



FEDERAL REGISTER

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Title 3—THE PRESIDENT

Proclamation 3392

PAN AMERICAN DAY AND PAN AMERICAN WEEK, 1961

By the President of the United States
of America
A Proclamation

WHEREAS on April 14, 1961, the peoples of the American Republics will honor the seventy-first anniversary of the founding of an organization for inter-American cooperation, now known as the Organization of American States; and

WHEREAS the people of the United States view with sympathy and urgency the aspirations of their good neighbors of this Hemisphere for a way of life which promises increased political, spiritual, cultural, and economic well-being; and

WHEREAS the ideals of peace, freedom, and human progress are again threatened by forces intent on subverting them, and a rededication of those determined to strengthen the inter-American system is required; and

WHEREAS the United States of America is proud to participate within the framework of the inter-American system in the formulation of new cooperative measures for social improvement and economic development to help meet the desires of the peoples of this Hemisphere for a better way of life and to preserve and strengthen the free and democratic institutions in the American Republics:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, do hereby proclaim Friday, April 14, 1961, as Pan American Day, and the period from April 9 to April 15, 1961, as Pan American Week; and I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the

United States to issue similar proclamations.

I also urge our citizens and all interested organizations to share in the celebration of Pan American Day and Pan American Week, in testimony of the historical ties and friendly relations which unite the people of this country with the peoples of other American Republics.

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 February in the year of our Lord nineteen hundred and [SEAL] sixty-one, and of the Independence of the United States of America the one hundred and eighty-fifth.

JOHN F. KENNEDY

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 61-1378; Filed, Feb. 13, 1961;
1:39 p.m.]

Proclamation 3393

NATIONAL DEFENSE TRANSPORTATION DAY, 1961

By the President of the United States
of America

A Proclamation

WHEREAS adequate transportation facilities are vital to our Nation's economy and to its military strength; and

WHEREAS it is appropriate that recognition be given to the development and maintenance of the American transportation system, which has contributed so extensively to the growth, culture, and prosperity of our people in peaceful trade and commerce, and in effective logistic support of our armed forces; and

WHEREAS the Congress, by a joint resolution approved May 16, 1957 (71

Stat. 30), has requested the President annually to issue a proclamation designating the third Friday of May of each year as National Defense Transportation Day and urging the people of the United States—including labor, management, users, and investors in all communities served by any of the various forms of transportation by land, by water, and by air—to observe this occasion by appropriate ceremonies:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, do hereby designate Friday, May 19, 1961, as National Defense Transportation Day, and I urge our people to join in the observance of this day, in collaboration with the transportation industry and representatives of the armed forces and other governmental agencies, and to participate in the observance of this occasion by appropriate ceremonies.

I invite the Governors of the States to provide for the observance of National Defense Transportation Day in such manner as will afford an opportunity for the citizens of each community to recognize and appreciate fully the vital role of a great modern transportation system in their daily lives and in our national defense.

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 February in the year of our Lord nineteen hundred and [SEAL] sixty-one, and of the Independence of the United States of America the one hundred and eighty-fifth.

JOHN F. KENNEDY

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 61-1379; Filed, Feb. 13, 1961;
1:39 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Treasury Department

Effective upon publication in the FEDERAL REGISTER, subparagraph (2) of § 6.103(c) is amended as set out below.

§ 6.103 Treasury Department.

(c) *Coast Guard.* * * *

(2) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian and one Cadet Hostess at the Coast Guard Academy, New London, Connecticut.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
*Executive Assistant to
the Commissioners.*

[F.R. Doc. 61-1324; Filed, Feb. 14, 1961; 8:51 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Justice

Effective upon publication in the FEDERAL REGISTER, subparagraph (9) is added to § 6.308(a) as set out below.

§ 6.308 Department of Justice.

(a) *Office of the Attorney General.* * * *

(9) Two confidential assistants to the Attorney General.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
*Executive Assistant to
the Commissioners.*

[F.R. Doc. 61-1323; Filed, Feb. 14, 1961; 8:51 a.m.]

Chapter III—Foreign and Territorial Compensation

[Departmental Reg. 108.461]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

Designation of Differential Posts

Section 325.15 *Designation of differential posts*, is amended as follows, effective February 19, 1961:

1. Paragraph (a) is amended by the deletion of the following:

Chichi Jima, Bonin Islands.

2. Paragraph (b) is amended by the deletion of the following:

India, all posts except Anand, Banaras (Varanasi), Bangalore, Bhopal, Bikaner, Bombay, Chandigarh, Hyderabad, Izatnagar-Bareilly, Kharagpur, Karnal, Lucknow, Ludhiana, Madras, Nagarjunasagar Dam, Nangal (Ganguwal), New Delhi, Poona, Rajkot, Sehore, Tarai (Phoolbagh), Trivandrum, Udaipur, and Vellore.

3. Paragraph (c) is amended by the deletion of the following:

Derna, Libya.

4. Paragraph (a) is amended by the addition of the following:

Jabalpur, India.
La Fragua, Guatemala.
Sabour, India.

5. Paragraph (b) is amended by the addition of the following:

Chichi Jima, Bonin Islands.
Derna, Libya.

