ordered, That copies of this amendment shall be served upon the Illinois Commerce Commission and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-7667; Filed, Sept. 14, 1959; 8:48 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 20]

LASSEN VOLCANIC NATIONAL PARK

Fishing; Entrance Roads; Speed

Basis and purpose. Notice is hereby given that pursuant to section 4(a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 238; 5 U.S.C., 1952 ed., sec. 1003); authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C., 1952 ed., sec. 3); National Park Service Order No. 14 (19 F.R. 8824); and Regional Director, Region Four, Order No. 3 (21 F.R. 1495), it is proposed to amend 36 CFR 20.11 as set forth below. The purpose of this amendment is to establish a suitable management program for the waters of the Park in the interest of fish conservation and as protection to domestic water supplies and to combine, for the purpose of consistency in arrangement, all paragraphs relating to fishing in one paragraph; to revoke paragraph (d) *Entrance roads*, this being adequately covered by the National Park Service general rules and regulations; to provide for posting of reduced speed limits for temporary hazardous conditions.

This proposed amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C., 1003); how-

ever, it is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit in triplicate written comments, suggestions, or objections with respect to the proposed amendments to the Superintendent, Lassen Volcanic National Park, Mineral, California, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

EDWARD D. FREELAND,
Superintendent,
Lassen Volcanic National Park.

MAY 12, 1959.

Section 20.11 is amended as follows:

1. Paragraph (a) is amended to read as follows:

(a) *Fishing*—(1) *Open season.* The open season for fishing shall conform to that of the State of California for the adjoining countries of Lassen, Plumas, Shasta and Tehama, except that Grassy Creek (also known as "Horseshoe Creek"), connecting Horseshoe Lake and Snag Lake, shall be closed to fishing between October 31 and June 15.

(2) *Closed waters.* The following waters of the Park are closed to fishing: Emerald Lake
Manzanita Creek above Manzanita Lake
Manzanita Lake within 150 feet of the inlet of Manzanita Creek.

(3) *Limit of catch and in possession.*

(i) The number of trout which may be

taken or held in possession by any one person in any one day shall not exceed 10 trout, or 10 pounds and 1 trout, *except* in Manzanita Lake and Reflection Lake where the daily catch and possession limit shall be 5 trout or 5 pounds and 1 trout.

(ii) The daily catch and possession limit for bullheads (catfish) shall conform to that limit established by the State of California.

(4) *Size limit.* Trout of any size may be retained as part of limit of catch. Any fish not retained as a part of the limit of catch shall be carefully handled with moist hands and immediately returned to the water.

2. Paragraphs (b), (c) and (d) are revoked.

3. Paragraphs (e) *Speed* and (f) *Commercial automobiles and busses* are redesignated paragraphs (b) *Speed* and (c) *Commercial automobiles and busses*.

4. Paragraph redesignated (b) *Speed* is supplemented by adding a new subparagraph thereto as follows:

(4) Whenever the Superintendent determines that a temporary hazardous condition or situation exists upon or adjacent to a road which requires a reduced speed limit, he may designate a lesser speed limit which shall be effective when appropriate signs giving notice thereof are erected upon such roads.

[F.R. Doc. 59-7638; Filed, Sept. 14, 1959; 8:45 a.m.]

Office of the Secretary
 [43 CFR Part 14]
 DEPARTMENTAL PROCEEDINGS
 Petition Respecting a Rule

Notice is hereby given of intention to add Part 14 to Title 43, Subtitle A, of the Code of Federal Regulations to read as set forth below. The purpose of this addition is to accord any interested person the right to petition for the issuance, amendment, or repeal of a rule as provided by the Administrative Procedure Act.

All interested persons are hereby given the opportunity to submit in writing views, data, and arguments concerning the proposed addition, to the Secretary of the Interior, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Part 14, reading as follows, is added to 43 CFR, Subtitle A:

§ 14.1 Petition respecting a rule.

Any interested person may petition in accordance with the provisions of subsection (d) of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003(d)) for the issuance, amendment, or repeal of a rule. The petition shall be addressed to the Secretary of the Interior, Washington 25, D.C. It shall identify the rule for which modification or repeal is requested, or shall provide the text of a proposed rule or amendment, and shall set forth reasons in support of the petition. The petition will be given prompt consideration and the petitioner will be notified promptly of action taken. Administrative Procedure Act (sec. 4, 60 Stat. 238; 5 U.S.C. 1003(d)).

ELMER F. BENNETT,
 Acting Secretary of the Interior.

SEPTEMBER 9, 1959.

[F.R. Doc. 59-7641; Filed, Sept. 14, 1959;
 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 913]

[Docket No. AO-23-A18]

MILK IN GREATER KANSAS CITY MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Excep- tions to Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Depart-

ment of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Greater Kansas City marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Kansas City, Missouri, on May 27-29, 1959, pursuant to notice thereof which was issued on May 6, 1959 (24 F.R. 3764).

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

1. The status of cow pools under the order;
2. Expansion of the marketing area;
3. Location adjustments in the expanded area;
4. Cooperative association as a handler on can milk;
5. Changing the base-rating months; and
6. Administrative changes.

A proposal to revise the method of paying producers from the present market-wide pool to an individual-handler pool was not supported at the hearing and no further reference to it is made herein.

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

1. *Status of cow pools.* It was proposed that a "cow pool" should be treated under the order as if it were a regulated handler and that the individual contributors of cows to the pool be treated as producers.

At the time of the hearing, there was only one cow pool supplying milk to the Greater Kansas City market. This operation was located at Meservey, Iowa, approximately 300 miles from Kansas City. The milk produced at the cow pool was delivered by a tank truck to a pool plant located in Kansas City, Missouri.

The cow pool is a large-scale cow feeding and milking operation. Facilities are provided for the feeding and milking of approximately 1,000 cows. At the time of the hearing, about 600 cows were being milked. Modern milking apparatus, including the use of pipelines and farm bulk storage tanks, were in operation. As a functional entity, the cow pool has little to distinguish it from other large-scale feeding and milking operations in other parts of the country, some of which market milk under Federal regulation. Except for its size and the fact that all feedstuffs are purchased, rather than produced in part on the farm, the cow pool has little to distinguish its physical functions from smaller operations in this market.

The distinguishing characteristic of the cow pool is the contractual arrange-

ments by which it operates. The operator of the pool provides the feeding, stabling, and milking facilities. He also arranges for the purchase of feed, veterinary services, and other incidentals. He arranges for the marketing of the milk and for the collection of the proceeds thereon. The individual contributors furnish cows to the pool which the operator shelters, feeds, and milks. For these services, the operator charges certain annual fees and subtracts the cost of feeding, veterinary expense, etc., from the proceeds of the sale of each contributor's milk. Unlike the traditional "producer", therefore, there is a distinct division of ownership within the enterprise with the physical facilities being owned by the operator, and the cows being owned by the individual contributors. (In practice about three-fourths of the cows in the pool have been placed by cash investors rather than by dairy farmers.)

It is these unique contractual arrangements between the owner of the milking and feeding facilities and the cow contributors which cause concern to proponents. They state that the individual contributors are entitled to the direct protection of the Federal order, and that this can be achieved only by designating such contributors as "producers". It follows, of course, that if the individual contributors are designated as "producers", the operator of the cow pool will be considered as a "handler" who receives or purchases the milk from the "producers".

The purpose of a Federal milk marketing order is to help achieve orderly marketing conditions in the sale of milk by farmers to processors or handlers. One—perhaps the chief—tool for attaining this end is the establishment of minimum class prices payable to producers, which prices are uniform as among all handlers.

The question here is a very practical one: How to achieve most effectively the application of uniform prices payable by regulated handlers and, thus, how to achieve in the most practical fashion conditions of orderly marketing in the sale of milk by producers to handlers. Without doubt, the significant "handler" in this situation is the processor and distributor in Kansas City who has been purchasing the milk of the cow pool. He is the one who must be obligated to pay uniform minimum prices if the ends sought by the order are to be attained. If the Department were to accept proponents' suggestions, however, and consider the operator of the cow pool as a handler, it would relieve the operator of the pool plant in Kansas City of the obligation of accounting to the cow pool and to the equalization fund under the order for the minimum prices specified in the order. This is so because inter-handler prices may not generally be regulated, and the reach of the minimum price provisions is limited to the transaction between the producer and the first handler.

Moreover, the payment of minimum prices by the cow pool operator to the individual cow contributors cannot practically be achieved. The contractual

arrangements between the operators and the contributors would vitiate such effort, for the contributors must be allowed to contract with the operator for the payment of the unique services rendered by the operator. The amount of the payment for these services need only be adjusted to evade any minimum price regulation which might be attempted. Furthermore, various forms of incorporation or purchase agreements could be arranged to evade the proposed definition of cow pool. In addition, the definition would apply to many forms of joint operation which have existed in the market for many years and which the proponents had no desire to modify.

To follow the suggestion of proponents, therefore, would be to render less effective the application of the uniform price provisions of the order with respect to the milk delivered by the cow pool to the Kansas City distributor. This could engender disorderly marketing conditions in this market and, hence, would not tend to effectuate the declared policy of the Act. The proposal to designate the operator of a cow pool as a handler and individual cow contributors as producers must, therefore, be denied.

Producer-handler. Cow pools constitute a device which handlers might use to avoid regulations. A distributor could organize a cow pool to produce his entire supply of milk and incur less investment and less financial risk than if he owned the entire production facilities and cattle outright and incurred directly the costs of feed, veterinary care, cow replacements, and other related expenses. As the operator of a cow pool he might claim to be a person who operates both a dairy farm(s) and a milk processing or bottling plant and thus qualify as a producer-handler. As a producer-handler, he would be exempt from the operation of the marketwide equalization pool and from the necessity of paying minimum prices to producers.

The cow pool presently serving the market has not been organized or operated in such fashion. However, such a development is possible under the present order, and the producer-handler definition should be clarified to specify that both the milk production and the processing facilities be the personal enterprise and risk of the operator. Written information to such effect should be furnished to the market administrator for such verification as he deems necessary.

2. Marketing area. The Greater Kansas City marketing area should be expanded to include all of Miami County, Kansas, and all of the Missouri counties of Cass, Bates, Lafayette, Johnson, Henry, St. Clair, Pettis, Benton, and Morgan. This territory comprises a contiguous area within which there is such a high degree of competition in the sales and procurement of milk as to constitute a distinct marketing area to which a single pricing system is applicable.

Most of the cities of any size within the counties recommended for inclusion in the marketing area have Grade A ordinances. As a result the plants, many with overlapping routes, competing for

fluid sales in such area are distributing milk of comparable quality.

The inclusion of certain of these counties within the marketing area will involve some plants from which only minimal volumes of fluid sales are distributed. Application of order pricing and payment provisions to those distributors having less than one economical route would entail effort and expense without contributing significantly to orderly marketing. Therefore, plants from which less than 600 pounds of Class I milk per day are distributed on routes in the marketing area should be exempt from the pricing and payment provisions of the order. However, the reporting and audit provisions of the order should apply to such distributors inasmuch as their volume of sales in the area will have to be established.

Miami County, in Kansas, should be included in the marketing area. More than 90 percent of the fluid sales are made by regulated handlers. None of the three unregulated plants accounting for the remaining fluid sales in the county are likely to be subject to the pricing provisions of the order inasmuch as two of the presently unregulated plants are operated by producer-dealers and, on the basis of the record, the third unregulated plant as well as one of the producer-dealers would not be subject to the pricing provisions of the order as less than 600 pounds of milk per day are distributed in the marketing area from such plants. In addition, the regulated handler having the largest proportion of sales in the county testified that unless Miami County was included he could not be assured of pooling his plant at all times. This proposal was supported by the major cooperative association and was not opposed.

In Missouri, the southern portion of Cass County and all of the territory within the counties of Bates, Lafayette, and St. Clair should be included in the marketing area. Handlers regulated under the Kansas City order account for 90 percent or more of the fluid sales within Cass, Bates, and Lafayette Counties and handlers regulated under either the Kansas City order or the Ozarks order have more than 70 percent of the Class I business in St. Clair County.

The remaining Class I sales within the territory in these four counties, which is recommended herein, are accounted for by two plants located in St. Joseph, Missouri. One of these plants is partially regulated at the present time and would not likely be subject to full regulation as a result of the proposed area expansion. The other plant, which is now totally unregulated, could well become fully regulated by virtue of the area expansion.

Although these two plants are primarily associated with the St. Joseph market the competition between some of the St. Joseph and Kansas City handlers in territories outside the respective cities is so extensive that no clear line can be drawn between the two sales territories. Clearly, orderly marketing can best be achieved if all handlers selling milk in territories predominantly served by the Kansas City handlers are made subject

to the provisions of the order. Whether the St. Joseph handlers are fully or partially subject to the order will depend upon their proportions of sales in the expanded marketing area. Neither handler proposed that any changes be made in the pool plant standards. Under either partial or complete regulation, the location adjustment of 16 cents at plants located in St. Joseph would be retained.

The marketing area should also include Johnson, Henry, Benton, and Morgan Counties. Presently regulated handlers have about 70 percent or more of the Class I business in Johnson and Henry Counties and more than half the fluid sales in Benton and Morgan Counties. In these four counties and in Pettis County, which is discussed below, presently regulated handlers compete intensively for fluid sales with an unregulated plant located in Sedalia, Missouri, and the totally unregulated St. Joseph plant. The only other milk distributor who would be involved by the inclusion of these four counties is located in Cole County, Missouri. A high proportion of his sales are in other, unregulated counties although he would probably be subject to partial regulation by virtue of his fluid sales in Morgan County.

The operator of the Sedalia plant has had a significant cost advantage in purchasing milk relative to his regulated competitors who have had to pay for milk on a classified pricing basis. A major supply source of the unregulated Sedalia plant is a group of local producers who are paid the Kansas City base and excess prices without regard to the utilization of such milk receipts, and who operate under base-rating rules which differ from those in the order. Supplemental Class I milk is purchased only when needed from a Kansas City pool plant. The availability of this supplementary supply of Greater Kansas City pool milk has undoubtedly made it possible for the Sedalia plant operator to maintain a high utilization to his local farmers even though contract sales represent a sizable share of his total Class I sales. Including Johnson, Henry, Benton, and Morgan Counties in the marketing area will put all operators distributing milk in these four counties on an equitable basis so far as raw milk cost is concerned and will put all producers on the same basis with respect to the burden of carrying reserve supplies.

Pettis County should also be included in the expanded marketing area even though presently regulated handlers have considerably less than half the fluid sales in this county. The unregulated Sedalia and St. Joseph plants, which would be likely to become fully regulated by virtue of fluid sales in other counties whose inclusion is recommended herein, account for a good portion of the remaining sales by unregulated handlers. The other fluid sales in the county are made by two other distributors operating exclusively within the county, one plant operated by a producer-dealer and the other plant a relatively small-scale operation which, however, is likely to be fully regulated under the order. The inclusion of Pettis County will eliminate

any milk cost advantage which local dairies would otherwise have relative to plants which would become regulated through fluid sales in other counties whose inclusion in the marketing area is recommended herein. Johnson, Henry, Benton, Morgan, and Pettis Counties encompass more than 90 percent of the sales territory of the presently unregulated, major Sedalia plant. Therefore, inclusion of those five counties will assure this handler that competitors in nearly all of his sales territory are paying minimum order prices for milk sold in each use classification.

The marketing area should not be expanded to include the Fort Riley, Kansas, military base.

A plant located at Junction City, in Geary County, is the only unregulated plant from which fluid sales are distributed at Fort Riley. Although one of the presently regulated handlers proposed that all of Geary County be included in the marketing area, he supported only the addition of that portion of the county which is in Fort Riley.

If Fort Riley were included in the marketing area and the Junction City handler continued to operate in the same fashion as he did at the time of the hearing, his plant would be qualified as a distributing pool plant. This handler purchases a portion of his Grade A supply from local dairy farmers and the remainder from a plant operated by the Nemaha Cooperative Association at Sebatha, Kansas. The quantities of milk obtained from the Sebatha plant during the year preceding the hearing averaged one-third of the total supply at Junction City. These shipments represented only 15 to 20 percent of the total available supply of Grade A milk at the Sebatha plant.

The Sebatha plant, therefore, would not qualify as a supply pool plant under the present terms of the order. The proponents of extension of the area to include Fort Riley did not indicate that they favored any modification of the pool plant standards. In fact, a representative of the largest cooperative association of producers emphatically objected to any reduction in the pool plant percentage standards.

In the circumstances, the proposal to include Fort Riley would involve a supply of milk which is primarily associated with other markets not presently regulated by any order. Furthermore, the presently regulated handlers held a portion of the Fort Riley contract at the time of the hearing and have frequently been successful bidders on portions of the contract in the past several years. One factor in their ability to obtain the contracts is that the principal competition for producer milk in the vicinity of Junction City is from the Wichita market which has commonly had higher blend prices than those prevailing in the Kansas City market.