India, all posts except Anand, Banaras (Varanasi), Bangalore, Bhopal, Bikaner, Bombay, Chandigarh, Hyderabad, Izatnagar-Bareilly, Jabalpur, Kharagpur, Karnal, Lucknow, Ludhiana, Madras, Nagarjunasagar Dam, Nangal (Ganguwal), New Delhi, Poona, Rajkot, Sabour, Sehore, Tarai (Phoolbagh), Trivandrum, Udaipur, and Vellore.

(Secs. 102, 401, E.O. 10000, 13 F.R. 5453, 3 CFR, 1948 Supp., E.O. 10623, E.O. 10636, 20 F.R. 5297, 7025, 3 CFR, 1955 Supp.)

Washington, D.C., February 2, 1961.

For the Secretary of State.

LANE DWINELL,
Assistant Secretary.

[F.R. Doc. 61-1312; Filed, Feb. 14, 1961; 8:49 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1960 C.C.C. Grain Price Support Bulletin 1, Supp. 2, Amdt. 6, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Barley Loan and Purchase Agreement Program

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 25 F.R. 3570, 4445, 4894, 5263, 8179, 9197, 12282, 14010, and 26 F.R. 577, and containing the specific requirements for the 1960-crop barley price support program are hereby amended as follows:

Section 421.5087(b) is amended by increasing the support rate for Berrien

County, Michigan, from \$0.83 to \$0.86 per bushel.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended, Title II, 73 Stat. 178, 15 U.S.C. 714, 7 U.S.C. 1421, 1441)

Issued this 10th day of February 1961.

H. D. GODFREY,
*Executive Vice President,
Commodity Credit Corporation.*

[F.R. Doc. 61-1339; Filed, Feb. 14, 1961; 8:53 a.m.]

Title 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 10]

PART 719—RECONSTITUTION OF FARMS, FARM ALLOTMENTS, AND FARM HISTORY AND SOIL BANK BASE ACREAGES

Land Removed From Agricultural Production

Basis and purpose. This amendment is issued pursuant to sections 375 (b) and 378(a) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1375(a) and 1378(b)) and section 124 of the Soil Bank Act (7 U.S.C. 1812) to prescribe the conditions under which a farm reconstitution is not required when a change in ownership occurs on a farm tract and the land involved was not or could not have been acquired under the right of eminent domain and is to be used for nonagricultural purposes.

Since reconstitutions which have resulted or will result in changes in the allotment, history, and soil bank base acreages established for the 1961 crop year have been and are currently being made, it is hereby found that compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest and that this amendment shall become effective upon publication in the FEDERAL REGISTER.

Section 719.7(h) (25 F.R. 1065) is amended to read as follows:

§ 719.7 Reconstitution of farm allotments, history, and soil bank base acreages.

(h) *Land removed from agricultural production (not acquired under right of eminent domain.* When (1) the ownership of a tract of land is transferred from a parent farm, (2) the tract transferred is to be used for non-agricultural purposes, and (3) such tract was not or could not have been acquired under right

of eminent domain, the farm shall not be reconstituted and the allotment, history, and soil bank base acreages shall remain with the parent farm: *Provided*, That the county committee determines, on the basis of an agreement signed by all persons interested in the transfer, that the land transferred is in fact to be changed to non-agricultural uses during the current or succeeding year. In all such cases, the farmland and cropland data shall be corrected on all appropriate records for the parent farm. If an agreement as prescribed in this paragraph is not obtained, the farm shall be reconstituted in accordance with the farm definition and the allotment, history, and soil bank base acreages shall be redetermined. The provisions herein prescribed shall apply beginning with reconstitutions which became effective for the 1960 crop year and for any reconstitutions made during the calendar year of 1960 which were effective for a prior year.

(Secs. 375, 378, 52 Stat. 66, as amended; 72 Stat. 995; sec. 124, 70 Stat. 198; 7 U.S.C. 1375, 1378, 1812)

Done at Washington, D.C., this 9th day of February 1961.

H. D. GODFREY,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 61-1348; Filed, Feb. 14, 1961;
8:54 a.m.]

[Amdt. 9]

PART 728—WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments for 1960 and Subsequent Crops of Wheat

1962 FARM BASE ACREAGE AND ALLOTMENT DETERMINATIONS

Basis and purpose. The amendments herein are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of farm base acreages and allotments for the 1962 crop of wheat.

The farm base acreage determinations provided for herein shall be in effect only for the 1962 crop of wheat. Provision for determining base acreages for 1963 and subsequent crops of wheat will be contained in amendments to the regulations in this subpart. Prior to preparing the amendments herein, public notice (25 F.R. 10137) was given in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003) of the Department's proposals for determining 1962 farm base acreages and allotments for wheat. The data, views and recommendations pertaining to these amendments which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended. The basis and considerations for the amendments herein were set out in said notice.

1. A new § 728.1017b is added between §§ 728.1017a and 728.1018 to read as follows:

§ 728.1017b Determination of base acreages for old farms for the 1962 crop of wheat.

(a) The county committee shall, in accordance with the regulations in this section, determine a 1962 base acreage for each old farm which will reflect the factors of past acreage of wheat, tillable acres, crop-rotation practices, type of soil and topography. For substantially all farms, these factors are determined to be adequately reflected for the 1962 crop in the 1961 base acreages for regular rotation farms and in the 1960 base acreages for odd and even rotation farms and the wheat history acreage for 1960, weighted and adjusted as provided for in this section. For the small number of farms where special provisions are necessary as provided in subparagraphs (3), (4), (5), and (6) of paragraph (b) of this section, the computed base acreage determined in accordance with the provisions of such subparagraphs have been determined adequately to reflect these factors.

(b) *Computed base acreage.* The county committee shall establish for each farm a computed base acreage which shall be:

(1) For a regular rotation farm, 80 per centum of the 1961 base acreage which was determined for the farm under § 728.1017a, plus 20 per centum of the 1960 wheat history acreage as determined for the farm under § 728.1011(f)(6).

(2) For any farm having an odd and even crop rotation as defined in § 728.1011(d), 80 per centum of the 1960 base acreage which was determined for the farm under § 728.1017, plus 20 per centum of the 1960 wheat history acreage as determined for the farm under § 728.1011(f)(6).

(3) For a farm for which a new farm allotment was established for the first time for the 1961 crop, the product obtained by multiplying the final 1961 wheat acreage allotment for the farm by the reciprocal of a decimal fraction which is 100 per centum of the county proration factor used in adjusting old farm base acreages in 1961 to the 1961 county acreage allotment as determined under § 728.1018.

(4) For a farm which had established a new odd and even crop-rotation system for 1961 as provided in § 728.1017a(b)(6), the base acreage recommended by the county committee as applicable for 1962 for such farm.

(5) For an old farm having a crop-rotation system under which the acreage devoted to the production of wheat for harvest as grain has varied in a set pattern from year to year over a three- or four-year period, the previous base acreage selected by the county committee as applicable for 1962 for such farm under such rotation system.

(6) For any farm in the Tulelake Area of California to which the provisions of Public Law 86-385 were applicable, the acreage determined as provided in subdivision (viii) of § 728.1011(f)(6) for the 1961 crop of wheat.

(7) For those farms for which the penalty on 1959 excess wheat was postponed or avoided by storage of the excess but

on which the penalty became due after determination of the 1961 allotment, the farm base acreage for 1962 shall be computed in accordance with subparagraph (1) of this paragraph on the basis of a wheat history acreage for 1959 determined by using the 1959 allotment instead of the 1959 base acreage resulting in a 1961 farm base acreage determined by using such recomputed 1959 wheat history acreage.

(c) *Tentative farm base acreage.* The tentative base acreage for a farm shall be the computed base acreage determined under paragraph (b) above, as adjusted under this paragraph (c). The county committee may make adjustments not to exceed 10 percent in the computed base acreage for the farm when it is determined that such computed farm base acreage is too low or too high when compared with base acreages on similar farms similarly operated which have had very similar crop-rotation practices in the past and have relatively the same type of soil and topography and approximately the same amount of cropland. Such adjustments are subject to the following conditions:

(1) The computed farm base acreage may not be adjusted above the cropland for the farm.

(2) No adjustment shall be made for the purpose of offsetting the effects of exceeding the 1959 or 1960 farm acreage allotment(s).

(3) An adjustment may be made to reflect the loss in county history caused by those farms for which the base acreage is determined under § 728.1017b(b)(4) or (5) which had excess wheat acreage on which the penalty became due for either the 1959 or 1960 crops of wheat.

A zero tentative base acreage shall be established for any farm if the county committee determines that the land will not be used for agricultural production in 1962 because it has been devoted to non-agricultural use.

(d) *The 1962 base acreage.* The 1962 base acreage shall be that acreage determined under paragraphs (a) through (c) of this section, adjusted to the approved county base. If the sum of the indicated 1962 tentative base acreages for all old farms in the county does not equal (within rounding tolerance) the 1962 final county base acreage used in apportioning the State acreage allotments to counties contained in § 728.-1207, such indicated base acreage shall be adjusted up or down by that percentage which the sum of the indicated base acreages for all old farms in the county is less or more than the 1962 county base acreage: *Provided*, That the 1962 base acreage for any farm shall not exceed the total cropland for the farm, except for any farm where less than 15 percent of the cropland on the farm has been acquired under the right of eminent domain. As so adjusted, the 1962 tentative base acreage for the farm shall become the 1962 base acreage for the farm.

§ 728.1018 [Amendment]

2. Section 728.1018 is amended by striking out the period at the end thereof

and inserting in lieu thereof a comma and the language "and § 728.1017b for 1962."

(Secs. 334, 375, 377, 52 Stat. 53, as amended, 66, 71 Stat. 592, 73 Stat. 393; 7 U.S.C. 1334, 1375, 1377)

Issued at Washington, D.C., this 10th day of February 1961.

H. D. GODFREY,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 61-1344; Filed, Feb. 14, 1961;
8:54 a.m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

PART 1102—AGRICULTURAL CONSERVATION; PUERTO RICO

Subpart—1961

The soil and water resources of the farmlands of our Nation must be protected and conserved. This is essential in order that farms will continue to have the capacity to produce sufficient food and other raw materials to meet the future needs of the Nation.

All the people of this Nation, not the farmers alone, have a stake in, and a part of the responsibility for protecting and conserving, our farmlands. Recognizing this, the Congress appropriates funds to share with farmers the cost of carrying out needed soil and water conservation measures. The Agricultural Conservation Program is a means of making this Federal cost-sharing available to farmers.

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1102.1141 Practice 1: Initial establishment of permanent sod waterways to dispose of excess water without causing erosion.

1102.1142 Practice 2: Constructing continuous terraces to detain or control the flow of water and check soil erosion on sloping land.