In view of the ambiguous status of the Sebatha plant with respect to the order, the comparatively high prices paid for milk by the Junction City distributor, and the fact that the regulated handlers have usually furnished at least a portion of the Fort Riley supplies, it is con-

cluded that this military installation should not be included in the marketing area.

3. *Location adjustments.* The city of Sedalia, Missouri, should be designated as another point from which the 50-mile location adjustment should be measured.

It is appropriate that the Kansas City Class I price be made effective in the expanded area to the east by designating Sedalia, where the largest percentage of the milk which will be added to the pool is received, as a basing point. This will equate the minimum class prices charged to the Sedalia milk distributors with the prices paid at other plants in the marketing area. Producers will also be paid the Kansas City price, and this appears to be in line with the prices which have been paid to these dairy farmers in recent months.

On the basis of the record, the application of the 50-mile location measurement to Sedalia will not affect the class price structure at any plants which are now fully or partially regulated under the order.

4. *Cooperative association as a handler on can milk.* The present order provides for the designation of a cooperative association as a handler with respect to bulk tank milk of the association's members which is delivered in a tank truck owned or operated by the association to another handler's pool plant. Because individual member-producers' milk is commingled in the tank truck before it reaches the handler's plant, thereby losing its identification with the individual producer, it is administratively most feasible to fix the association with the responsibility for determining the monthly weights and butterfat tests of individual producers' deliveries.

It is also most practical, from the administrative viewpoint, to provide the association with the option of acting as a handler on can milk of its members which is delivered to two or more plants operated by other handlers in any given month. Such can deliveries should be considered as having been received by the cooperative association at the plant at which the milk is actually delivered. This will make it possible for a single butterfat test to be applied to a can-shipper's deliveries regardless of the number of plants at which his deliveries are received during the payment period. It will also simplify the determination of such producers' daily bases. No opposition to this proposal was offered at the hearing.

5. *Base rating.* The present method of computing producer bases should not be revised.

Two issues were raised with respect to the base-rating provisions. One issue related to changes in the base-setting and base-paying months to accommodate shifts in monthly Class I utilization percentages. However, three of the major producers associations opposed any revision in base-rating months until more experience has been obtained with the present plan. It was pointed out that revisions in the base-rating months would involve fundamental changes in farm production practices and that the present plan should be revised only

after careful study and discussion with producers. In addition, some of the data introduced into the record indicated that the present program has led to some improvement in the seasonality of production. Therefore, the present base-rating months should be retained.

A second issue raised regarding the base-excess plan had to do with bases for new producers. Certain handlers proposed that individual producers who are so new to the market as not to have established a base should be allowed to establish one calculated as a percentage of their production during the base-operating months. The handlers maintained that it was difficult to attract new producers during February through July without providing bases. (The order already provides that producers at newly regulated pool plants shall have bases computed from their deliveries to such plant in the previous fall months. There was no proposal to change this provision.) In view of the general adequacy of the supply of producer milk in this market and the fact that bases apply only during the flush months, it is concluded that it is not now necessary to provide bases for individual new producers.

6. *Administrative changes.* Obligations of the market administrator to handlers and of handlers to individual producers, cooperative associations, or to the producer-settlement, marketing service, and administrative funds, which are not paid within the calendar month when payment is due, should incur an interest payment of one-half of one percent on the unpaid balance on the first day of each following month.

The purpose of this provision is to compensate producers and handlers at the usual rate, 6 percent per year, for monetary obligations which are not honored when due. This proposal was unopposed at the hearing.

An administrative change should also be made with respect to diverted milk. In §913.11, defining "handler", a cooperative association is defined as the handler with respect to milk diverted to a nonpool plant under specified conditions. It is further specified that milk so diverted will be considered to have been received at the pool plant from which diverted.

The order does not specify the point at which milk diverted by a proprietary handler is to be considered as having been received. It is important that such point be specified for purposes of applying pool plant qualification standards, location adjustments, and maximum shrinkage allowances. It is appropriate that milk diverted by a proprietary handler, as well as milk diverted by a cooperative association, be considered as having been received at the pool plant from which diverted.

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

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

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

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

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

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

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Greater Kansas City marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Revise § 913.6 to read as follows:

§ 913.6 Greater Kansas City marketing area.

"Greater Kansas City marketing area" hereinafter called "marketing area" means all of the territory in Jackson, Cass, Bates Lafayette, Johnson, Henry, St. Clair, Pettis, Benton, and Morgan Counties, all in Missouri; those portions, excluding Platte City, Missouri, of Platte and Clay Counties in Missouri, south of a line extending in an easterly direction from the Missouri River on the west along State Highway 92 to the intersection of State Highway 92 and U.S. Highway 69, thence north to the north section line of Section 26 in Washington Township in Clay County, thence east along the north section lines of Sections

26 and 25 in Washington Township to the boundaries of Clay and Ray Counties; all of the counties of Wyandotte, Leavenworth, Johnson, Douglas, Shawnee, Lyon, Morris, and Miami in the State of Kansas, and Riley County, Kansas, exclusive of the Fort Riley military reservation.

§ 913.7 [Amendment]

2. Add the following to the end of § 913.7(b): "Milk diverted pursuant to paragraph (a) (2) of this section shall be considered as having been received at the plant from which it is diverted."

§ 913.11 [Amendment]

3. In § 913.11 redesignate the present paragraph "(d)" as paragraph "(e)", delete the last sentence of the newly-designated paragraph (e), which reads "Such milk shall be considered as having been received by such cooperative association at the plant from which it is diverted," and then insert a new paragraph (d), to read as follows:

(d) Any cooperative association which chooses to report as a handler with respect to the milk of its member-producers which is delivered in cans to the pool plants of two or more handlers in a single delivery period. (Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.)

§ 913.12 [Amendment]

4. In § 913.12 add a new paragraph (d), as follows:

(d) Such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer in his capacity as a handler.

§ 913.53 [Amendment]

5. In § 913.53(a) between the phrases "Kansas City, Missouri," and "Lawrence, Kansas," add the phrase "Sedalia, Missouri,".

§ 913.81 [Amendment]

6. In § 913.81 between the phrases "Kansas City, Missouri," and "Lawrence, Kansas," add the phrase "Sedalia, Missouri,".

7. Amend § 913.60 to read as follows:

§ 913.60 Exempt handlers.

Sections 913.40 through 913.45, 913.50 through 913.53, 913.61, 913.70, 913.71, and 913.80 through 913.88 shall not apply to a producer-handler or to a handler operating a plant meeting the requirements of § 913.10(a) from which less than an average of 600 pounds of Class I milk per day is distributed on routes in the marketing area.

§ 913.70 [Amendment]

8. In § 913.70 (c) and (d) change "§ 913.46(a) (5)" to "§ 913.46(a) (4)".

§ 913.86 [Amendment]

9. Designate the present paragraph of § 913.86 as paragraph (a), and add a new paragraph (b), as follows:

(b) **Overdue accounts.** Any unpaid obligation of a handler or of the market administrator pursuant to §§ 913.80, 913.84, 913.85, 913.86(a), 913.87, and 913.88 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Issued at Washington, D.C., this 10th day of September 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-7635; Filed, Sept. 14, 1959; 8:45 a.m.]

[7 CFR Part 954]

[Docket No. AO-153-A7]

**MILK IN DULUTH-SUPERIOR
MARKETING AREA**

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Duluth-Superior marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Duluth, Minnesota, on January 13-22, 1959, pursuant to notice thereof which was issued January 21, 1958 (23 F.R. 482), November 17, 1958 (23 F.R. 9033), and December 4, 1958 (23 F.R. 9510).

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

1. Expansion of the marketing area;
2. Modification of the scope of regulation;
3. Changing the classification and allocation provisions;
4. Altering the level of the class prices;
5. Establishing provisions relative to unpriced milk;
6. Distribution of proceeds to producers; and
7. Administrative changes.

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

1. *Marketing area.* The Duluth-Superior marketing area should be expanded to include all of Carlton County, Minnesota, and Ashland, Bayfield, and Douglas Counties, Wisconsin.

The present marketing area, which comprises the cities of Duluth and Cloquet, Minnesota, and Superior, Wisconsin, has not been expanded since the inception of Order No. 54 in May 1941. Since that time regulated handlers' fluid sales have increased considerably in the four counties herein recommended for inclusion in the marketing area. Presently regulated handlers distribute all the fluid milk sold in Carlton County, Minnesota. In the three Wisconsin counties they distribute the major portion of the fluid milk sold therein. Only two local handlers, who are not subject to any Federal order, would become subject to regulation in these three counties and one of them would qualify as a producer-handler. The three-county territory includes the major portion of the sales territories of the presently regulated and local handlers while, at the same time, it involves distant handlers, whose primary outlets are outside this market, to only a minimum extent.

In the four counties to be included only Grade A milk is now being sold. In Carlton County, Minnesota, the Grade A milk is furnished by presently regulated handlers and meets the same standards as milk sold in Duluth, Superior, and Cloquet. In the three Wisconsin counties all milk distributed for fluid use must, as a minimum, conform to State Grade A standards. These standards are essentially comparable to those prevailing in the present marketing area and the pricing provisions of the order are equally applicable.

Extending the marketing area to include these four counties will promote orderly marketing by requiring the operators of unregulated plants doing business in the counties to pay the specified minimum prices to producers for milk in accordance with its use. It will also assure patrons at such regulated plants accurate weights, tests, and market information.

At present, the unregulated operators have available to them substantial competitive advantages in the procurement of milk. One is that they may be able to purchase milk from dairymen at the Duluth blend price, but sell a larger proportion of it as Class I than is so utilized in Duluth. This can be a considerable advantage in view of the comparatively low proportion of producer milk sold in Class I in this market. The second advantage is that the prices paid for milk tend to be lower than at Duluth at points south of the city. In the nearby Wisconsin territory the Chicago blend prices, adjusted for location, are the dominant factor. They are substantially below the Duluth blends.

With respect to Carlton County, situated to the west of Duluth, the territory is served exclusively by regulated

handlers. The growth of population and milk sales in this county, in which the presently regulated city of Cloquet is located, make it desirable that the entire county be included in the marketing area.

In the three Wisconsin counties of Ashland, Bayfield, and Douglas, situated to the south and east of Duluth and Superior, regulated handlers account for the predominant portion of the Class I business. In Ashland County the combined sales of presently regulated handlers represent more than 60 percent of the total volume of fluid sales. Almost all the remaining sales in this county are from plants regulated under other Federal orders. The remaining sales are from one plant which is located outside the area and which has about 2 percent of the sales in the county but which, on the basis of the evidence of record, would not qualify as a pool plant. Exemption from regulation for plants from which are shipped less than an average of 500 pounds per day is provided for in the pool plant definition and it appears that such exemption would apply to this plant.

In Bayfield County regulated handlers have about 85 percent of the fluid milk sales. Plants regulated under other orders have about 7 percent of the sales, and the remaining Class I distribution is by two local dealers, one a producer-dealer.

In Douglas County presently regulated handlers have more than 95 percent of the Class I business. The remaining Class I sales are made by a handler regulated under the Minneapolis-St. Paul order.

The other Wisconsin county proposed for inclusion, Sawyer County, should not be so included. Regulated handlers have substantially less than half the Class I sales in the county. The remaining fluid sales are accounted for by a local dairy, which has more than 80 percent of the sales in the largest town in the county, a plant regulated under another order, and three other unregulated plants whose primary markets are cities south and east of Sawyer County. None of the operators of these presently unregulated plants relies upon Duluth pool plants for his supplemental milk supplies.

The other Minnesota territories to the north and northeast of Duluth which were proposed for inclusion in the marketing area should not be so included. The proposed area would involve International Falls, in Koochiching County near the Canadian border, several cities in Itasca County, and all of St. Louis, Lake, and Cook Counties.

International Falls should not be included in the expanded marketing area. A local dairy operator has more than 70 percent of the Class I business in and around the city. Only about 20 percent of the fluid sales are made by a regulated handler and the remaining 10 percent are from a distant, unregulated plant. Stable marketing conditions prevail in International Falls. Prices paid to local producers have compared favorably with Duluth blend prices and proponents did not make any case that the local plant had a cost advantage in

purchasing milk. Seasonal surpluses are at a minimum. Moreover, local producers did not favor extending regulation to International Falls.

The remaining Minnesota municipalities and counties, the inclusion of which was proposed, should not be added to the marketing area because of the quantities of ungraded milk which are, and the much larger quantities of milk which could be, distributed throughout this territory. At the present time the Minnesota State law requires that all fluid milk labeled Grade A meet minimum statewide requirements. Local health departments have the power to set sanitary standards for market milk as long as their standards meet the State's minimum requirements.

The Minnesota "Iron Range" comprises a series of cities and towns, located in Itasca, St. Louis, and Lake Counties, which extend in a southwesterly to northeasterly direction from about 50 to 80 miles north of Duluth. Very few of the Range cities or towns require their supplies to be of Grade A quality and, therefore, a large potential market for non-Grade A milk is provided.

The order could be made applicable only to handlers of Grade A milk. However, this would place such handlers at a serious disadvantage in competing with lower cost milk from ungraded sources. Possible solutions of the non-Grade A milk problem which might be considered would involve either pricing non-Grade A milk at a specified differential below Grade A milk or pooling and pricing Grade A and non-Grade A milk separately. However, it would not be appropriate to consider the non-Grade A milk problem at this time inasmuch as handlers of such milk had no prior notice that ungraded milk would be a hearing issue and, as a consequence, had no specific reason for attending the hearing or preparing testimony. Although dairymen supplying some Iron Range distributors testified in support of an order, it is concluded for the above reasons that the Range cities and those other portions of St. Louis, Lake, and Cook Counties, which are not presently under regulation but where the same general conditions prevail, should not be included in the marketing area at this time.

2. *Scope of regulation.* Technological advances in the dairy industry since the order was last amended make necessary substantial changes in the terms of the order. In 1950 the marketing area was limited to the three cities of Duluth, Superior, and Cloquet. The marketing area was served only by local handlers, and these handlers were supplied by producers with farms located at comparatively short distances from the market.

Improvements in roads, transportation equipment and refrigeration, the advent of the paper container, a trend towards increased store sales, and other factors have greatly broadened the supply and distribution territories of handlers. Milk is sold in the marketing area, as recommended to be expanded, from plants which are subject to other Federal orders and from unregulated plants, many of which are located at a consid-

erable distance from the Duluth-Superior market, and are primarily associated with other markets. Under these circumstances, it is important to establish clearly which plants are sufficiently identified with the Duluth-Superior market to be subject to the pricing provisions of the order and to be included in the marketwide pool. This can be accomplished most appropriately by redefining such terms as pool plant, handler, producer, producer-handler, producer milk, other source milk, fluid milk product, and route.

The primary factor in determining which milk is to be completely subject to the pricing and pooling provisions of the order is the extent to which plants supply milk to the market for fluid use. Therefore, the definition of "pool plant" should include all plants which are primarily identified with supplying the fluid requirements of the Duluth-Superior market.

Three types of milk plant operations are included in the pool plant definition. One type of plant operation involves processing and bottling milk and distributing the packaged product on wholesale and retail routes in the marketing area. Such plants are commonly referred to as distributing plants. A second type of plant operation involves receiving milk from producers, assembling it into bulk lots, and shipping it either to distributing plants or, if the milk is not needed for bottling, to manufacturing plants. Such plants are commonly referred to as supply plants. The pool plant definition spells out the minimum percentage of milk received at such distributing and supply plants which must be disposed of to fluid outlets. A third type of pool plant includes plants operated by cooperative associations at which the percentage requirements for distributing or supply plants are not met but which must be maintained on a stand-by basis if the market is to be supplied adequately with fluid milk. These are the three types of plants at which the minimum prices paid to producers for milk would be fully applicable and these performance requirements provide an objective basis for including such plants in the market-wide equalization pool.

The pool plant definition should specify the shipping performance standards which regular, dependable suppliers of fluid milk must meet. The standards should reflect the functional differences among the three types of pool plants which have been described.

A distributing plant should be qualified as a pool plant if the extent of Class I operations at the plant establishes clearly its identification with the market and its operation as essentially fluid in nature. Route distribution in the marketing area of a minimum of 10 percent of total Grade A milk receipts from dairy farmers, other plants, and from a cooperative association in its capacity as a handler, definitely associates the distributing plant with the market. Total Class I distribution on routes of 50 percent of such Grade A receipts clearly establishes the plant as primarily a distributing plant and eliminates the

possibility of an operation in which a plant operator utilizes a relatively insignificant proportion of Grade A receipts in Class I with the intent of drawing money out of the pool on the larger proportion of such receipts which are used in the manufacture of Class II products. There is no evidence that any of the distributing plants serving the area would fail to meet the 50 percent standard.