1102.1143 Practice 3: Establishing field diversion ditches or diversion terraces to intercept surface runoff from the watershed above and divert it into protected outlets to prevent erosion and protect lower lying cultivated areas.

1102.1144 Practice 4: Constructing or enlarging permanent open drainage systems to dispose of excess water.

1102.1145 Practice 5: Installing permanent underground tile drainage systems to dispose of excess water.

1102.1146 Practice 6: Constructing hillside ditches with or without vegetative barriers to detain or control the flow of water and check erosion on sloping land.

1102.1147 Practice 7: Constructing rock barriers to form and support bench terraces and control the flow of water and check erosion on sloping land.

1102.1148 Practice 8: Constructing, enlarging, or sealing dams, pits, or ponds as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

1102.1149 Practice 9: Constructing, enlarging, or sealing dams, pits, or ponds to impound surface water for irrigation.

1102.1150 Practice 10: Planting vegetative barriers on cultivated land, orchards, or coffee groves of 10 percent or more slope.

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1102.1151 Practice 11: Initial establishment of contour strip-cropping on nonterraced land to protect soil from water erosion by planting alternate strips of clean-tilled crops and noncultivated grasses or legumes which will prevent soil washing.
1102.1152 Practice 12: Leveling land for more efficient use of irrigation water and to prevent erosion.
1102.1153 Practice 13: Constructing or installing miscellaneous permanent structures such as dams, chutes, drops, flumes, or similar structures to prevent or heal gullying, or in connection with farm drainage systems, or in connection with the reorganization of farm irrigation systems.
1102.1154 Practice 14: Initial establishment of a stand of trees for erosion control and/or for windbreaks.
1102.1155 Practice 15: Planting of trees on farmland for purposes other than the prevention of wind or water erosion.
1102.1156 Practice 16: Controlling competitive shrubs to permit growth of adequate desirable vegetative cover for soil protection on pasturelands.
1102.1157 Practice 17: Constructing permanent fences as a means of protecting vegetative cover.
1102.1158 Practice 18: Installing pipelines for livestock water as a means of protecting vegetative cover or to make practicable the utilization of land for vegetative cover.
1102.1159 Practice 19: Applying ground limestone, or its equivalent, to permit the initial establishment of grasses and legumes under practice 20 (§ 1102.1160) and the improvement of established permanent pastures under practice 22 (§ 1102.1162) or to improve pastures established prior to 1961.
1102.1160 Practice 20: Initial establishment of improved permanent pasture for erosion control by seeding, sodding, or sprigging perennial legumes or self-reseeding annual or perennial grasses, or a mixture of legumes and perennial grasses, or other approved forage plants.
1102.1161 Practice 21: Initial application of refuse from sugar mill grinding operations, known as filter cake, to permit the initial establishment of pasture under practice 20 (§ 1102.1160) for soil protection and moisture conservation.
1102.1162 Practice 22: Improvement of established permanent pasture of Molasses, Guinea, Gramalote, and Para grass by seeding Tropical Kudzu for soil or watershed protection.
1102.1163 Practice 23: Development of permanent woodland cover for erosion control on steep slopes and for watershed protection through the initial establishment of coffee groves.
1102.1164 Practice 24: Development of permanent woodland cover for erosion control on steep slopes and for watershed protection through the application of fertilizer to coffee groves more than 1 year old but not more than 4 years old.

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1102.1165 Practice 25: Improving the woodland protection which coffee groves provide for steep slopes by applying to coffee trees fertilizer of formulas 12-6-10, 12-6-16, 12-8-14, or 10-6-20.
- 1102.1166 Practice 26: Installing sprinkler irrigation in permanent pasture to develop forage so as to encourage rotation grazing and better pasture management for protection of all grazing land in the farm against overgrazing and erosion.
- 1102.1167 Practice 27: Shaping or land grading to permit effective drainage.
- 1102.1168 Practice 28: Establishment of vegetative cover for green manure and for protection from erosion.
- 1102.1169 Practice 29: Developing springs or seeps for livestock as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.
- 1102.1170 Practice 30: Lining irrigation ditches with concrete or other suitable material to prevent erosion and loss of water by seepage.
- 1102.1171 Practice 31: Cleaning of young forest plantations on farmland to assure their successful establishment.
- 1102.1172 Practice 32: Improvement of a stand of forest trees on farmland for the production of timber.
- 1102.1173 Practice 33: Emergency conservation measures to restore to productive use land damaged by natural disasters.

Agricultural Extension Service, and representatives of the Department of Agriculture of the Commonwealth of Puerto Rico.

GENERAL PROGRAM PRINCIPLES

§ 1102.1101 General program principles.

The 1961 Agricultural Conservation Program for Puerto Rico has been developed and is to be carried out on the basis of the following general principles:

(a) The program is confined to the soil and water conservation practices on which Federal cost-sharing is most needed in order to achieve the maximum conservation benefit.

(b) The program is designed to encourage those soil and water conservation practices which provide the most enduring conservation benefits practicably attainable in 1961 on lands where they are to be applied.

(c) Costs will be shared with a farmer only on satisfactorily performed soil and water conservation practices for which Federal cost-sharing was requested by the farmer before the conservation work was begun.

(d) Costs should be shared only on soil and water conservation practices which it is believed farmers would not carry out to the needed extent without program assistance. In no event should costs be shared on practices except those which are over and above those farmers would be compelled to perform in order to secure a crop.

(e) The rates of cost-sharing are the minimum required to result in substantially increased performance of needed soil and water conservation practices.

(f) The purpose of the program is to help achieve additional conservation on land now in agricultural production rather than to bring more land into agricultural production. The program is not applicable to the development of new or additional farmland by measures such as drainage, irrigation, and land clearing. Such of the available funds that cannot be wisely utilized for this purpose will be returned to the Public Treasury.

(g) If the Federal Government shares the cost of the initial application of soil and water conservation practices which farmers otherwise would not perform but which are essential to sound soil and water conservation, the farmers should assume responsibility for the upkeep and maintenance of those practices through their lifespans. Cost-shares are not applicable, after they are initially utilized, to undertake a practice during its normal lifespan unless the practice has failed to serve for its normal lifespan due to conditions beyond the control of the farm operator.

ALLOCATION OF FUNDS

§ 1102.1102 Allocation of funds.

The amount of funds available for conservation practices under this program is \$873,000. This amount does not include the amount set aside for administrative expenses and the amount required for increases in small Federal cost-shares in § 1102.1118.

SELECTION OF PRACTICES, RESPONSIBILITY FOR TECHNICAL PHASES, AND BULLETINS, INSTRUCTIONS, AND FORMS

§ 1102.1103 Selection of practices.

The practices included in this subpart are those for which the ASC State Office, the Soil Conservation Service, and the Forest Service agree that cost-sharing is essential to permit accomplishment of needed conservation work which would not otherwise be carried out.

§ 1102.1104 Responsibility for technical phases of practices.

(a) The Soil Conservation Service is responsible for the technical phases of practices 1 to 14, 18, 26, 27, 29, and 30 (§§ 1102.1141 to 1102.1154, 1102.1158, 1102.1166, 1102.1167, 1102.1169, and 1102.1170). This responsibility shall include (1) a finding that the practice is needed and practicable on the farm, (2) necessary site selection, other preliminary work, and layout work of the practice, (3) necessary supervision of the installation, and (4) certification of performance for all requirements of the practice except those for which certification by the farmer is to be accepted in accordance with instructions issued by the Administrator, ACPS. Complete specifications for practices 1 to 12 (§§ 1102.1141 to 1102.1152) are contained in a document entitled "Detailed Specifications for Conservation Practices—Puerto Rico" prepared by the Soil Conservation Service, Caribbean Area Office, and available at the SCS work unit offices and the ASC district offices. The Soil Conservation Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities. The Soil Conservation Service will utilize to the full extent available resources of the State forestry agencies in carrying out its assigned responsibilities for practice 14 (§ 1102.1154).

(b) The Forest Service is responsible for the technical phases of practices 15, 31, and 32 (§§ 1102.1155, 1102.1171, and 1102.1172). This responsibility shall include (1) providing necessary specialized technical assistance, (2) development of specifications for the practice, and (3) working through the ASC State Office, determining performance in meeting these specifications. This responsibility also includes (i) a finding that the practice is needed and practicable on the farm, (ii) necessary site selection, other preliminary work, and layout work of the practice, (iii) necessary supervision of the installation, and (iv) certification of performance. The Forest Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities, but services of State forestry agencies will be utilized to the full extent such services are available.

§ 1102.1105 Bulletins, instructions, and forms.

The Administrator, ACPS, is authorized to make determinations and to prepare and issue bulletins, instructions, and forms containing detailed information with respect to the 1961 program as it applies to Puerto Rico, and forms will

Authority: §§ 1102.1100 to 1102.1173 issued under Sec. 4, 49 Stat. 164, secs. 7-17, 49 Stat. 1148, as amended, 71 Stat. 176, 71 Stat. 426, 72 Stat. 864, 74 Stat. 232; 16 U.S.C. 590d, 590g-590q.

INTRODUCTION

§ 1102.1100 Introduction.

(a) Through the 1961 Agricultural Conservation Program for Puerto Rico (referred to in this subpart as the "1961 program"), administered by the Department of Agriculture, the Federal Government will share with farmers of Puerto Rico the cost of carrying out approved conservation practices in accordance with the provisions contained in this subpart and such modifications thereof as may hereafter be made.

(b) Information with respect to the several practices for which costs will be shared when carried out on a particular farm, and the exact specifications and rates of cost-sharing for such practices, are set forth in this subpart. Any additional information may be obtained at the ASC district offices, or at the local offices of the Soil Conservation Service with respect to practices 1 to 14, 18, 26, 27, 29, and 30 (§§ 1102.1141 to 1102.1154, 1102.1158, 1102.1166, 1102.1167, 1102.1169, and 1102.1170) and at the offices of the Forest Service with respect to practices 15, 31, and 32 (§§ 1102.1155, 1102.1171, and 1102.1172).

(c) The 1961 program was developed by the ASC State Office, the Territorial Director of the Soil Conservation Service for the Caribbean Area, the Forest Service official having jurisdiction of farm forestry in Puerto Rico, the Director of

be made available at the State and district ASC offices. Persons wishing to participate in this program should obtain all information needed from the offices mentioned in this subpart in order to comply with all provisions of the program.

APPROVAL OF CONSERVATION PRACTICES ON INDIVIDUAL FARMS

§ 1102.1106 Opportunity for requesting cost-sharing.