Plants from which an average of less than 500 pounds of Class I milk per day is distributed on routes in the marketing area should be subject only to the reporting and auditing provisions of the order and should be exempt from its pooling and pricing provisions. The sale of such relatively small quantities of milk, less than one economical route, has little or no effect on the marketing of milk in the area. Application of order pricing and payment provisions to these distributors would entail considerable effort and expense without contributing significantly to the furtherance of orderly marketing conditions. However, it is necessary that such distributors be subject to such reporting and auditing provisions as the market administrator may require in order to establish their volume of sales in the area.

The order should also provide pooling standards for the supply plants from which distributing plants draw bulk supplies of milk. Plants from which supplemental supplies of milk are shipped to a market generally fall into two broad categories. One category includes plants serving as receiving stations where milk from producers is assembled into bulk lots for more convenient shipments to city plants. There are regular shipments of large quantities of milk from such plants and they are clearly so closely associated with the market as to make appropriate their pooling and full regulation.

The second category of supply plants are those from which only incidental shipments of milk are made to the market or from which regular shipments of limited quantities are made during only the low production periods. They are not primarily associated with the market and need not be fully regulated. Such plants, from which supplies are drawn to the market for a short duration only and which may be located at widely scattered points, should be able to supply milk to the market during such periods of need without becoming fully subject to the order.

These different functions can best be recognized by defining as a "supply pool plant" any plant from which there is shipped during the month, to distributing pool plants at least 50 percent of the receipts of Grade A milk from dairy farmers. It is logical to assume that a supply plant is most closely identified with the market into which the majority of Grade A milk received at such plant is moved. Because of the seasonal variation in production the distributing pool plants require the largest quantities of supplemental milk in the fall and the least in the spring. Therefore, if a supply plant operation meets the shipping percentage standards in each of the

months of September, October, and November, such plant should be designated as a pool plant until the end of the following August unless a written request for nonpool status is submitted to the market administrator. The qualifying period of September through November is recommended herein because, during the period 1954-58, this has been the three-month period during which Order No. 54 Class I utilization percentages have consistently been highest for the year.

With respect to plants operated by cooperative associations, pooling should be on the basis of the degree to which the entire membership of producers is identified with the fluid needs of the market. Up to the time of the hearing, most members of two associations were can shippers and the associations had operated their distributing and supply plants in traditional fashion. However, there had already been significant conversion to bulk shipment by some producers in the market, and further conversion is in prospect. The new assembly method increases the feasibility of shipping milk directly from farms to bottling plants instead of through the receiving stations. This increased flexibility in milk movement will tend to reduce the ability of the associations to keep their supply plants qualified as supply pool plants even though such plants would still be as completely identified with the market as before. There were indications at the hearing that the associations planned to close down some of the facilities which are equipped only to receive can milk and combine it into tank lots. However, those supply plants which are also equipped to manufacture reserve supplies would continue to operate. They would also be used to receive any producer milk in cans or in bulk which was not needed on any given day at the bottling plants but which would be available for fluid use when otherwise needed.

Therefore, in recognition of the increased mobility of milk and the importance of the associations as suppliers, plants operated by cooperative associations should be qualified on either an individual or combined basis, as long as specified minimum percentages of the total quantity of Grade A receipts at plants operated by the cooperative are moved directly to other pool plants or are transferred by the association to other pool plants. A cooperative association should provide written notice to the market administrator of the plants to be included for pooling purposes. Such notice should be filed not later than the time of the regular report of receipts and utilization, on the 7th day of the following month.

During the period 1954-8, the Class I percentage as a percentage of total producer receipts was consistently highest during the months of September, October, and November and lowest during the months of April, May, and June. In order to qualify all of the plants operated by the two major cooperatives, the minimum percentages of Grade A milk furnished to distributing plants should be 40 percent in each of the months of

September, October, and November, 30 percent during each of the months of December, January, February, March, July, and August, and 20 percent during each of the months of April, May, and June. Receipts from plants not qualified under these supply plant standards should be considered as other source milk.

It is quite possible for a distributing plant to be qualified as a pool plant under the Duluth-Superior order and, in the same month, to qualify as a pool plant under another Federal order. (It is not likely that a supply plant would be so involved, since over half of its supply must be shipped to distributing pool plants either in the current month or during specified fall months.) Objective standards should be provided for determining which of the two orders should be controlling. If the plant qualifies as a regulated plant under both orders, the volume of Class I sales in each market during the month would determine the applicable order. This standard would be appropriate in most circumstances. However, supply plants commonly qualify during a specified fall period, and provision should be made for a specific determination by the Secretary, based on the facts in any given case.

"Handler" is an inclusive definition designed to cover all persons operating plants or otherwise having responsibility with respect to the marketing of milk in the area. Subject to specified exemptions, the handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and making payment therefor. It includes (a) persons operating pool plants, (b) persons operating nonpool plants from which Class I milk is distributed on routes in the marketing area, and (c) a cooperative association with respect to member milk diverted to a nonpool plant. If an association is defined as a handler on diverted milk, the producers whose milk is diverted will continue to receive the uniform price under the order, they will remain an integral part of the market and their milk will be available for fluid use whenever it is needed.

The term "producer" should be defined in order to identify those dairy farmers who are the producers of the regular supply of fluid milk and cream for the market, and to whom the minimum prices specified in the order should be paid. Only those dairy farmers who produce milk in compliance with the sanitary requirements for milk for fluid use as Grade A are qualified as producers. The order does not apply to dairymen producing manufacturing grade milk. Since it is the pool plants which are fully subject to the pricing, pooling, and payment provisions of the order, it is the dairymen delivering fluid grade milk to such plants who qualify as producers. The producer definition should also include those dairymen whose milk usually is received at a pool plant but which is diverted to a nonpool plant by the operator of a pool plant or by a cooperative association. Milk so diverted is deemed to have been received at the plant from which it was diverted.

The present order permits handlers to divert producer milk "temporarily" to nonpool plants. The administrative problem of determining which diversions are permissible can be eliminated if the order contains objective measures of the time periods during which diversions are allowed. Therefore, under the amended order, handlers are permitted to make unlimited diversions of producer milk to nonpool plants during each of the three months April, May, and June, when the lowest percentage of producer receipts are utilized in Class I. Diversions are also permitted for a period covering 10 days' production in each of the months from July through March.

Diversion privileges are provided to facilitate the marketing of the daily and seasonal reserve supplies of milk. Diverted milk is that milk which is moved directly from the farms to nonpool plants rather than to the pool plant at which it is normally delivered. The farmer whose milk is so diverted remains a producer and his milk continues to share in the marketwide pool. It is frequently possible to save transportation costs by diversion instead of bringing the milk in to the pool plant and then transporting it to the nonpool plant. The diversion privilege should, however, apply only to milk primarily associated with the fluid requirements of the market.

During the months of flush production, when the pool plant does not require all the milk produced by Grade A patrons, some farm pickup routes may be so situated that they can be diverted to a nonpool plant on most days. On the other hand, diversion should ordinarily be needed only for weekend reserves and other unusual contingencies during the months of short production. A maximum of 10 days should be adequate to accommodate the reserves during these months.

The present Duluth-Superior order is the only one in the United States which defines a "new producer" and provides that he be paid only the Class II price for his milk during the period from the first time he ships to the market through the second full calendar month following such first shipment. The expansion of the marketing area and the changes in the pool plant standards and other definitions relating to the scope of regulation involve marketing changes of substantial magnitude. These changes would be impeded by the discounted price to new producers. Moreover, the adjustment of the Class I price to more competitive levels correspondingly reduces the pressure for new producers to enter the market on a temporary or opportunistic basis. Therefore, no special price provisions for new producers have been provided in the revised order.

The term "producer-handler" should apply to a person who produces milk on his own farm and who operates at his own personal risk a plant from which a route is operated wholly or partly in the marketing area but who receives no milk from sources other than his own farm or from pool plants. Four producer-handlers are currently having their own milk production custom-processed at the regulated plants and re-

turned to them for distribution under their own labels. This is permissible under the present order which does not require a producer-handler to operate processing facilities at his own personal risk. However, it is also possible for regulated handlers to avoid the pricing, pooling, and payment provisions by custom-processing in the same manner for each of their producers and thereby granting such handlers status as producer-handlers. This eventuality, which could render the order completely ineffective, could not occur if personal risk in the processing, packaging, and distribution was made a requisite to attaining producer-handler status as recommended herein.

Producers proposed that the producer-handler definition be limited to operations from which less than 1,000 pounds per day of Class I milk is distributed in the marketing area. It appears, however, that the principal objective sought to be achieved by the volume limitation is provided for by the requirement that a producer-handler utilize only his own production or receipts from pool plants. Milk transferred from pool plants to a producer-handler is classified as Class I. It follows that any supplemental milk purchased by producer-handlers will have been pooled and will not represent an unregulated source of supply to the producer-handler.

The definition of "producer milk" applies to milk received directly at a pool plant from the producers' farms. Any subsequent transfers of milk between pool plants are accounted for specifically rather than as producer milk. Milk from producers which is diverted to a nonpool plant should retain its status as producer milk.

"Other source milk" is specifically defined in the order to distinguish it from producer milk. It includes milk received at a pool plant from nonpool sources and products, other than fluid milk products, from any source which are reprocessed or converted to another product in the plant during the month.

A definition of "fluid milk product" is provided to facilitate reference in the subsequent sections of the order. The fluid milk products are those which constitute Class I use in the market and include fluid milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk not in hermetically sealed cans, cream, and fluid mixtures of cream and milk or skim milk, including reconstituted milk or skim milk, but not including frozen cream, serated cream products, eggnog, ice cream, and frozen dessert mixes.

The term "route" is used to define a number of types of milk distributing operations. It includes any delivery to retail or wholesale outlets of any fluid milk product. Deliveries to other milk processing plants, either pool plants or nonpool plants, are not included, but sales by a vendor or from a plant store are included.

3. *Classification and allocation.* At the hearing consideration was given to four changes in the classification and allocation provisions of the order. These involved a third class of utilization,

changes in the transfer provisions, a revised method of accounting for inventories of fluid milk products, and clarification of the allocation sequence.

Classification. The major proposal to modify the classification of milk was to provide a separate classification, at a higher price, for milk used to produce cottage cheese and ice cream. During the course of the hearing, however, it was developed that these products are not required to be made from Grade A milk anywhere within the market. It became clear that the most probable result of a higher price would be to close these outlets to pool milk. The proposal was modified to apply to milk used to produce cottage cheese and ice cream for sale in jurisdictions where Grade A sources are required. Apparently this would apply only to cottage cheese sold by one handler to outlets within the Minneapolis-St. Paul marketing area. Under that order, however, cottage cheese is in Class II with all other manufactured dairy products and the price is below the Duluth Class II price, either as contained in the present order or as modified herein. In the circumstances, no change in classification should be made.

Transfers. The transfer provisions should be modified and clarified in several respects. Transfers between pool plants should be permitted in any class agreed upon by the handlers operating such plants so long as the prior claim of producer milk for Class I sales is maintained. Transfers between pool plants at an agreed upon class will not affect the total value of producer milk under a marketwide pool so long as this prior claim is maintained.

Milk, skim milk, or cream transferred in bulk to a nonpool milk plant located more than 250 miles from the courthouse at Duluth, Minnesota, should be classified as Class I. There are adequate facilities for the manufacture of excess milk into Class II products within a radius of 250 miles. The automatic classification as Class I of milk or skim milk moved more than 250 miles will reduce the administrative expense which would otherwise be involved in having the market administrator verify actual utilization at nonpool milk plants located at extreme distances from the market.

Transfers to a producer-handler should be Class I since such operators would not be likely to purchase supplemental milk except for fluid purposes.

Transfers to nonpool plants within 250 miles should be Class I unless Class II utilization is claimed and specified conditions are met. One condition is that the milk be transferred in bulk rather than in consumer packages. A second is that the operator of the nonpool plant permit the administrator to verify all receipts and utilization at the plant. In such case, the pool milk should be assigned to the highest utilization remaining after assignment to Class I of any receipts of Grade A milk from local dairy farmers.

Inventory. Handlers have inventories of milk and milk products at the beginning and end of each month which must enter into the accounting for current receipts and utilization. It is appropriate that the ending inventory of

fluid milk products be classified as Class II. This manner of classifying inventory, with correlated steps in the allocation procedure, provides a means of charging each handler for his Class I sales each month at the current Class I price. Fluid milk products whether in bulk or packaged form should be inventoried and classified as Class II. Manufactured milk products are not included in inventory accounting because the skim milk and butterfat used for such products are accounted for in the month when such products are manufactured.

Uniformity in the application of the pricing provisions and simplicity of accounting are achieved if, so far as possible, Class I utilization during each month is assigned to current monthly receipts of producer milk. This can be accomplished by classification of closing inventory as Class II, and allocation of opening inventory to Class I only when current receipts of producers milk (except allowable Class II shrinkage) are less than Class I sales. In such case the handler should pay the difference between the Class II price for such milk in the preceding month and the current Class I price. The volume on which this charge is made should not exceed the volume (in excess of allowable Class II shrinkage) for which producers were paid at the Class II price in the preceding month.

If the foregoing procedure does not result in a reclassification charge to all beginning inventory allocated to Class I, it is necessary to determine to what extent in the previous month other source milk became an inventory item, and thus was carried over to beginning inventory available for use as Class I milk. The amount of beginning inventory assigned to Class I milk but not covered by the reclassification charge which applies to pool sources would be subject to compensatory payment, provided that such a charge would not apply to any milk received from a plant regulated by another order where it had been classified under such other order as Class I milk.

Allocation. The allocation procedure should be clarified with respect to shrinkage of producer milk and to differentiate clearly between other source milk from plants subject to other Federal orders and that from unregulated sources. The revised procedure requires that skim milk and butterfat, respectively, remaining in each class be assigned to producer milk by making the following deductions in sequence 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 from unregulated plants;
- (3) Other source milk from plants regulated under another Federal order;
- (4) Receipts from other handlers (according to classification);
- (5) Beginning inventory;
- (6) Add shrinkage deducted in (1); and
- (7) Overage.

One handler proposed that milk in consumer packages purchased from other Federal order markets by a Duluth-Superior handler and sold in the same package as received be allocated to Class I use in the Duluth-Superior plant instead of being allocated to the lowest class of use.

There were no current instances of the purchase of packaged Class I items from other markets by Duluth-Superior handlers. Moreover, no future likelihood of such purchases was cited by the proponent. Furthermore, the supply of producer milk is adequate to cover all Class I requirements of the regulated handlers. It is concluded that under present conditions there is no need for giving Class I priority to supplies from other markets.

4. Class prices. The provisions of the order were reviewed with respect to the Class I price, including out-of-area pricing, the Class II price, butterfat differentials to handlers and producers, location adjustments to handlers and producers, and authorization for a determination of equivalent prices by the Secretary.

Class I price. The Duluth-Superior Class I price formula should be modified by adopting the same basic formula price as is used in Federal orders in adjacent markets, changing the seasonal pattern of the stated differentials, and reducing the annual average of the differentials by 20 cents to \$0.90.

There was general agreement among the producers and handlers represented at the hearing that Class I prices must be reduced if the compensatory payment on milk from other Federal orders is eliminated. Such elimination is provided for herein for reasons discussed under topic number 5, below. A moderate reduction in the Class I price will help the Duluth-Superior handlers compete for sales with distributors from other order markets. Such competition already occurs both within this marketing area and in unregulated areas outside of the defined market. The Duluth-Superior producers will, of course, be aided to the extent that pool handlers are able to maintain or expand their Class I sales. In addition, the lower Class I prices will encourage local handlers to continue to purchase their supplies from local producers instead of from possible alternative sources.

The supply of producer milk which has been developed at the Class I prices which have been in effect for the past several years is more than ample to cover Class I needs. In fact, in each calendar year since 1953 less than half of the producer milk has been classified as Class I. Class I sales increased steadily from 58 million pounds in 1950 to 76 million pounds in 1957. Receipts from producers increased more rapidly, from 107 million pounds in 1950 to 172 million in 1957, and the percentage sold in Class I dropped from 54.1 to 44.2. These comparatively low percentages of Class I use reflect a considerable dilution of the Class I returns in the resultant blend prices. Clearly, it is to the interests of producers to have a competitive Class I price and so maintain or expand their proportion of Class I sales.

The basic formula price performs two important functions. The major one is that it reflects changes in the value of manufacturing grade milk. The second is that it will reflect such changes to the same degree in adjacent Federal order markets. In the present order the first of these basic formula functions is performed by the Class II price which, in turn, is a function of the market prices of butter and nonfat dry milk. In the Chicago, Minneapolis-St. Paul, North-eastern Wisconsin and Michigan Upper Peninsula orders the basic formula price is the higher of a butter-powder formula, which differs somewhat from the Duluth-Superior butter-powder price, and an average of prices paid for milk at a specified group of condensaries located in Wisconsin and Michigan. In view of the increasing importance of inter-market price alignment, it is appropriate to use the same basic formula price for the Duluth-Superior market.

The stated Class I differentials over the basic formula price should average \$0.90 per hundredweight. This compares with the present differential of \$1.10 which, however, is measured from a higher basic price. In 1958 the actual Class I price in Duluth-Superior was equal to a differential of \$1.183 over this new basic formula. The annual average Class I differentials in other nearby Federal order markets are 90 cents in the Chicago 50-70 mile zone and 50 cents in some 21 (at plants in northwestern Wisconsin), 86 cents in Minneapolis-St. Paul, 97 cents at Ironwood, Michigan, under the Michigan Upper Peninsula order, and 84 cents at Rhineland, Wisconsin, under the Northeastern Wisconsin order. In the Chicago and Minneapolis-St. Paul orders, the stated differentials are further subject to automatic supply-demand adjustments.

If the revised Class I price formula had been in effect, it would have resulted in prices averaging 30 cents lower than the actual Duluth-Superior price in 1956, 27 cents lower in 1957, and 28 cents lower in 1958. However, it will produce prices which compare favorably with Class I prices in the adjacent marketing areas.

A moderate seasonal variation in the stated differentials should be retained. The principal incentive to level production is provided by the Louisville Plan. However, seasonal variation in Class I prices in the adjacent markets makes it desirable to retain some seasonality in this market because of sales competition among the distributors in the respective markets. Prospective sales competition will be most intense with handlers regulated under the Minneapolis order. It is, therefore, appropriate that the seasonality of the Duluth Class I price correspond as closely as possible to that in Minneapolis. The Class I differential should be 75 cents in the months of December through June, \$1.15 in the months of July through October, and 95 cents in November.

Out-of-area price. No provision for lower Class I prices on out-of-area sales should be included in the order.

The Class I price under the Duluth-Superior order, and under Federal orders generally, is intended to be at such level

as will bring forth a sufficient supply of milk for the market. Milk sold outside the defined area by regulated handlers meets the same standards and involves the same costs of production as that sold within the market. A lower price on such milk would reduce returns to producers, be an unsettling influence on the out-of-area markets, and, to the extent that the Class I price had to be raised to offset the reduced returns, would involve subsidization of the out-of-area sales by Duluth-Superior consumers.

Class II price. The Class II price formula should be reduced by using a butter overrun factor of 20 percent instead of the presently specified 25 percent. It should also be modernized by using butter and skim powder prices for the pricing month rather than, as in the present order, using butter and skim powder prices which represent market values of such products in preceding months. The new formula would have reduced the Class II prices by approximately 12 cents in 1958.

During the three-year period, 1956-58, the new price formula would have brought the average Class II price into close alignment with average prices paid at unregulated milk manufacturing plants for milk for equivalent usage. The major portion of Duluth Class II milk is used to produce butter and powder. On this basis, the most appropriate prices for evaluating the Duluth Class II price are the prices paid by Wisconsin and Minnesota creameries. (Official notice is hereby taken of the prices paid by such creameries in December 1958). In 1956 the average of the annual prices paid by Wisconsin and Minnesota creameries, adjusted to 3.5 percent butterfat test by the Duluth Class II butterfat differentials, was \$3.06 as compared with the proposed formula price of \$3.07 and the actual Class II price of \$3.17. In 1957 the creameries' price was \$3.10, the proposed price \$3.09, and the actual price \$3.20. In 1958 the creameries' price averaged \$2.98 compared with the proposed price of \$2.97 and the actual Class II price of \$3.09. Over the three-year period, 1956-58, the creameries' price averaged \$3.047, almost identical to the proposed formula price of \$3.044, but more than 10 cents per hundredweight lower than the actual Class II price average of \$3.153. Clearly, the proposed Class II formula would have represented closely the competitive prices paid by unregulated manufacturing plants during each of the three years.

The reduced Class II price is achieved primarily by lowering the butter overrun percentage in the pricing formula. However, the formula is used only to establish the price level for Class II milk of 3.5 percent butterfat content. The values of the skim milk and butterfat components, as such, are determined by the butterfat differential, as described in the following sub-topic.

Butterfat differentials. The butterfat differential to handlers on milk utilized as Class I should be reduced to 130 percent of the price of 92-score butter at Chicago instead of 140 percent of such price.

Data for the Duluth-Superior market reflect the common trend towards a lower proportion of butterfat in Class I sales. The trend is accounted for mainly by lower sales of cream and increasing sales of skim milk items. The reduced butterfat differential will assign a somewhat lower proportion of the Class I value to the butterfat and a higher proportion to the skim milk component. At least insofar as cost of raw material is concerned, this will help the competitive position of butterfat. However it is recognized that handlers' practices in pricing the end products and consumers' responses to price and to dietary or other considerations are not affected and these may well be the major factors in the trend towards a lower proportion of butterfat in Class I sales.

There were proposals at the hearing to reduce the Class I butterfat differential still further. However, the average butterfat content of Class I sales in 1958 was 3.86 percent. This is still well above the basic test of 3.5, and a comparatively high differential therefore results in a net contribution to the pool. Such gain must, of course, be balanced against the effect of price on the utilization of the butterfat and skim milk components.

The Class II butterfat differentials should also be reduced by using 120 percent of the 92-score butter price instead of 125 percent of such price. This will tend to reduce the price of cream for ice cream manufacture to more competitive levels and will correspondingly increase the returns from skim milk used in the manufacture of cottage cheese.

The butterfat differential to producers for milk containing more or less than 3.5 percent butterfat should correspond to the weighted average values of the butterfat and skim milk in producer milk utilized by handlers in Class I and Class II. This follows the same principle as the payment of a uniform price to all producers. Each producer shares equally in the total value of the handlers' Class I and Class II utilization, at the basic test of 3.5 percent butterfat. It is equally appropriate that each should receive the average utilization value of the butterfat and skim milk components for milk testing above or below 3.5 percent.

Location differentials. Class I milk products are bulky and perishable and therefore incur a relatively high transportation charge if moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers in the marketing area is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance the handler must incur the additional cost of moving that milk into the central market. The producer, in turn, receives less for milk delivered to points distant from the marketing area to the extent of the additional cost of hauling his milk into the central market. Under these conditions, the value of producer milk delivered to plants located at some distance from the central market is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the central market.

There are several distant distributing plants from which milk is sold within the proposed additional marketing area. It is also possible that other distributing plants or supply plants may become fully or partially associated with the market. The operators of such distant plants would incur substantial transportation costs on their milk before reaching any portion of the marketing area and they should be allowed an offsetting credit in order to be fully competitive with the pool plants located within the marketing area. In the absence of location adjustments these handlers would absorb the cost of transporting such milk sold in the marketing area but would pay their producers the full f.o.b. market price on all receipts of producer milk. This would be contrary to the basic principle of location differentials which places a lower value on milk received from producers at points distant from the marketing area.

As a result of the extensive additional marketing area in Wisconsin, it is appropriate to designate Ashland, Wisconsin, and Duluth, Minnesota, as the central points upon which location differentials should be based. The distances used in determining location differentials should be measured from the courthouses at Duluth or Ashland, whichever is closest, by the shortest highway distance, as determined by the market administrator.

There should be no location adjustment at plants located within 50 miles of these two points. The 50-mile zone includes all the plants serving the present market and most of those which would be serving the additional territory recommended herein. These plants compete with each other so extensively throughout the marketing area that different Class I prices based upon plant location would not be appropriate.

In the 50-60 mile zone the rate of location adjustment should be 8 cents per hundredweight of milk. The rate should be increased by 1.3 cents per hundredweight for each additional 10 miles or fraction thereof in excess of 60 miles. These rates are designed to reflect transportation costs on milk moved in bulk tanks. The rate of 1.3 cents per 10 miles is the same as is used in the Chicago order for plants located beyond the 70-mile zone. Under the Minneapolis-St. Paul order the rate is only 1 cent per 10 miles beyond 50 miles but is 14 cents at the 40-50 mile zone.

A method should be provided for determining the priority of milk from various plants in allocating to Class I for the purpose of computing the aggregate of location differentials to be allowed. Such differentials would be made for each handler in sequence beginning with milk received directly from producers and then milk received from those plants which have the lowest location differential.

Payments to distant producers should be reduced by the amount of the applicable location differential. Under these conditions the value of producer milk delivered to plants would be reduced in proportion to the distance that such

plant is from Duluth or Ashland by the same rate that applies to Class I milk.

Equivalent price. If for any reason a price quotation required by this order for computing class prices or for any other purpose is not available in the manner described, the market administrator should use a price determined by the Secretary of Agriculture to be equivalent to the price which is required. Experience has shown that market quotations provided in the order at times may not be available, or may be discontinued. It is concluded that provision for such contingencies should be made by providing for a determination by the Secretary of Agriculture of a price(s) equivalent to such quotations or prices.

5. Provisions with respect to unpriced milk. It has been previously explained (Topic 2, above) that expansion of the marketing area and advances in technology have involved in the Duluth-Superior market some operators of distributing and supply plants which are not primarily associated with this market. Accordingly, the plants involved are not made subject to the complete pricing, classification, and pooling provisions of the order.

There are two major categories of other source milk which may be involved. One is that Duluth-Superior pool handlers may receive supplementary supplies of milk at their plants from plants which fail to qualify as supply pool plants. The second category consists of distributing handlers who sell some milk in the market but whose plants fail to qualify as pool plants. In each of the two cases, sub-categories arise from the fact that the other source milk may be subject to other Federal orders or it may be from totally unregulated sources.

In the case of milk from sources not fully subject to any Federal order which is received at Duluth-Superior pool plants and allocated to Class I, compensatory payments should be assessed. Such payments should apply in all months of the year, but should be eliminated whenever receipts from producers at all pool plants in the market are less than 110 percent of Class I utilization at such plants.

Plant operators must have available a larger supply of milk than is necessary to fill their Class I requirements on any given day. Reserves are needed because production fluctuates seasonally without corresponding changes in the demand for Class I milk. Reserves are also needed to cover short-time fluctuations in receipts and for variations in Class I requirements resulting from 5- or 6-day bottling, the heavy weekend demand at grocery stores, holidays, and similar factors. The reserve milk is commonly manufactured into the more storable and transportable dairy products which are sold in competition with products made from manufacturing grade milk. The existence of this reserve Grade A milk, which must be marketed at a lower price, is a primary element of instability affecting fluid milk markets.

Considerable volumes of Grade A milk are carried as reserve milk and must be disposed of for manufacture by various

unregulated plants in the territory adjacent to the Duluth-Superior market. Both Minnesota and Wisconsin are primary dairy states, and numerous potential sources of unregulated Grade A milk were described in the record. Since this reserve milk in other markets is ordinarily converted to manufactured dairy products, the seller could be expected to be willing to market it at any price which would net him more than the manufacturing value. Consequently, handlers under the Duluth-Superior order could expect to obtain such reserve milk at approximately the manufacturing values as reflected in the Class II price under the order. It is, therefore, appropriate that the compensatory payment on other source milk allocated to Class I should be the difference between the Class II price and the Class I price, adjusted to the location of the plant from which such other source milk was received from farmers. This rate will reflect generally the difference in value between unregulated and regulated milk for Class I use. The payment will, therefore, remove any competitive sales advantage which the regulated handler might otherwise obtain by substituting other source milk for available producer milk.

The compensatory payment should apply in all months except those in which the market supply of producer milk is inadequate to fill Class I requirements, including an operating reserve of 10 percent. Although supplies in the market have been substantially in excess of a 10 percent reserve, it is desirable to provide for the eventuality of a shortage. Unregulated handlers commonly maintain a high utilization and there is every reason to expect that any conditions which would result in a short supply in Duluth-Superior would leave them short, too. It follows that during a shortage period regulated handlers would probably have to pay more than the Class I price for supplementary supplies of Grade A milk. Compensatory payments would not be appropriate under such circumstances.

Other source milk used in the form of nonfat dry milk should be considered to be from a source at the location of the pool plant where it is used. In some instances there will be no, and in all cases insignificant, transportation charges per hundredweight experienced by handlers on such other source milk under the skim milk equivalent basis of accounting provided in the order. By following this procedure, the compensatory payment or other source milk derived from nonfat dry milk will be comparable to that on any other source milk which is allocated to Class I milk.

Another category of unpriced milk is that sold on routes in the marketing area by handlers operating nonpool plants. These are the plants which are primarily associated with some other market but from which at least 500 pounds per day, but less than 10 percent of the total receipts of Grade A milk at the plant are disposed of as Class I in the marketing area or less than 50 percent of such receipts are so disposed of either within or outside of the marketing area. On the basis of conditions described in the record, there is at least one handler in

this category. Other handlers may, of course, be similarly situated, either now or in the future.

The problem of dealing with unpriced milk at the plant of nonpool distributors differs in important respects from those involved in the purchase of other source milk by the operators of pool plants. There are only a few nonpool distributors and their sales in the market are on a regular basis, whereas the purchase of supplemental milk by regulated pool plants would be from many sources and on a sporadic basis. Unlike the operators of plants furnishing supplemental milk, the nonpool distributors would be reporting regularly to the market administrator and would be aware of the terms of the order.

It is appropriate that a nonpool distributor have the option of paying either the difference between the Class I and Class II prices on his fluid sales within the area or any amount by which such operator has failed to pay his Grade A dairy farmers the use value of milk at order prices. Under conditions prevailing in this region, the regulated handlers and producers serving the market were concerned only that partially regulated handlers be denied any competitive advantage based on minimum class prices paid for milk. They were not concerned over any possibility that such handlers would have any competitive advantage in the procurement of milk through lack of pooling.

Handlers operating nonpool distributing plants are required to file such reports as will enable the market administrator to verify their nonpool status. Under the second option described in the preceding paragraph (that of making minimum payments to dairy farmers) the nonpool distributor would file a complete report of receipts and utilization. From such reports, subject to audit, the value of his disposition of milk would be computed at the class prices adjusted for location and butterfat content in the same manner as for a pool plant. From this utilization value, the market administrator would subtract cash payments to the Grade A dairy farmers who constitute the regular supply of milk at the nonpool plant. Only such payments would be recognized as had been made to dairy farmers by the 25th day following the end of the delivery month. The payments would be the gross amount paid for milk delivered by farmers to the nonpool plant. The only allowable deductions would be those properly chargeable to the dairy farmers for supplies or services, including hauling. Any amount by which such payments failed to equal the utilization value of the milk would be payable to the equalization fund. In this way, the nonpool plant operator would be fully equated, so far as the utilization cost of his milk is concerned, with the pool plant operators.

The nonpool plant may receive milk from other plants rather than directly from dairy farmers. If the shipping plant serves primarily as a receiving station for the nonpool distributing plant, all of the receipts and utilization of milk at both plants should be reported to determine whether the dairy farmers

have been paid the equivalent of order prices at other nonpool plants. Milk may be received both from dairy farmers and from other plants. In such instances, the dairy farmers milk and receipts from other plants will be allocated in the same fashion as if the plant were a pool plant and compensatory payments would apply if such milk did not come from a plant subject to a Federal order.

The option of paying the difference between the Class I and Class II prices on the quantities sold as Class I in the marketing area should also be available to any handler operating a nonpool plant. Such payment will remove any competitive sales advantage as compared with fully regulated handlers.

The assessment of administrative expense should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between Class I and Class II prices on his in-area sales, he should pay administrative expense only on such quantities. However, if he elects the payment-to-dairy-farmers option, he should pay administrative expense on his entire receipts from the Grade A dairy farmers. Obviously, the second option involves fully as much verification of receipts and utilization by the market administrator as at a pool plant. Such verification might well include the checking of weights and butterfat test of receipts from dairy farmers and of the product sold as well as an audit of the books and records. Also, some of the fully regulated plants could have nearly as large a proportion of out-of-area sales as a nonpool distributor, yet be assessed administrative expense on their entire receipts.

No compensatory payments should be assessed on Class I milk from plants which are fully subject to the classification and pricing provisions of another Federal order. Such milk may enter the Duluth-Superior market either as supplementary milk delivered to pool plants or as route sales by a distributor subject to other orders. In either case, the classification and price will have been clearly established under another order.

The Duluth-Superior Class I price has been adjusted to make it more competitive with those in the adjacent orders. If it develops that an appropriate alignment has not been achieved, consideration can be given to further amendment of the orders involved.

6. Distribution of proceeds. The three principal proposals which involved changing the distribution of sales proceeds to producers were (1) substituting individual-handler pooling for the present marketwide pool, (2) changing the months of operation of the Louisville Plan, and (3) modifying the privilege of cooperative associations to reblend sales proceeds in making payments to producer-members.

Type of pool. In the Duluth-Superior market the handling of the milk not needed for fluid purposes is not evenly distributed among the regulated handlers. Instead, this function is performed principally by the cooperative associations, and the quantities of excess

milk are comparatively large. Once such specialization in the handling of the excess milk has been established, individual-handler pooling would have seriously disruptive and uneconomic tendencies. Clearly, the marketwide pool should be retained.