Each farmer shall be given an opportunity to request that the Federal Government share in the cost of those practices on which he considers he needs such assistance in order to permit their performance on his farm.

§ 1102.1107 Prior request for cost-sharing.

(a) Costs will be shared only for those practices for which cost-sharing is requested by the farmer before performance thereof is started, except that for practices to meet new conservation problems and emergency conservation measures to restore to productive use land damaged by natural disasters, the Administrator, ACPs, may authorize the acceptance of requests for cost-sharing filed within a reasonable period after performance thereof is started, such period to be stated in the practice wording. For practices for which (1) approval was given under the 1960 Agricultural Conservation Program, (2) performance was started but not completed during the 1960 program year, and (3) the ASC State Office believes the extension of the approval to the 1961 program is justified under the 1961 program regulations and provisions, the filing of the request for cost-sharing under the 1960 program may be regarded as meeting the requirement of the 1961 program that a request for cost-sharing be filed before performance of the practice is started.

(b) Any farmer who wishes to participate in the 1961 program must file Cert. Form No. 39 (Revised), Request for Cost-Shares.

(c) This form may be obtained and filed at any of the ASC district offices, field offices of the Soil Conservation Service (SCS), field offices of the Extension Service, district offices of the Farmers Home Administration, and field offices of the Department of Agriculture of the Commonwealth of Puerto Rico.

(d) This form must be filed on or before June 30, 1961, or such extension thereof as determined by the ASC State Office, but not extending beyond July 31, 1961, except for cases of hardship as determined by the ASC State Office.

§ 1102.1108 Method and extent of approval.

The ASC State Office will determine, or may delegate to the district offices authority to determine, the extent to which Federal funds will be available to share the cost of each approved practice on each farm, taking into consideration the available funds, the conservation problems of the individual farm and other farms, and the conservation work for which requested Federal cost-sharing is considered as most needed in 1961.

Prior approval of the ASC State Office is required for all practices, except as otherwise authorized by § 1102.1107 for practices to meet new conservation problems and emergency conservation measures. The notice of approval shall show for each approved practice the number of units of the practice for which the Federal Government will share in the cost and the amount of the Federal cost-share for the performance of that number of units of the practice. The maximum Federal cost-share for a farm shall be equal to the total of the cost-shares for all practices approved for the farm and carried out in accordance with the specifications for such practices. No practice may be approved for cost-sharing except as authorized by the program contained in this subpart, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a farm or acreage-quota basis, but shall be directed to the accomplishment of the most enduring conservation benefits attainable.

§ 1102.1109 Initial establishment or installation of practices.

(a) Federal cost-sharing may be authorized under the 1961 program only for the initial establishment or installation of the practices contained in this subpart. The initial establishment or installation of a practice, for the purposes of the 1961 program, shall be deemed to include the replacement, enlargement, or restoration of practices for which cost-sharing has been allowed since the 1953 program if the practice has served for its normal lifespan, or if all of the following conditions exist:

(1) Replacement, enlargement, or restoration of the practice is needed to meet the conservation problem.

(2) The failure of the original practice was not due to the lack of proper maintenance by the current operator.

(3) The ASC State Office believes that the replacement, enlargement, or restoration of the practice merits consideration under the program to an equal extent with other practices for which cost-sharing has not been allowed under a previous program.

(b) With normal upkeep and maintenance, practices 1 to 23, 26, 27, and 29 to 32 (§§ 1102.1141 to 1102.1163, 1102.1166, 1102.1167, and 1102.1169 to 1102.1172) carried out under the 1954 or a subsequent program would not have served their lifespans by the end of the 1961 program year. Accordingly, cost-sharing for reestablishment or replacement of these practices may be authorized only under the conditions set forth in this section.

§ 1102.1110 Repair, upkeep, and maintenance of practices.

Federal cost-sharing is not authorized for repairs or for normal upkeep or maintenance of any practice.

§ 1102.1111 Pooling agreements.

Farmers in any local area may agree in writing, with the approval of the ASC State Office, to perform designated amounts of practices which, by conserving or improving the agricultural resources of the community, will solve a

mutual conservation problem on the farms of the participants. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms of the persons who performed the practices.

PRACTICE COMPLETION REQUIREMENTS

§ 1102.1112 Completion of practices.

Federal cost-sharing for the practices contained in this subpart is conditioned upon the performance of the practices in accordance with all applicable specifications and program provisions. Except as provided in §§ 1102.1113 and 1102.1114, practices must be completed during the program year in order to be eligible for cost-sharing.

§ 1102.1113 Practices substantially completed during program year.

Approved practices may be deemed, for purposes of payment of cost-shares, to have been carried out during the 1961 program year, if the ASC State Office determines that they are substantially completed by the end of the program year. However, no cost-shares for such practices shall be paid until they have been completed in accordance with all applicable specifications and program provisions.

§ 1102.1114 Practices involving the establishment or improvement of vegetative cover.

Costs for practices involving the establishment or improvement of vegetative cover, including trees, may be shared even though a good stand is not established, if the ASC State Office determines, in accordance with standards approved by the ASC State Office, that the practice was carried out in a manner which would normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the farm operator. The ASC State Office may require as a condition of cost-sharing in such cases that the area be reseeded or replanted, or that other needed protective measures be carried out. Cost-sharing in such cases may be approved also for repeat applications of measures previously carried out or for additional eligible measures. Cost-sharing for such measures shall be approved to the extent such measures are needed to assure a good stand even though less than that required by the applicable practice wording for initial approvals.