Louisville Plan. The Louisville Plan is a method for encouraging a more even pattern of milk production by reducing by a specified percentage the uniform price paid producers in the flush production months, and by increasing the uniform price during each of the lower production months by adding to it equal portions of the total amount deducted in the flush months. This plan has the same effect upon prices paid to producers as seasonal variation in the Class I differential, but it avoids wide seasonal differences in prices paid by handlers.

As originally incorporated into Order No. 54 in January, 1951, this plan involved an 8 percent deduction in the uniform price in each of the months of May, June, and July, with one-third of the total amount of such deductions added to the uniform price in each of the months of October, November, and December. Some reduction in the seasonality of production has occurred since this plan was put into effect. However, in order for the Louisville Plan to most effectively reduce seasonality in production, the uniform price should be reduced during the months of highest production and increased during the months of lowest production. Therefore, the take-out months should be changed from May, June, and July to April, May, and June inasmuch as the three-month period of highest production in every year during the 1955-58 period comprised April, May, and June. Similarly, the three pay-back months should be changed from October, November, and December to September, October, and November as the latter three months comprised the lowest production months during the years 1953-57, and in 1958 the three lowest production months occurred even earlier, in August, September, and October.

These three month periods of highest and lowest production have also been taken into account in devising the pool plant delivery and diversion requirements. Therefore, revising the Louisville Plan take-out and pay-back months as recommended herein is also necessary in order to attain proper synchronization of such order provisions. However, the revision in Louisville Plan months as herein recommended, should not be made effective until April, 1960, regardless of when the order amendment becomes effective. This will provide producers with additional time to adjust their dairy operations to the revised Louisville Plan months.

Producers expressed concern that the expansion of marketing area might cover many farmers who did not contribute to the Louisville Plan in the spring of 1959 but who would be eligible for the pay-back if the amendments become effective in the fall. However, only a few producers are involved in the additional marketing area provided for herein and, therefore, the effect upon the pay-back to

farmers who were subject to the earlier take-out provision would be negligible.

Reblending by cooperative associations. The two principal cooperative associations of producers in the market operate distribution routes. Other handlers maintained that associations in this position could use the reblending privilege to reduce prices to members in order to gain a distributive advantage. They offered several amendments designed to provide a limit to such advantage. However, reblending by a cooperative association is clearly authorized by the Act. The proposals were clearly designed to prohibit or render ineffective the reblending privilege and are therefore denied.

7. Administrative changes. Changes in the dates upon which the market administrator is required to announce the class prices have been made necessary because the manufacturing prices to be used in calculating the new class prices will be available later than the basic manufacturing prices used in the present order. At present the market administrator announces both the Class I and Class II price at the end of the preceding month. Under the amended order, the Class I price announcement will be made on or before the 6th day of the month for which the price is to be effective and the Class II announcement will be made by the 6th day of the month following the effective month. Handlers will not know the Class II price in advance, as has previously been the case, but it will more nearly reflect actual market values of dairy products during the same month they are manufactured by handlers. The announcement date for the uniform price will continue, as before, to be the 12th day of the month following the effective month.

Under the amended order the market administrator will bill handlers by the 13th day of the month following the effective month. Such notification date is not specified in the present order.

No other changes in dates for filing reports and making payments have been made.

The following time schedule should allow all interested persons sufficient time to perform required functions. (These time limits apply to the indicated day of the month following the month for which computations are being made unless otherwise indicated.)

Day of the month and function:

6th: Announcement by the market administrator of the Class I price for the current month and of the Class II price for the preceding month.

7th: Submission of monthly report of receipts and utilization by handlers.

12: Announcement of uniform prices by market administrator.

13th: Notification by market administrator to handlers of the value of their producer milk and amounts due to or payable from the producer-settlement fund.

15th: Payment by handlers of amounts due to producer-settlement fund and to market administrator for expenses of administration and marketing services.

17th: Payments by market administrator out of producer-settlement fund.

20th: Payments by handlers to producers for milk delivered in preceding month.

25th: Handlers' reports of payments to producers.

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

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

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

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

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

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Duluth-Superior marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

DEFINITIONS

- Sec. 954.1 Act.
- 954.2 Secretary.
- 954.3 Department.
- 954.4 Person.
- 954.5 Cooperative association.
- 954.6 Duluth-Superior marketing area.
- 954.7 Pool plant.
- 954.8 Nonpool plant.

- Sec. 954.9 Handler.
- 954.10 Producer.
- 954.11 Producer-handler.
- 954.12 Producer-milk.
- 954.13 Other source milk.
- 954.14 Fluid milk product.
- 954.15 Route.

MARKET ADMINISTRATOR

- 954.20 Designation.
- 954.21 Powers.
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- 954.30 Reports of receipts and utilization.
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CLASSIFICATION

- 954.40 Basis of classification.
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MINIMUM PRICES

- 954.50 Basic formula price.
- 954.51 Class prices.
- 954.52 Butterfat differentials to handlers.
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APPLICATION OF PROVISIONS

- 954.60 Producer-handler.
- 954.61 Plants subject to other Federal orders.
- 954.62 Handler operating a nonpool plant.

DETERMINATION OF UNIFORM PRICE

- 954.70 Computation of the value of producer milk for each handler.
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PAYMENTS

- 954.80 Time and method of payment.
- 954.81 Location differential to producers.
- 954.82 Butterfat differential to producers.
- 954.83 Producer-settlement fund.
- 954.84 Payments to the producer-settlement fund.
- 954.85 Payments out of the producer-settlement fund.
- 954.86 Adjustment of accounts.
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MISCELLANEOUS PROVISIONS

- 954.90 Effective time.
- 954.91 Suspension or termination.
- 954.92 Continuing obligations.
- 954.93 Liquidation.
- 954.94 Agents.
- 954.95 Separability of provisions.

DEFINITIONS

§ 954.1 Act.

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

§ 954.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers

PROPOSED RULE MAKING

and to perform the duties of the Secretary of Agriculture.

§ 954.3 Department.

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

§ 954.4 Person.

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

§ 954.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association, to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

§ 954.6 Duluth-Superior marketing area.

"Duluth-Superior marketing area" hereinafter called the "marketing area" means all of the territory within Carlton County and the city of Duluth, in the State of Minnesota; and all of the territories within the counties of Ashland, Bayfield, and Douglas, in the State of Wisconsin.

§ 954.7 Pool plant.

A "pool plant" shall be any plant meeting the conditions of paragraph (a), (b), or (c) of this section except the plant of a producer-handler or one exempt under § 954.61;

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which fluid milk products are pasteurized or packaged and from which there is disposed of during the month as Class I milk on routes an amount equal to 50 percent or more of total receipts of Grade A milk at such plant from dairy farmers, from other plants, and from cooperative associations in their capacity as handlers and from which there is disposed of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such total receipts: *Provided*, That such Class I sales distribution in the marketing area averages at least 500 pounds per day;

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the month 50 percent or more of its supply of Grade A milk from dairy farmers is moved to a distributing pool plant(s): *Provided*, That any supply plant which has qualified as a pool plant in each of the months of September, October, and November shall be a pool plant for each of the following months of December through August unless written request for nonpool status is furnished in advance to the market administrator;

(c) A plant(s) (1) which is approved by a duly constituted health authority for the handling of Grade A milk, (2) is operated by a cooperative association, and (3) from which the quantity of milk transferred by the association to plants specified in paragraph (a) of this section or delivered directly from the farm to

such plants is equal to at least the following percentages, in the months indicated, of the quantity of Grade A milk delivered by all producers who are members of such association:

Month	Minimum percentage
September, October, November	40
April, May, June	20
All other months	30

The association shall furnish written notice to the market administrator specifying the plant(s) to be qualified pursuant to this paragraph (c) and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 7th day following the month to which such notice applies.

§ 954.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant.

§ 954.9 Handler.

"Handler" means:

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

(b) Any person who operates a nonpool plant from which fluid milk products are disposed of on routes in the marketing area; or

(c) A cooperative association with respect to the milk of producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association.

§ 954.10 Producer.

"Producer" means any person, other than a producer-handler, who produces milk in compliance with the Grade A inspection requirements of, or acceptable to, a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) caused to be diverted during any of the months of April, May, and June or to the extent of not more than 10 days' production during each of the months of July through March, from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

§ 954.11 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions are met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of fluid milk products does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of fluid milk products from pool plants of other handlers: *Provided*, That such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that

the maintenance, care and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 954.12 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 954.10.

§ 954.13 Other source milk.

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

(a) Receipts during the month of fluid milk products except: (1) receipts from other pool plants or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 954.14 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk or milk drinks not in hermetically sealed cans, cream, and fluid mixtures of cream and milk or skim milk, including reconstituted milk or skim milk, but not including frozen cream, aerated cream products, eggnog or ice cream and frozen dessert mixes.

§ 954.15 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product, other than a delivery in bulk form to a pool plant or nonpool plant.

MARKET ADMINISTRATOR

§ 954.20 Designation.

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

§ 954.21 Powers.

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

(a) Administrator its terms and provisions;

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

(c) Make rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 954.22 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 45 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 upon which he enters duty, and conditioned upon the faithful performance of his duties, and 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 the terms and provisions of the part;

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

(d) Pay from the funds received pursuant to § 954.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 954.87, that are necessarily incurred by him in the maintenance and functions of his office and in the performance of his duties;

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

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

(g) Verify all reports and payments of each handler, by audit as necessary of such handler's records and the records of any other person upon whose utilization the classification of skim milk and butterfat 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 handler or other person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 954.30 to 954.32 or payments pursuant to §§ 954.80 to 954.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and, mail to each handler at his last known address, the price determined for each month as follows:

(1) On or before the 6th day of each month, the Class I price and butterfat differential for the month, computed pursuant to §§ 954.51(a) and 954.52(a), respectively;

(2) On or before the 6th day of each month, the Class II price and butterfat differential for the preceding month, computed pursuant to §§ 954.51(b) and 954.52(b), respectively;

(3) On or before the 12th day of each month, the uniform price for producer milk computed pursuant to § 954.71, the location differential computed pursuant to § 954.81, and the butterfat differential computed pursuant to § 954.82, all for the preceding month;

(j) Prepare and make available for the benefit of producers, consumers, and

handlers, such general statistics and such information concerning the operations of this part as are appropriate to its purpose and functioning, and which do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 954.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler or a handler making payments pursuant to § 954.62(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The receipts at each plant of milk from each producer, the average butterfat test, and the pounds of butterfat contained therein;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

(d) The pounds of skim milk and butterfat contained in all fluid milk products on hand at the beginning and at the end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

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

§ 954.31 Payroll reports.

On or before the 25th day of each month, each handler except a producer-handler or a handler making payments pursuant to § 954.61 or § 954.62(a) shall submit to the market administrator his producer payroll for receipts during the preceding month which shall show:

(a) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer and cooperative association.

(b) The amount of payment to each producer, and

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

§ 954.32 Other reports.

Each producer-handler and each handler making payments pursuant to § 954.62(a) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 954.33 Records and facilities.

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

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

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

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

(d) Payments to producers and cooperative associations, including any deductions, and the disbursement of money so deducted.

§ 954.34 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: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 954.40 Basis of classification.

All skim milk and butterfat required to be reported pursuant to § 954.30 shall be classified by the market administrator pursuant to the provisions of §§ 954.41 through 954.46.

§ 954.41 Classes of utilization.

The classes of utilization of milk shall be as follows:

(a) *Class I milk*. Class I milk shall be all skim milk (including the skim milk equivalent of concentrated products) and butterfat (1) disposed of in the form of fluid milk products except those classified pursuant to paragraph (b) (2) and (3) of this section, and (2) not specifically accounted for as Class II milk.

(b) *Class II milk*. Class II milk shall be all skim milk and butterfat (1) used to produce a product other than a fluid milk product, (2) contained in inventory of fluid milk products on hand at the end of the month, (3) disposed of as livestock feed or skim milk dumped, subject to prior notification to and inspection (at his discretion) by the market administrator, (4) in shrinkage allocated to producer milk that is not in excess of 2 percent of the receipts of skim milk and butterfat, respectively, in producer milk plus 1.5 percent of receipts of skim milk and butterfat, respectively, received in bulk tank lots from pool plants, less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots to pool plants, and (5) in shrinkage of other source milk.

§ 954.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

PROPOSED RULE MAKING

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

(b) Prorate the resulting quantities between the receipts of skim milk and butterfat, respectively, (1) in the quantity of milk from producers and in bulk from the pool plants of other handlers, and (2) in other source milk received in the form of fluid milk products.

§ 954.43 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 and butterfat proves to the market administrator that it should be classified otherwise; and

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

§ 954.44 Transfers.

Skim milk and butterfat transferred or diverted by a handler shall be classified:

(a) As Class I milk if transferred to another pool plant unless utilization in Class II milk is mutually indicated to the market administrator in the reports submitted for both such plants for the month in which such transfer occurred, but in no event shall the amount classified in either class exceed the total use in such class at the transferee plant: *Provided*, That if other source milk has been received at either or both plants, the milk so transferred shall be classified at both plants so as to return the higher class utilization to producer milk;

(b) As Class I milk if transferred or diverted to a producer-handler;

(c) As Class I milk if transferred or diverted to a nonpool plant located 250 or more miles from the courthouse in the city of Duluth, Minnesota, by the shortest highway distance as determined by the market administrator;

(d) As Class I milk if transferred or diverted to a nonpool plant located less than 250 miles from the courthouse in the city of Duluth, Minnesota, unless (1) the transfer or diversion is in producer cans or in bulk, (2) the handler claims assignment as Class II in the reports submitted pursuant to § 954.30, and (3) the market administrator is permitted to audit the books and records showing the utilization of all skim milk and butterfat received at the plant, in which case the classification of all skim milk and butterfat received at such nonpool plant shall be determined and that transferred or diverted from the pool plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I, receipts at such plant (1) directly from dairy farmers who hold permits to supply Grade A milk and who the market administrator determines constitute the regular source of supply, and (2) from plants subject to other orders issued pursuant to the Act which are classified as Class I by such other order;

(e) If any skim milk or butterfat is transferred to a second nonpool plant, under paragraph (d) of this section, the

same conditions of audit, allocation, and classification shall apply.

§ 954.45 Computation of milk in each class.

For each month the market administrator shall correct mathematical and other obvious errors in the monthly report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for each handler: *Provided*, That when nonfat milk solids derived from nonfat dry milk, condensed skim milk, or any other product condensed from milk or skim milk, are utilized by such handler to fortify or to reconstitute fluid milk products, 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.

§ 954.46 Allocation of skim milk and butterfat classified.

For each handler the market administrator shall determine the classification of milk received from producers in the following manner:

(a) Skim milk shall be allocated as follows:

(1) Subtract from the total pounds in Class II the pounds of skim milk assigned to producer milk pursuant to § 954.41(b) (4).

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk other than that to be subtracted pursuant to subparagraph (3) of this paragraph;

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest priced utilization, the pounds of skim milk contained in other source milk received from a plant at which the handling of milk is fully subject to the classification and pricing provisions of another order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk contained in receipts from other pool plants, in accordance with its classification as determined pursuant to § 954.44(a);

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest priced utilization, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

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

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in each class, in series beginning with the lowest-priced utilization. The amounts so subtracted shall be called "overage";

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

(c) Determine the weighted average butterfat content of the milk received

from producers and allocated to Class I milk and Class II milk pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 954.50 Basic formula price.

The basic formula price per hundredweight of milk to be used in determining class prices for each month shall be the higher of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to paragraphs (a) and (b) of this section:

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

COMPANY AND LOCATION

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

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

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

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

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

§ 954.51 Class prices.

Subject to the provisions of §§ 954.52 and 954.53 the minimum prices per hundredweight to be paid by each handler for milk received at his plant during the month shall be as follows:

(a) *Class I milk.* The Class I price shall be the basic formula price for the preceding month plus the following amounts for the periods indicated:

Month	Amount
December through June	\$0.75
July through October	1.15
November	0.95

(b) *Class II milk.* The Class II price shall be computed by the market administrator as follows:

(1) Multiply by 4.20 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department, during the month; and

(2) Add an additional seven-tenth-cent for each one-tenth-cent that the midpoint between the simple averages of the weekly Chicago wholesale carlot prices per pound (using in each price series the midpoint of any price range as one price) for nonfat dry milk, spray and roller process, respectively, in barrels for human consumption as reported and issued within the month by the Department exceeds 7 cents.

§ 954.52 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent, there shall be added to the prices of milk for each class as computed pursuant to § 954.51 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, the average daily wholesale price of bulk creamery butter per pound as specified in § 954.51 (b)(1) multiplied by the applicable factor listed, and rounding to the nearest one-tenth cent:

(a) *Class I milk.* Multiply such price for the preceding month by 0.13; and

(b) *Class II milk.* Multiply such price for the current month by 0.12.

§ 954.53 Location differentials to handlers.

For milk which is received at a plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minn., or Ashland, Wis., whichever is closer, and which is classified as Class I milk, the prices computed pursuant to § 954.51(a) shall be reduced by 8 cents if such plant is located more than 50 miles but not more than 60 miles from such courthouse and by an additional 1.3 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles: *Provided*, That for the purposes of calculating such differential, transfers between approved plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plants, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence at which the lowest location differential credit would apply.

§ 954.54 Equivalent prices.

Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specific price

is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to, or comparable with, the price specified.

APPLICATION OF PROVISIONS

§ 954.60 Producer-handler.

Sections 954.40 through 954.46, 954.50 through 954.54, 954.70 through 954.72, and 954.80 through 954.88 shall not apply to a producer-handler.

§ 954.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless (a) more Class I milk is disposed of from such plant in the Duluth-Superior marketing area than in the marketing area regulated pursuant to such other order, or (b) the Secretary determines that the applicable order should more appropriately be determined on some other basis.

§ 954.62 Handler operating a nonpool plant.

In lieu of the payments required pursuant to §§ 954.80 to 954.88, each handler, other than a producer-handler or a handler exempt pursuant to § 954.61, who operates a nonpool plant during the month, shall pay to the market administrator on or before the 25th day after the end of the month the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 954.30, to pay the amounts computed pursuant to paragraph (b) of this section;

(a) The following amounts:

(1) To the producer-settlement fund, an amount equal to the value of all skim milk and butterfat disposed of as Class I milk on routes in the marketing area at the Class I price applicable at the location of such handler's plant, less the value of such skim milk and butterfat at the Class II price; and

(2) As his share of the expense of administration, the rate specified in § 954.88 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts:

(1) To the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 954.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the month from Grade A dairy farmers at such plant or at a plant which serves as a supply plant; and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 954.88 had such plant been a pool plant, except that if such is also a nonpool plant under another order issued pursuant to the Act, and his Class I sales in such other marketing area exceed those made in the Duluth-Superior marketing area, the payments due under this subparagraph shall be reduced by the amount of any administrative expense payments under the other order.

DETERMINATION OF UNIFORM PRICE

§ 954.70 Computation of the value of producer milk for each handler.

For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 954.46 by the applicable class price and total the resulting amounts.

(b) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculation pursuant to § 954.46 (a) (4) and (b) of the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 954.46 (a) (5) and the corresponding step of § 954.46 (b) for the current month, whichever is less;

(c) For any skim milk or butterfat subtracted from Class I milk pursuant to § 954.46 (a) (2) and the corresponding step of § 954.46 (b), and pursuant to § 954.46 (a) (5) and the corresponding step of § 954.46 (b) which is in excess of the sum of (1) the skim milk and butterfat applied pursuant to paragraph (b) of this section and (2) pursuant to § 954.46 (a) (3) and the corresponding step of § 954.46 (b) of the preceding month, add an amount equal to the difference between the values of such skim milk and butterfat at the Class I price and at the Class II price: *Provided*, That such calculation shall not apply if the total receipts of producer milk at pool plants during the month are less than 110 percent of the total Class I utilization of such plants for the month.

(d) Add an amount computed by multiplying the pounds of any overage deducted from any class pursuant to § 954.46 (a) (7) and the corresponding step of § 954.46 (b) by the applicable class price.

§ 954.71 Computation of the uniform price.

The market administrator shall compute the uniform price per hundredweight of producer milk as follows:

(a) Combine into one total the values computed pursuant to § 954.70 for the producer milk of all handlers who submitted reports prescribed in § 954.30, and who are not in default of payments pursuant to §§ 954.80 and 954.84 for the preceding month;

(b) Subtract, if the average butterfat content of the milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential pursuant to § 954.82 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deduction to be made from producer payments for location differentials pursuant to § 954.81;

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) For each of the months of April, May, and June subtract 8 percent of the resulting sum;

(f) For each of the months of October, November, and December in 1959, and for each of the months of September, October, and November thereafter, add one-third of the aggregate amount subtracted pursuant to paragraph (e) of this section;

(g) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(h) Subtract not less than 4 cents nor more than 5 cents.

The resulting figure shall be the uniform price per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants, f.o.b. the marketing area.

§ 954.72 Notification of handlers.

On or before the 13th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

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

(b) The uniform price computed pursuant to § 954.71 and the location and butterfat differentials to producers as computed pursuant to §§ 954.81 and 954.82; and

(c) The amounts to be paid by such handler pursuant to §§ 954.84, 954.86, and 954.87, and 954.88 and the amount due such handler pursuant to § 954.85.

PAYMENTS

§ 954.80 Time and method of payment.

On or before the 20th day after the end of each month, each handler shall make payments as follows:

(a) To each producer from whom milk was received during the month at not less than the uniform price per hundredweight computed pursuant to § 954.71 subject to the butterfat differential computed pursuant to § 954.82 and the location adjustment computed pursuant to § 954.81 and less (1) marketing service deductions pursuant to § 954.87 and (2) other proper deductions: *Provided*, That with respect to each deduction for hauling, or for any other purpose, made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized, and properly chargeable to the producer: *And provided further*, That if by such date such handler has not received full payment from the market administrator pursuant to § 954.85, he may reduce pro rata his payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payment pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) A handler who has not received on the 20th day after the end of each month the balance of the payments due him from the market administrator shall not be deemed to be in violation of paragraph (a) of this section if he reduced his payments to producers by not more than the amount of the reduction payment from the producer-settlement fund. The handler shall, however, complete such payments not later than the date for making such payments next following receipt of the balance from the market administrator.

(a) of this section if he reduced his payments to producers by not more than the amount of the reduction payment from the producer-settlement fund. The handler shall, however, complete such payments not later than the date for making such payments next following receipt of the balance from the market administrator.

§ 954.81 Location differential to producers.

For milk which is received at a pool plant located more than 50 miles but not more than 60 miles by shortest highway distance, as determined by the market administrator, from the courthouse at Duluth or at Ashland, Wisconsin, whichever is closer, there should be deducted 8 cents per hundredweight and an additional 1.3 cents should be deducted for each 10 miles or fraction thereof that such distance exceeds 60 miles.

§ 954.82 Butterfat differential to producers.

The applicable uniform price to be paid producers pursuant to § 954.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 954.52, weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 954.83 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 §§ 954.62, 954.84 and 954.86, and out of which he shall make payments to handlers pursuant to §§ 954.85 and 954.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 954.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of each month, each handler who operates a pool plant shall pay to the market administrator any amount by which the value of his producer milk, as computed pursuant to § 954.70, for such month, is greater than the amount owed by him for such milk at the appropriate uniform price determined pursuant to § 954.80.

§ 954.85 Payment out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler any amount by which the value of his producer milk, computed pursuant to § 954.80, for such month is less than the amount owed by him for such milk at the appropriate uniform prices adjusted by

the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments required by this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 954.86 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount due, and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

§ 954.87 Marketing services.

(a) *Deductions*. Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 954.80, with respect to all milk received from each producer at a plant not operated by a cooperative association qualified under paragraph (b) of this section of which such producer is a member, shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be determined by the market administrator subject to review by the Secretary) from the payments made direct to such producers and such handler shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to provide market information and to verify the accuracy of weights, sampling and testing of milk received from such producers.

(b) In the case of milk of producers who are members of a cooperative association which is actually performing the services described in paragraph (a) of this section, which is received at a plant not operated by such cooperative association, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made direct to such producers pursuant to § 954.80, as are authorized by such producers and, on or before the 15th day after the end of such month, pay such deductions to such cooperative association.

§ 954.88 Expense of administration.

As his pro rata share of the expense of the administration of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, an amount not exceeding 4 cents per hundredweight with respect to (a) all milk received by him during such month from producers including milk of such handler's own production, (b) other source milk received at a pool plant and classified as Class I, and (c) the quantities of milk at handlers' nonpool plants as specified in § 954.62.

§ 954.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

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

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

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

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

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

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

to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS**§ 954.90 Effective time.**

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 954.91.

§ 954.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 954.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 954.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 954.94 Agents.

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

§ 954.95 Separability of provisions.

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

Issued at Washington, D.C., this 10th day of September 1959.

ROY W. LENNARTSON,
 Deputy Administrator,
 Agricultural Marketing Service.

[F.R. Doc. 59-7634; Filed. Sept. 14, 1959;
 8:45 a.m.]

[7 CFR Part 989]**HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA****Administrative Rules and Regulations**

Notice is hereby given that there is being considered a proposal to amend §§ 989.166 and 989.168 of the administrative rules and regulations, as amended (Subpart-Administrative Rules and Regulations; 7 CFR 989.101-989.180; 24 F.R. 1981). Such rules and regulations are effective pursuant to, and for operations under, Marketing Agreement No. 109, as amended, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from raisin variety grapes grown in California (hereinafter referred to as the "order"). The order is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed amendment was recommended by the Raisin Administrative Committee, established under the order.

The proposed amendment, hereinafter set forth, relates to: (a) An increase in the committee payment to handlers for certain pooling services; (b) the timing and quantity of the initial offer in a crop year, by the Committee of surplus tonnage raisins to handlers for export; (c) the price, for offers other than the initial offer, at which the committee sells surplus tonnage raisins to handlers for export; (d) the inclusion, under certain conditions, in a sales agreement between the committee and the individual handlers, of a requirement as to minimum resale prices and the terms and conditions of sale to govern the export of surplus tonnage raisins.

Consideration will be given to 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., and received not later than the fifth day after publication of this notice in the FEDERAL REGISTER.

The proposal is to amend §§ 989.166 and 989.168 of the administrative rules and regulations, as amended (Subpart-Administrative Rules and Regulations; 7 CFR 989.101-989.180; 24 F.R. 1981), in the following respects:

§ 989.166 [Amendment]

1. Amend the provisions of § 989.166 (g)(1)(i) to read as follows:

(i) Each handler shall, beginning with the crop year which began September 1, 1959, be compensated at the rate of \$5.00 per ton (natural condition weight at the time of acquisition) for receiving, storing, and handling reserve and surplus tonnage raisins acquired during a particular crop year and held by him for the account of the committee during all or any part of the same crop year.

2. Delete § 989.168 and insert, in lieu thereof, the following:

§ 989.168 Disposition of surplus tonnage.

(a) *Initial offer to handlers.* Whenever the committee recommends, pursuant to § 989.63, the percentage of standard raisins of a specified varietal type acquired by handlers during a particular crop year which shall be surplus tonnage, it shall concurrently propose to the Secretary an initial offer to sell such surplus tonnage raisins to handlers for export, and an initial offer in conformity with § 939.68 shall be made when the surplus percentage becomes effective. Any such initial offer of surplus tonnage natural (sun-dried) Thompson Seedless raisins shall, for the 1959-60 crop year, be not less than one-third of the total surplus tonnage of such raisins for such crop year as computed by applying the surplus tonnage percentage to the estimated year's production of such raisins. The estimate of the year's production shall be that reported by the California Office of the Agricultural Estimates Division, Agricultural Marketing Service, United States Department of Agriculture. For any crop year subsequent to the 1959-60 crop year, the initial offer of surplus tonnage natural (sun-dried) Thompson Seedless raisins shall be not less than one-third of the total surplus tonnage of such raisins, computed as aforesaid, unless the committee determines that an offer of such size is unrelated to the export demand for surplus tonnage. Each handler's share of any such initial offer shall be determined as set forth in § 939.66(e) (4) or (5).

(b) *Determination of price.* The sale of surplus tonnage raisins to handlers for export shall, in the initial offer for a crop year, be at a price intended to maximize producer returns and achieve an orderly disposition of all surplus tonnage raisins by August 31 of such year. All subsequent offers shall be at prices not less than that of the initial offer, to which shall be added the costs incurred by the Committee on account of the receiving, inspecting, storing, insuring, and holding such surplus tonnage raisins, unless the world market prices for raisins are such that a different price level is necessary to achieve such disposition.

(c) *Disposition of surplus tonnage raisins for distillation or for uses other than human consumption.* Any surplus tonnage raisins held by or for the account of the committee which have been inspected by the inspection agency and found to be off-grade shall, as the committee determines, either be reconditioned or disposed of or marketed by the committee for distillation, animal feed, or uses other than for human consumption. In the event that the committee has been unable to dispose of standard quality surplus tonnage raisins at more remunerative prices in one of the other outlets authorized by the order for disposition of surplus tonnage raisins, it may, subject to the Secretary's disapproval, offer to sell, and sell, such surplus tonnage raisins for distillation: *Provided*, That no such offer or sale shall be made during the period August 1 to October

15 of any calendar year. Whenever the committee proposes to offer to sell standard surplus tonnage raisins for distillation, animal feed, or uses other than for human consumption, it shall file with the Secretary complete information with respect thereto and the basis therefor. The Secretary shall have the right to disapprove, within seven calendar days, the making of such an offer or any term or condition thereof.

Dated: September 11, 1959.

S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 59-7703; Filed, Sept. 14, 1959;
8:45 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 602]

[Airspace Docket No. 59-FW-21]

CODED JET ROUTES

Establishment

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 of the Regulations of the Administrator, as hereinafter set forth.

The Federal Aviation Agency has under consideration the establishment of VOR/VORTAC jet route No. 91 between Atlanta, Ga., and the United States/Canadian border for scheduled air carrier jet aircraft service between Atlanta and Detroit, Mich., which will begin in the near future. The portion of J-91-V between Atlanta and Knoxville, Tenn., would coincide with existing VOR/VORTAC jet route No. 43. This would provide continuity of the route and would thereby simplify flight planning and air traffic management. The segment of J-91-V between the Cleveland, Ohio, VOR and the United States/Canadian border would be established via the Cleveland VOR direct radial to the Windsor, Ont., VOR. Air traffic utilizing this segment would proceed from the United States/Canadian border to the Windsor VOR via Victor 42. If such action is taken, VOR/VORTAC jet route No. 91 would be established from Atlanta, Ga., via Knoxville, Tenn., Charleston,

W. Va., Cleveland, Ohio, to the United States/Canadian border.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 1689, Forth Worth 1, Tex. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

In consideration of the foregoing, it is proposed to amend Part 602 (14 CFR, 1958 Supp., Part 602) by adding the following section:

§ 602.591 VOR/VORTAC jet route No. 91 (Atlanta, Ga., to the United States/Canadian border).

From the Atlanta, Ga., VOR via the Knoxville, Tenn., VOR; Charleston, W. Va., VOR; point of INT of the Charleston VOR 357° and the Cleveland, Ohio, VOR 172° radials; Cleveland VOR; INT of the Cleveland VOR 234° radial and the United States/Canadian border.

Issued in Washington, D.C., on September 11, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-7671; Filed, Sept. 14, 1959;
8:48 a.m.]

NOTICES

POST OFFICE DEPARTMENT

ORGANIZATION AND ADMINISTRATION

Assistant Postmaster General, Bureau of Personnel

Federal Register Document 59-9359 published in the FEDERAL REGISTER of November 11, 1958, at pages 8758-8769, and amended by Federal Register Docu-

ment 58-9818 (23 F.R. 9146), and by Federal Register Document 59-2643 (24 F.R. 2450), is further amended by striking out "§23.5—Assistant Postmaster General, Bureau of Personnel" and inserting in lieu thereof, the following:

§23.5—ASSISTANT POSTMASTER GENERAL, BUREAU OF PERSONNEL

a. Represents and acts for the Postmaster General and takes final action on all personnel management matters

relating to employee relations, compensation administration, and employee training at professional and educational institutions.

b. Represents and acts for the Postmaster General in dealings with employee organizations; maintains liaison with the legislative and executive branches and agencies of Government on personnel matters.

c. Directs the formulation of policies, programs, regulations, and procedures required for the development and maintenance of an effective personnel management program throughout the Postal Establishment.

d. Exercises the appointive powers of the Postmaster General with respect to employees in the departmental service, in accordance with the recommendations of the bureaus and offices concerned.

e. Administers the incentive awards program and authorizes awards as provided by law and regulation.

.51 Deputy Assistant Postmaster General. a. Assists the Assistant Postmaster General and acts for him in his absence or at his request.

b. Exercises direct supervision over the staff of the Bureau of Personnel.

.511 Special Assistant, Employee Relations. a. Serves as principal assistant on employee relations to the Assistant Postmaster General and Deputy Assistant Postmaster General.

b. Formulates and recommends policies and develops procedures on employee relations.

c. Maintains liaison with national officers of employee organizations and provides the principal point of contact between these organizations and the Department.

d. Represents the Assistant Postmaster General in contacts with other Government agencies and outside organizations on employee relations matters.

e. Reviews employee grievances and discrimination complaints, recommending departmental action to Assistant Postmaster General.

f. Develops plans for and administers employee services in the postal field service including, but not limited to, cafeterias, vending machines, and welfare funds.

.512 Special Assistant, Employee Information. a. Serves as principal assistant to the Assistant Postmaster General and the Deputy Assistant Postmaster General on employee information programs and problems.

d. Formulates and recommends policies relating to employee information programs and issuances.

c. Prepares, edits, and issues the Postal Service News and other publications for the information of postal employees.

d. Prepares articles for publication and for delivery as speeches on subjects related to the field of personnel management.

e. Conducts research on information needs of postal personnel and provides technical staff assistance to headquarters and regional staffs in the development of effective employee information programs.