FEDERAL COST-SHARES

§ 1102.1115 Conservation materials and services.

(a) *Availability.* (1) Part or all of the Federal cost-share for an approved practice may be in the form of conservation materials or services furnished through the program for use in carrying out the practice. Materials or services may not be furnished to persons who are indebted to the Federal Government as indicated by the register of indebtedness maintained in the ASC State Office, except in those cases where the agency to which the debt is owed waives its right to setoff

in order to permit the furnishing of materials and services. Purchase orders may be obtained by filing an application for such orders. Applications are available at the ASC district offices, field offices of the Extension Service, field offices of the Department of Agriculture of the Commonwealth Government of Puerto Rico, field offices of the Soil Conservation Service, and district offices of the Farmers Home Administration.

(2) Title to any material furnished through the Agricultural Conservation Program shall vest in the Federal Government until the material is applied or all charges for same are satisfied.

(3) When the material consists of ground limestone and the same is purchased direct by the farmer rather than obtained through a duly issued purchase order, the receipts or invoices, in triplicate, showing the purchase and calcium carbonate content of the ground limestone applied, properly dated and signed by the vendor, as well as a copy of the certificate of pH determination issued by the Agricultural Extension Service, Vocational Agriculture, or any other agency designated for this purpose by the ASC State Office, shall be retained by the farmer for presentation upon request of the ASC State Office.

(4) When the material consists of fertilizer and the same is purchased direct by the farmer, rather than obtained through a duly issued purchase order, the receipts or invoices, in triplicate, showing the purchase and analysis of the fertilizer applied, properly dated and signed by the vendor, shall be retained by the farmer for presentation upon request of the ASC State Office.

(b) *Cost to farmer.* The farmer shall pay that part of the cost of the material or service, as established under instructions issued by the Administrator, ACPS, which is in excess of the Federal cost-share attributable to the use of the material or service. The Federal cost-share increase on the amount of the Federal cost-share attributable to the use of the material or service may be advanced as a credit against that part of the cost of the material or service required to be paid by the farmer.

(c) *Discharge of responsibility for materials and services.* (1) The person to whom a material or service is furnished under the 1961 program will be relieved of responsibility for the material or service upon determination by the ASC State Office that the material or service was used in performing the practice for which it was furnished. If the person uses any material or service for any purpose other than that for which it was furnished, he shall be indebted to the Federal Government for that part of the cost of the material or service borne by the Federal Government and shall pay such amount to the Treasurer of the United States direct or by withholdings from Federal cost-shares otherwise due him under the program.

(2) Any person to whom materials are furnished shall be responsible to the Federal Government for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If the materials are abandoned or not used during the program

year, they may, in accordance with instructions issued by the Administrator, ACPS, be transferred to another person or otherwise disposed of at the expense of the person who abandoned or failed to use the material, or be retained by the person for use in a subsequent program year.

§ 1102.1116 Practices carried out with State or Federal aid.

The total extent of any practice performed shall be reduced for the purpose of computing cost-shares by the percentage of the total cost of the items of performance on which costs are shared which the ASC State Office determines was furnished by a State or Federal agency. Materials or services furnished through the 1961 program, materials or services furnished by any agency of a State to another agency of the same State, or materials or services furnished or used by a State or Federal agency for the performance of practices on its land shall not be regarded as State or Federal aid for the purposes of this section.

§ 1102.1117 Division of Federal cost-shares.

(a) *Federal cost-shares.* The Federal cost-share attributable to the use of conservation materials or services furnished under purchase orders shall be credited to the person to whom the materials or services are furnished, and it shall have priority over payment for other practices. Other Federal cost-shares shall be credited to the person who carried out the practices by which such Federal cost-shares are earned. If more than one person contributed to the carrying out of such practices, the Federal cost-share shall be divided among such persons in the proportion that the ASC State Office determines they contributed to the carrying out of the practices. In making this determination, the ASC State Office shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of each practice on a particular acreage, and shall assume that each contributed equally unless it is established to the satisfaction of the ASC State Office that their respective contributions thereto were not in equal proportion. The furnishing of land or the right to use water will not be considered as a contribution to the carrying out of any practice.

(b) *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any person, any Federal share of the cost due him shall be paid to his successor, determined in accordance with the provisions of the regulations in ACP-122, as amended (Part 1108 of this chapter).

§ 1102.1118 Increase in small Federal cost-shares.

For practices other than emergency conservation measures, the sum of the Federal cost-shares computed for any person with respect to any farm shall be increased as follows:

(a) Any Federal cost-share amounting to \$0.71 or less shall be increased to \$1.00.

(b) Any Federal cost-share amounting to more than \$0.71, but less than \$1.00, shall be increased by 40 percent.