.52 Departmental Personnel Division.

a. Formulates and recommends policies and develops procedures relating to personnel matters affecting departmental (headquarters) employees.

b. Provides staff guidance and technical assistance to departmental bureaus and offices on all matters of personnel administration affecting headquarters personnel.

c. Administers the provisions of the Classification Act of 1949, the Departmental Wage Board, and section 15 of Public Law 600 (5 U.S.C. 55a); takes final action on personnel actions covered by such provisions.

d. Administers applicable policies, programs, and procedures with respect to departmental employees relating to recruiting; testing, placement, and separations; training; performance rating; safety and health; suggestions and awards; relations with employee organizations; and employee services.

e. Maintains direct relations with the Civil Service Commission on all departmental personnel matters except policy matters.

f. Processes formal personnel transactions, maintains central personnel records, issues personnel reports, and conducts official correspondence relative to proposed, current, and former departmental employees.

g. Represents the Bureau of Personnel in civil defense planning and security control.

.53 Employment and Placement Division. a. Formulates and recommends policies and develops procedures relating to recruiting, examining, employing, placing, and promoting personnel in the Postal Establishment.

b. Determines the need for employee examining and testing in conjunction with affected bureaus and offices and, in collaboration with the Civil Service Commission, develops and directs the application of a program of suitable examinations and tests.

.54 Training and Development Division. a. Determines general need for and plans training and development programs for the Postal Establishment in conjunction with affected bureaus and offices, including general course outlines, instructional guides, and training materials.

b. Reviews and approves proposals for subsidized outside courses of study.

c. Controls the development, procurement, production, and distribution of training aids, films, and auxiliary equipment.

d. Reviews the progress and effectiveness of training activities in all departmental and field services and reports to the appropriate bureaus and offices.

e. Provides official representation of the Department with governmental, educational, and industrial groups on national training matters.

.55 Compensation Division. a. Develops and maintains a system for evaluating and classifying all positions in the postal field service.

b. Conducts surveys and establishes procedures and guidelines for proper maintenance of position standards and

adherence to approved position ranking criteria.

c. Develops and maintains procedures for hearing appeals and for conducting reviews of actions taken under the postal field service classification system.

d. Promulgates instructions and allowance tables in accord with legal requirements, covering basic compensation, overtime, compensatory time, holiday pay, night differential, longevity pay, periodic step increases, uniform allowances, equipment maintenance allowances, heavy duty compensation, and per diem allowances for mobile service personnel.

e. Develops and administers policies and procedures, except for accounting procedures, on Civil Service retirement, social security, Federal employees group life insurance, and unemployment compensation.

f. Conducts research on compensation practices and trends in private industry and Government services; submits recommendations for legislation, including fringe pay benefits; and assists in formulating departmental position on other legislative proposals affecting the compensation of postal employees or of the entire Federal service.

.56 Safety and Health Division. a. Develops and maintains an effective safety and health program for the Postal Establishment, in conjunction with other bureaus and offices, covering health hazards, fire prevention and protection, transport and traffic safety, first aid and medical services, and safety aspects of property and equipment conservation and utilization.

b. Provides consulting service on safety and health matters to management officials throughout the Postal Establishment.

c. Provides official representation of the Department with other agencies of the Government and with outside organizations on safety and health matters of a national character.

d. Maintains liaison with Department of Labor on injury compensation.

.57 Policy Review and Analysis Division. a. Determines need for and develops written statements covering personnel policies, regulations, operating procedures, and reports for the Postal Establishment.

b. Reviews and comments on all legislative proposals relating to personnel management coordinating with other divisions and bureaus in developing a final position.

c. Maintains bureau control and review of all issuances, coordinating drafts with appropriate divisions and bureaus.

d. Interprets Civil Service Commission regulations, Executive orders, and legislation relating to personnel administration, utilizing the services of the Office of the General Counsel, where required.

e. Conducts studies of procedures and methods used in the administration of the personnel program and develops improvements thereto.

f. Determines personnel reports requirements and maintains liaison with the Bureau of Finance and Civil Service Commission in preparing personnel reports.

.58 *Suggestions and Awards Division.*
a. Develops procedures for an effective suggestion and incentive awards system throughout the Postal Establishment.

b. Processes employee contributions of national significance.

c. Conducts promotional campaigns to increase employee participation in the incentive awards program.

(R.S. 161, as amended, 396, as amended; sec. 1(b), 63 Stat. 1066; 5 U.S.C. 22, 1332-15, 369)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-7648; Filed, Sept. 14, 1959;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

U.S. GRAIN EXPORTED THROUGH
CANADIAN PORTS

Notice of Rescission of Authority To Conduct a Certification Service

Pursuant to the authority delegated to me by the Secretary of Agriculture (19 F.R. 74, as amended), notice is hereby given that the authority granted on September 3, 1937, by the Chief of Bureau (now the Administrator), Bureau of Agricultural Economics (now the Agricultural Marketing Service), to the Grain Division of the Bureau, to conduct a certification service and issue divided lot certificates for U.S. grain exported through Canadian ports, is rescinded in its entirety, and such service is discontinued, effective September 30, 1959, without prejudice to any actions taken under such authority: *Provided*, That, pending the fulfillment of contracts, orders or commitments for such grain made by the interested parties on or before said effective date, the Grain Division may continue the certification service upon a satisfactory showing by one or more interested parties that the terms of the contracts, orders, or commitments require the issuance of certificates under the service.

Done at Washington, D.C., this 10th day of September 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-7670; Filed, Sept. 14, 1959;
8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-148]

UNIVERSITY OF KANSAS

Notice of Application for Utilization Facility License

Please take notice that University of Kansas, Lawrence, Kansas, under section 104c of the Atomic Energy Act of 1954, has submitted an application for a license to construct and operate a 10 kilowatt (thermal), heterogeneous, water-moderated and -cooled training and research reactor on the campus of University of Kansas. A copy of the application is available for public in-

spection in the AEC Public Document Room, located at 1717 H Street NW., Washington, D.C.

Dated at Germantown, Maryland, this 8th day of September 1959.

For the Atomic Energy Commission.

R. L. KIRK,
*Deputy Director, Division of
Licensing & Regulation.*

[F.R. Doc. 59-7653; Filed, Sept. 14, 1959;
8:45 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MISSISSIPPI SHIPPING CO., INC., AND
BULL INSULAR LINE, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8393, between Mississippi Shipping Company, Inc., and Bull Insular Line, Inc., covers a through billing arrangement in the trade from Argentina, Brazil, and Uruguay to Puerto Rico, with transshipment at New Orleans, Louisiana, or Mobile, Alabama.

Interested parties may inspect this agreement 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 the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: September 10, 1959.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-7653; Filed, Sept. 14, 1959;
8:47 a.m.]

Office of the Secretary

LOUIS F. FRAZZA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 23, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER in the last six months.

A. Deletions: None.

B. Additions: None.

This statement is made as of September 5, 1959.

Dated: September 5, 1959.

LOUIS F. FRAZZA.

[F.R. Doc. 59-7654; Filed, Sept. 14, 1959;
8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 9345]

ATLAS CORP. AND SUMMERS GYRO-
SCOPE CO.; INTERLOCKING RELA-
TIONSHIPS

Notice of Prehearing Conference

In the matter of the application of Atlas Corporation for approval of the acquisition of control of Summers Gyro-scope Company and for approval of certain interlocking relationships.

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on September 22, 1959, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wisner.

Dated at Washington, D.C., September 10, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-7649; Filed, Sept. 14, 1959;
8:46 a.m.]

DOMESTIC CARGO-MAIL SERVICE CASE

[Docket No. 10067 et al.]

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958 that a hearing in the above-entitled proceeding is assigned to be held on September 28, 1959, at 10:00 a.m., P.s.t., in Room 59, Federal Office Building, Civic Center, San Francisco, California, before Examiner Merritt Ruhlén.

Without limiting the scope of the issues to be considered, particular attention will be directed to the following:

1. Whether the public convenience and necessity require the renewal of the cargo and mail certificates of AAXICO Airlines, Inc., Flying Tiger Line, Inc., Riddle Airlines, Inc., and Slick Airways, Inc.;

2. Whether the limitation of the mail authority of such carriers, which provides for the carriage of mail on a non-subsidy basis only, should be eliminated in whole or in part;

3. Whether the certificates of such carriers should be altered, amended, modified, or suspended in whole or in part;

4. Whether the public convenience and necessity require that the certificates of American Airlines, Inc., Delta Air Lines, Inc., or any other domestic all-purpose carrier should be amended to authorize additional cargo or mail service; and

5. Whether each of such carriers is fit, willing, and able to properly perform such air transportation as is found to be required and to comply with the provisions of the Act and the rules and regulations of the Board thereunder.

For further details of the issues involved, interested persons are referred to the applications and any amendments thereto, petitions, motions, orders, pre-

hearing conference report, and other documents entered in the docket of this proceeding, all of which are on file with the Civil Aeronautics Board.

Notice is further given that any person, other than parties of record, desiring to be heard in this proceeding should file with the Board, on or before September 28, 1959, a statement setting forth the issues of fact or law to be presented.

Dated at Washington, D.C., September 9, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-7650; Filed, Sept. 14, 1959; 8:47 a.m.]

[Docket No. 8404]

RATE OF RETURN LOCAL SERVICE CARRIERS

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on October 7, 1959, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., September 10, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-7651; Filed, Sept. 14, 1959; 8:47 a.m.]

[Docket No. SA-344]

INVESTIGATION OF ACCIDENT OCCURRING NEAR OPHIR, ALASKA

Notice of Hearing

In the matter of investigation of accident involving aircraft of United States Registry N 57139, which occurred near Ophir, Alaska, September 1, 1959.

Notice is hereby given, pursuant to the Federal Aviation Act of 1959, particularly Title VII of said Act, in the above-entitled proceeding that hearing is hereby assigned to be held on Thursday, September 17, 1959, at 9:00 a.m., (local time), in the Westward Hotel, Anchorage, Alaska.

Dated at Washington, D.C., September 9, 1959.

[SEAL] HAROLD G. CROWLEY,
Hearing Officer.

[F.R. Doc. 59-7652; Filed, Sept. 14, 1959; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12915; FCC 59M-1131]

BOOTH BROADCASTING CO. (WSGW)

Order Continuing Hearing

In re application of Booth Broadcasting Company (WSGW), Saginaw, Michi-

gan, Docket No. 12915, File No. BP-11873; for construction permit for standard broadcast station.

Pursuant to joint motion of counsel at the prehearing conference held on this date: *It is ordered*, This 8th day of September, 1959, that the hearing in the above-entitled proceeding now scheduled to commence on September 21, 1959, be continued to December 1, 1959, at 10 a.m., in Washington, D.C.

Released: September 9, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7657; Filed, Sept. 14, 1959; 8:47 a.m.]

[Docket No. 12894; FCC 59M-1135]

HIGH FIDELITY STATIONS, INC. (KPAP)

Order Scheduling Hearing

In re application of High Fidelity Stations, Inc. (KPAP), Redding, California, Docket No. 12894, File No. BMP-8115; for construction permit for standard broadcast station.

Pursuant to agreements entered on the record of the prehearing conference held on this date,

It is ordered, This 9th day of September 1959, that the hearing in this proceeding shall be commenced at 10:00 a.m., on Tuesday, December 8, 1959.

Released: September 10, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7658; Filed, Sept. 14, 1959; 8:47 a.m.]

[Docket Nos. 12528, 12529; FCC 59M-1132]

DONALD W. HUFF AND EQUITABLE PUBLISHING CO.

Order Reopening Record for Further Hearing

In re applications of Donald W. Huff, Lansdale, Pennsylvania, Docket No. 12528, File No. BP-11313; Equitable Publishing Company, Lansdale, Pennsylvania, Docket No. 12529, File No. BP-11934; for construction permits.

Pursuant to the provisions of the Commission's memorandum opinion and order released July 6, 1959,

It is ordered, This 8th day of September 1959, that the record in this proceeding is reopened, and that a further hearing shall be held at 10:00 a.m. on Tuesday, September 22, 1959, at the offices of the Commission in Washington, D.C.

Released: September 9, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7659; Filed, Sept. 14, 1959; 8:47 a.m.]

[Docket No. 13183 etc.; FCC 59-902]

ISLAND TELERADIO SERVICE, INC., ET AL.

Order Designating Applications for Hearing on Stated Issues

In re applications of Island Teleradio Service, Inc., Charlotte Amalie, St. Thomas, Virgin Islands, Docket No. 13183, File No. BPCT-2565; Supreme Broadcasting Co., Inc., of Puerto Rico, Charlotte Amalie, St. Thomas, Virgin Islands, Docket No. 13184, File No. BPCT-2576; Mary Louise Vickers tr/as Virgin Islands Broadcasting System, Charlotte Amalie, St. Thomas, Virgin Islands, Docket No. 13185, File No. BPCT-2606; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 2d day of September 1959;

The Commission having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 10, Charlotte Amalie, St. Thomas, Virgin Islands; and

It appearing, that the applications of Island Teleradio Service, Inc., Supreme Broadcasting Co., Inc. of Puerto Rico, and Mary Louise Vickers tr/as Virgin Islands Broadcasting System are mutually exclusive in that operation by all three applicants as proposed would result in mutually destructive interference; and

It further appearing, that Supreme Broadcasting Co., Inc. of Puerto Rico has requested a waiver of § 3.613(a) of the Commission's rules to locate its main studios outside of Charlotte Amalie, and has shown good cause for the requested waiver; and

It further appearing, that pursuant to section 309(b) of the Communications Act of 1934, as amended, Island Teleradio Service, Inc., Supreme Broadcasting Co., Inc. of Puerto Rico, and Mary Louise Vickers tr/as Virgin Islands Broadcasting System, were advised by letters that their applications were mutually exclusive, of the necessity for a hearing and were advised of all objections to their applications and were given an opportunity to reply; and

It further appearing, that Supreme Broadcasting Co., Inc. of Puerto Rico planned to finance the construction and initial operation of the proposed station by means of existing capital and by deferred credit payments for equipment, and that it was indicated in the above-mentioned letter to Supreme Broadcasting Co., Inc. of Puerto Rico that the Commission could not, on the basis of this proposal, determine without a hearing that Supreme Broadcasting Co., Inc. of Puerto Rico was financially qualified to construct and operate the proposed station; and

It further appearing, that Supreme Broadcasting Co., Inc. of Puerto Rico amended its application by submitting a corrected balance sheet and by showing that, in addition to the financial sources previously indicated, it has obtained a firm commitment for a bank loan of \$50,000; and

PROPOSED RULE MAKING

It further appearing, that upon due consideration of the above-captioned applications, the amendments thereto, and the replies to the above letters, the Commission finds that pursuant to section 309(b) of the Communications Act of 1934, as amended, a hearing is necessary; that Mary Louise Vickers tr/as Virgin Islands Broadcasting System is legally, and technically qualified to construct, own and operate the proposed television broadcast station; that Supreme Broadcasting Co., Inc. of Puerto Rico is legally and financially qualified to construct, own and operate the proposed television broadcast station and is technically so qualified except as to issue "2" below; and that Island Teleradio Service, Inc. is legally, financially, technically and otherwise qualified to construct, own and operate the proposed television broadcast station.

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-captioned applications of Island Teleradio Service, Inc., Supreme Broadcasting Co., Inc. of Puerto Rico, and Mary Louise Vickers tr/as Virgin Islands Broadcasting System are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether Mary Louise Vickers tr/as Virgin Islands Broadcasting System is financially qualified to construct, own and operate the proposed television broadcast station.

2. To determine the correct geographic coordinates for the site proposed by Supreme Broadcasting Co., Inc. of Puerto Rico.

3. To determine on a comparative basis which of the operations proposed in the above-captioned applications would better serve the public interest, convenience and necessity in light of the significant differences between the applicants as to:

a. The background and experience of each having a bearing on its ability to own and operate the proposed television broadcast station.

b. The proposals of each with respect to the management and operation of the proposed television broadcast station.

c. The programming service proposed in each of the above-captioned applications.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue:

To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in the applications will be effectuated.

It is further ordered, That to avail themselves of the opportunity to be heard Island Teleradio Service, Inc., Supreme Broadcasting Co., Inc. of Puerto Rico,

and Mary Louise Vickers tr/as Virgin Islands Broadcasting System, pursuant to § 1.140(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: September 10, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7660; Filed, Sept. 14, 1959;
8:47 a.m.]

[Docket No. 13186; FCC 59-903]

M & M BROADCASTING CO. (WLUK-TV)

Order Designating Application for Hearing on Stated Issues

In re application of: M & M Broadcasting Company (WLUK-TV), Marinette, Wisconsin, Docket No. 13186, File No. BMPCT-5325; for modification of construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 2d day of September, 1959;

The Commission having under consideration the above-captioned application of M & M Broadcasting Company for modification of construction permit to increase its tower and antenna height above average terrain; make changes in antenna system, make equipment changes and reduce visual ERP; and

It appearing, that the Airspace Panel of the Air Coordinating Committee in Washington, D.C. on April 28, 1959, voted to disapprove the the tower proposal of the above-named applicant (Case 11702, 594th meeting); and

It further appearing, that the principal objections to the tower proposal of M & M Broadcasting Company were submitted by the Departments of the Navy and Army and the Federal Aviation Agency; that, consequently, they are expected to come forward during the hearing hereinafter ordered in order to present fully upon the record evidence in support of their objections; and

It further appearing, that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-named applicant was advised by letter that its tower proposal had been disapproved; and that, therefore, the Commission was unable to conclude that a grant of its application, without hearing, would serve the public interest, convenience and necessity, and was given an opportunity to reply; and

It further appearing, that, upon due consideration of the above-captioned application and the reply to the Commission's letter, the Commission finds that, pursuant to section 309(b) of the Communications Act of 1934, as amended, a hearing is necessary; that M & M Broadcasting Company is legally

and financially qualified to construct, own and operate Station WLUK-TV as proposed and is technically so qualified except with respect to issue "1" below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-captioned application of M & M Broadcasting Company is designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine whether the antenna structure and site proposed by M & M Broadcasting Company having the geographical coordinates North Latitude 44°39'57" West Longitude 88°07'49" with an overall height of 2049 feet above mean sea level, would constitute a hazard to air navigation.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue whether a grant of the above-captioned application would serve the public interest, convenience and necessity.

It is further ordered, That the Departments of the Navy and Army and the Federal Aviation Agency are hereby made parties to the proceeding.

It is further ordered, That to avail themselves of the opportunity to be heard, M & M Broadcasting Company, Departments of the Navy and Army and the Federal Aviation Agency, pursuant to § 1.140(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: September 10, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7661; Filed, Sept. 14, 1959;
8:47 a.m.]

[FCC 59-934]

COMPOSITE WEEK FOR PROGRAM LOG ANALYSIS

SEPTEMBER 10, 1959.

The following dates will constitute the composite week for the preparation of program log analyses in connection with renewal (and other broadcast) applications for AM, FM, and TV stations whose licenses expire in 1960. Attention is directed to the fact that the date for Sunday is in the year 1958, whereas, all other dates are in the year 1959.

Monday—February 2, 1959.
Tuesday—March 10, 1959.
Wednesday—April 29, 1959.
Thursday—May 21, 1959.
Friday—July 17, 1959.
Saturday—September 5, 1959.
Sunday—December 14, 1958.

The attention of licensees is also directed to section IV, page 3, Item 10, of the renewal application which permits the submission of any additional program data that the applicant desires

to call to the Commission's attention, if, in the applicant's opinion, the statistics based on the composite week do not adequately reflect the program service rendered.

Adopted: September 9, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7662; Filed, Sept. 14, 1959;
8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-14026, G-14689]

CARTER OIL CO.

Order Consolidating Proceedings and Terminating Rate Schedule

SEPTEMBER 8, 1959.

On February 24, 1958, the Carter Oil Company (Carter) tendered for filing an increased rate and charge, designated Supplement No. 2 to Carter's FPC Gas Rate Schedule No. 56, which was subsequently suspended until August 27, 1958, in Docket No. G-14689 by Commission order issued March 20, 1958. This rate filing reflected Carter's acquisition from Sinclair Oil & Gas Company of a 50 percent interest in the W. B. Gibson Unit, Golden Trend Field, Garvin County, Oklahoma.

On May 18, 1959, Carter filed a cancellation agreement between Carter and Lone Star Gas Company designated supplement No. 3, to its FPC Gas Rate Schedule No. 56, terminating the contract comprising Carter's FPC Gas Rate Schedule No. 56. Concurrently Carter filed a supplemental agreement, designated Supplement No. 10 to its FPC Gas Rate Schedule No. 19, whereby the aforesaid acquired 50 percent interest in the Gibson Unit is dedicated under Carter's contract comprising its FPC Gas Rate Schedule No. 19 which covers its original interest in the Gibson Unit.¹ Said Supplement No. 10 was accepted to be effective as of June 18, 1959.

In support of its proposal to cancel the contract comprising its FPC Gas Rate Schedule No. 56 and to consolidate the interest previously covered thereby into its FPC Gas Rate Schedule No. 19, Carter states that the pricing provisions of the two contracts are identical, that the other provisions are substantially the same, and that the sale of all gas from the Gibson Unit under one contract will materially reduce accounting problems and substantially reduce the volume and complexity of filings with the Commission.

The Commission finds:

(1) It is necessary and appropriate in the public interest that the proceedings in Docket No. G-14689 be consolidated

¹Supplement No. 6 to Carter's FPC Gas Rate Schedule No. 19, proposing an increase in rate for gas attributable to Carter's original interest in the unit similar to the increase proposed in Supplement No. 2 to Carter's FPC Gas Rate Schedule No. 56, was made effective subject to refund by order issued December 26, 1957, in Docket No. G-14026.

with the proceedings in Docket No. G-14026, and as provided by the filing designated Supplement No. 10 to Carter's FPC Gas Rate Schedule No. 19, that the gas sales from Carter's 50 percent interest in the Gibson Unit heretofore covered by Carter's FPC Gas Rate Schedule No. 56, Supplement No. 2 thereof being subject to the suspension proceeding in Docket No. G-14689, should be covered by Supplement No. 6 to Carter's FPC Gas Rate Schedule No. 19 effective as of June 18, 1959.

(2) Good cause exists for cancelling Carter's FPC Gas Rate Schedule No. 56. The Commission orders:

(A) The proceeding in Docket No. G-14689 is hereby consolidated with the proceeding in Docket No. G-14026, and Carter's sales of gas from the Gibson Unit, previously made subject to its FPC Gas Rate Schedule No. 56, shall on and after June 18, 1959, be made subject to its FPC Gas Rate Schedule No. 19, as supplemented, and is subject to the suspension proceeding in Docket No. G-14026 and Commission orders issued thereunder.

(B) Carter's FPC Gas Rate Schedule No. 56 and supplements thereto are cancelled effective as of June 18, 1959, subject, however, to such cancellation being without prejudice to any action the Commission may take concerning the rates and charges collected by Carter under this rate schedule and Supplement No. 2 thereto in the proceeding in Docket No. G-14689.

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-7636; Filed, Sept. 14, 1959;
8:45 a.m.]

LANDS WITHDRAWN IN PROJECTS NOS. 128 AND 930

Vacation of Withdrawals Under Section 24 of the Federal Water Power Act

SEPTEMBER 8, 1959.

The Forest Service, United States Department of Agriculture, by letter dated June 22, 1959, has requested that the Commission give consideration to the outright restoration of the hereinafter-described lands free of all encumbrances in order to permit the development of the area by the construction of access roads and recreational facilities.

The lands are located in the upper reaches of the Main Stem and South Fork of Kern River within the Inyo and Sequoia National Forests and are reserved pursuant to the filing on December 11, 1920, and October 31, 1928, of applications for preliminary permits for proposed Projects Nos. 128 and 930, respectively. The application for a preliminary permit for Project No. 128 was rejected on January 8, 1927, and the Commission on July 31, 1935, consented to the withdrawal of the application for a preliminary permit for Project No. 930.

By Commission withdrawal notification letter of March 31, 1921, the lands

reserved pursuant to the filing on December 11, 1920, of the application for a preliminary permit for proposed Project No. 128, consisting of 4,938 acres, were described as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

- T. 20 S., R. 35 E.,
 - Sec. 11, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 - Sec. 12, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 13, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$;
 - Sec. 15, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 22, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 - Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 24, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 20 S., R. 36 E.,
 - Sec. 18, lots 2, 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 19, lot 1, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 - Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 28, S $\frac{1}{2}$ SW $\frac{1}{4}$ (unsurveyed);
 - Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 32, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 - Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 21 S., R. 36 E. (unsurveyed),
 - Sec. 3, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 - Sec. 10, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 - Sec. 15, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 - Sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 - Sec. 29, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 32, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 22 S., R. 36 E.,
 - Sec. 5, lot 4;
 - Sec. 6, lots 1, 2, 3.

and by Commission withdrawal notification letter of November 7, 1928, the lands reserved pursuant to the filing on October 31, 1928, of the application for a preliminary permit for proposed Project No. 930, consisting of 17,492 acres, were described as follows, said letter stating that lands previously reserved in connection with Project No. 128 were also affected:

MOUNT DIABLO MERIDIAN, CALIFORNIA

- T. 23 S., R. 32 E.,
 - Sec. 1, S $\frac{1}{2}$ S $\frac{1}{2}$;
 - Sec. 12, N $\frac{1}{2}$ N $\frac{1}{2}$.
- T. 18 S., R. 33 E.,
 - Sec. 28, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 - Sec. 33, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$.
- T. 19 S., R. 33 E.,
 - Sec. 4, lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 9, W $\frac{1}{2}$ E $\frac{1}{2}$;
 - Sec. 16, W $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 - Sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 25, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$;
 - Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 - Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 - Sec. 36, N $\frac{1}{2}$ NW $\frac{1}{4}$.
- T. 20 S., R. 33 E.,
 - Sec. 1, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 11, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 - Sec. 12, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 - Sec. 14, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$;
 - Sec. 15, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 - Sec. 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 22, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 - Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 29, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 21 S., R. 33 E.,
 Sec. 5, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 8, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 17, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 19, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, W $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 30, NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 31, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$.
 T. 22 S., R. 33 E.,
 Sec. 6, lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12;
 Sec. 7, lots 1, 2, 3, 4, 5, 6, 7, 8;
 Sec. 18, lots 1, 5, 6, 7, 8;
 Sec. 19, lot 7, W $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 23 S., R. 33 E.,
 Sec. 6, lots 2, 6, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 18 S., R. 34 E.,
 Sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 19 S., R. 34 E.,
 Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 30, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 32, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 20 S., R. 34 E.,
 Sec. 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 3, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 6, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$
 SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 12, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 13, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 19 S., R. 35 E.,
 Sec. 33, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 34, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
 SE $\frac{1}{4}$;
 Sec. 35, W $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 20 S., R. 35 E.,
 Sec. 1, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 2, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 3, lots 1, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 4, lots 1, 2, 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 10, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
 NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 16, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 17, S $\frac{1}{2}$;
 Sec. 18, lot 1, E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 21, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
 S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 22, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 25, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$,
 NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 28, N $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 35, NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 36, NW $\frac{1}{4}$.
 T. 21 S., R. 35 E.,
 Sec. 1, lot 3.
 T. 20 S., R. 36 E.,
 Sec. 18, lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 19, lot 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The contemplated use of the lands was in connection with the development of the then suggested Kern River Plants

Nos. 4, 5, and 6, and the suggested Little Kern Lake and Monache reservoir sites.

The most favorable sites along the Kern River for the development of power have already been subject to extensive improvements, operating entirely on natural stream flow until the completion of the recently constructed Isabella Reservoir. Only Kern River Plant No. 3, located just above Kernville, is located between the above-described lands and Isabella Reservoir.

Waters of the Kern River appear completely appropriated for purposes of irrigation and any arrangement for upstream storage is practically out of the question because of the lack of feasible reservoir sites.

Various suggestions for the development of power in the area appear to be economically infeasible.

The Commission finds: Inasmuch as the lands have negligible or no value for purposes of power development, the existing withdrawals serve no useful purpose and vacation of the withdrawals is in the public interest.

The Commission orders: The existing power withdrawals pertaining to the above-described lands under section 24 of the Federal Water Power Act pursuant to the filing of the applications for preliminary permits for proposed Projects Nos. 128 and 930 are vacated.

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-7637; Filed, Sept. 14, 1959;
 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

NATURAL RUBBER HELD IN THE NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 53 Stat. 811, as amended, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 470,000 long tons of natural rubber now held in the national stockpile.

The Office of Civil and Defense Mobilization has made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, that there is no longer any need for stockpiling this quantity of natural rubber. The revised determination was by reason of lower military requirements, technological advances, and a reduction of the planning basis for stockpiling from a five- to a three-year potential emergency.

Sales will be negotiated on the basis of prevailing market prices. While it is the objective of the General Services Administration to dispose of the entire quantity of 470,000 long tons over a period of about 9 years (about 50,000 long tons a year on the average), the quantities actually released from time to time may vary considerably in order to avoid undue disruption of markets.

This plan of disposition has been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets as well as the protection of the United States against avoidable loss on disposal.

Since the revised determination is not by reason of obsolescence of natural rubber for use in time of war, this proposed disposition is being referred to the Congress for its express approval, as required by section 3(e) of the Strategic and Critical Materials Stock Piling Act. It is proposed to begin making the natural rubber covered by this notice available for sale upon the express approval by the Congress of this proposed disposition or six months after the date of publication of this notice in the FEDERAL REGISTER, whichever is later.

Prior to the beginning of disposal pursuant to this plan, it is contemplated that natural rubber will be disposed of in accordance with statutory authority for sale, without replacement, of excess perishable stockpile materials to avoid deterioration. The 470,000-ton quantity covered by this notice shall be reduced by the quantity of rubber so sold.

Dated: September 11, 1959.

FRANKLIN FLOETE,
Administrator.

[F.R. Doc. 59-7719; Filed, Sept. 14, 1959;
 4:30 p.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562, Taylor's I.C.C. Order 100, Amdt. 1]

CHICAGO, AURORA AND ELGIN RAILWAY CO.

Division or Rerouting of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 100 and good cause appearing therefor:

It is ordered, That Taylor's I.C.C. Order No. 100 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1959, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 10, 1959, and 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., September 9, 1959.

INTERSTATE COMMERCE
 COMMISSION,
 CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 59-7663; Filed, Sept. 14, 1959;
 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 10, 1959.

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. 35672: *Machinery and machines—Salt Lake City, Utah to Western points.* Filed by Western Trunk Line Committee, Agents (No. A-2079), for interested rail carriers. Rates on machinery, machines, and parts, carloads from Salt Lake City, Utah to specified points in Illinois, Iowa, Michigan, Minnesota, Nebraska, South Dakota and Wisconsin.

Grounds for relief: Motor truck competition.

Tariff: Supplement 118 to Western Trunk Line Committee, Agent, tariff I.C.C. A-4123.

FSA No. 35673: *Onions—Western points to western and southern territories.* Filed by Western Trunk Line Committee, Agent (No. A-2083), for interested rail carriers. Rates on onions (without tops), and onion sets, carloads from points in Iowa, Michigan (upper peninsula), Minnesota, North Dakota, South Dakota, and Wisconsin to points in western trunk line and southern territories.

Grounds for relief: Short-line distance formula and motor truck competition.

Tariffs: Supplement 102 to Western Trunk Lines Committee, Agent, tariff

I.C.C. A-3548. Supplement 164 to Western Trunk Lines Committee, Agent, tariff I.C.C. A-3511.

FSA No. 35674: *Wire or fabric cloth—Western points to Texas points.* Filed by Southwestern Freight Bureau, Agent (No. B-7633), for interested rail carriers. Rates on cloth, wire or fabric (not screen or insect cloth), iron or steel, galvanized, carloads from points in Illinois, Indiana, Iowa, Kansas, Missouri, and Wisconsin to points in Texas.

Grounds for relief: Additional related and Kindred articles of iron and steel manufacture.

Tariff: Supplement 65 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4308.

FSA No. 35675: *Liquefied chlorine gas—Official territory to Tennessee.* Filed by O. E. Schultz, Agent (ER No. 2506), for interested rail carriers. Rates on liquified chlorine gas, tank-car loads from specified points in Maryland, Michigan, New Jersey, Ohio, and West Virginia to New Jersey, Ohio, and West Virginia to Boyce, Calhoun, Chattanooga, and North Chattanooga, Tenn.

Grounds for relief: Market competition with South Charleston, W. Va., and other producing points at the named markets in Tennessee.

Tariffs: Supplements Nos. 129 and 136 to Traffic Executive Association-Eastern Railroads, Agent, tariffs I.C.C. Nos. 4664 (Hinsch series) and I.C.C. A-1079 (Boin series), respectively.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-7646; Filed, Sept. 14, 1959; 8:46 a.m.]

[Notice 189]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 10, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62520. By order of September 9, 1959, The Transfer Board approved the transfer to W. S. Kurtz & Son, Inc., Harrisburg, Pa., of the operating rights in Certificate No. MC 91449, issued April 20, 1955, to Arthur J. Kurtz, doing business at William S. Kurtz and Son, Harrisburg, Pa., authorizing the transportation of household goods, over irregular routes, between Harrisburg, Pa., and points within five miles of Harrisburg, on the one hand, and, on the other, points in Maryland, New Jersey, and New York. Harold W. Swope, Commerce Building, Harrisburg, Pa., for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-7647; Filed, Sept. 14, 1959; 8:46 a.m.]

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