(c) Any Federal cost-share amounting to \$1.00 or more shall be increased in accordance with the following schedule:

Amount of cost-share computed:	Increase in cost-share
\$1 to \$1.99	\$0.40
\$2 to \$2.99	.80
\$3 to \$3.99	1.20
\$4 to \$4.99	1.60
\$5 to \$5.99	2.00
\$6 to \$6.99	2.40
\$7 to \$7.99	2.80
\$8 to \$8.99	3.20
\$9 to \$9.99	3.60
\$10 to \$10.99	4.00
\$11 to \$11.99	4.40
\$12 to \$12.99	4.80
\$13 to \$13.99	5.20
\$14 to \$14.99	5.60
\$15 to \$15.99	6.00
\$16 to \$16.99	6.40
\$17 to \$17.99	6.80
\$18 to \$18.99	7.20
\$19 to \$19.99	7.60
\$20 to \$20.99	8.00
\$21 to \$21.99	8.20
\$22 to \$22.99	8.40
\$23 to \$23.99	8.60
\$24 to \$24.99	8.80
\$25 to \$25.99	9.00
\$26 to \$26.99	9.20
\$27 to \$27.99	9.40
\$28 to \$28.99	9.60
\$29 to \$29.99	9.80
\$30 to \$30.99	10.00
\$31 to \$31.99	10.20
\$32 to \$32.99	10.40
\$33 to \$33.99	10.60
\$34 to \$34.99	10.80
\$35 to \$35.99	11.00
\$36 to \$36.99	11.20
\$37 to \$37.99	11.40
\$38 to \$38.99	11.60
\$39 to \$39.99	11.80
\$40 to \$40.99	12.00
\$41 to \$41.99	12.10
\$42 to \$42.99	12.20
\$43 to \$43.99	12.30
\$44 to \$44.99	12.40
\$45 to \$45.99	12.50
\$46 to \$46.99	12.60
\$47 to \$47.99	12.70
\$48 to \$48.99	12.80
\$49 to \$49.99	12.90
\$50 to \$50.99	13.00
\$51 to \$51.99	13.10
\$52 to \$52.99	13.20
\$53 to \$53.99	13.30
\$54 to \$54.99	13.40
\$55 to \$55.99	13.50
\$56 to \$56.99	13.60
\$57 to \$57.99	13.70
\$58 to \$58.99	13.80
\$59 to \$59.99	13.90
\$60 to \$185.99	14.00
\$186 to \$199.99	(¹)
\$200 and over	(²)

¹ Increase to \$200.

² No increase.

§ 1102.1119 Maximum Federal cost-share limitation.

(a) For practices other than emergency conservation measures, the total of all Federal cost-shares under the 1961 program to any person with respect to farms, ranching units, and turpentine places in the United States (including Puerto Rico and the Virgin Islands) for approved practices which are not carried out under pooling agreements shall not exceed the sum of \$2,500, and for all approved practices, including those carried

out under pooling agreements, shall not exceed the sum of \$10,000.

(b) All or any part of any Federal cost-share which otherwise would be due any person under the 1961 program may be withheld, or required to be refunded, if he has adopted, or participated in adopting, any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means, designed to evade, or which has the effect of evading, the provisions of this section.

§ 1102.1120 Persons eligible to file application.

Any person who, as landlord, tenant, or sharecropper on a farm, bore a part of the cost of an approved conservation practice is eligible to file an application for payment of the Federal cost-share due him.

§ 1102.1121 Time and manner of filing application and required information.

(a) It shall be the responsibility of persons participating in the program to submit to the ASC district offices forms and information needed to establish the extent of the performance of approved conservation practices and compliance with applicable program provisions. Time limits with regard to the submission of such forms and information shall be established where necessary for efficient administration of the program. Such time limits shall afford a full and fair opportunity to those eligible to file the forms or information within the period prescribed. At least 2 weeks' notice to the public shall be given of any general time limit prescribed. Such notice shall be given by mailing notice to the ASC district offices and making copies available to the press. Other means of notification, including radio announcements and individual notices to persons affected, shall be used to the extent practicable. Notice of time limits which are applicable to individual persons, such as time limits for reporting performance of approved practices, shall be issued in writing to the persons affected. Exceptions to time limits may be made in cases where failure to submit required forms and information within the applicable time limits is due to reasons beyond the control of the farmer.

(b) Payment of Federal cost-shares will be made only upon application submitted on the prescribed form to the ASC district offices not later than February 28, 1962, except that the ASC State Office may accept an application filed after February 28, 1962, but not later than December 31, 1962, in cases where the failure to timely file was not the fault of the applicant. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the ASC district office within the applicable time limit. Receipts or invoices required by the wording of practices as evidence of performance shall be retained by the applicant for presentation to the ASC State Office for a period of two years following the end of the program year.

(c) If an application for a farm is filed within the time prescribed, any person on the farm who did not sign the application may subsequently file an application, provided he does so on or before December 31, 1962.

§ 1102.1122 Appeals.

(a) Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the ASC State Office in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his Federal cost-shares with respect to the farm. If he is dissatisfied with the decision of the ASC State Office, he may, within 15 days after its decision is forwarded to or made available to him, request the Administrator, ACPS, to review the decision of the ASC State Office. The decision of the Administrator, ACPS, shall be final. All appeals shall be considered as soon as practicable after they are filed, and prompt written notice of the decision shall be given to the appellant. Written notice of any decision rendered under this section by the ASC State Office shall also be issued to each other landlord, tenant, or sharecropper on the farm who may be adversely affected by the decision.

(b) Appeals considered under this section shall be decided in accordance with the provisions of this subpart on the basis of the facts of the individual case: *Provided*, That the Secretary, upon the recommendation of the Administrator, ACPS, and the ASC State Office, may allow cost-shares for performance not meeting all program requirements, where not prohibited by statute, if in his judgment such action is needed to permit a proper disposition of the appeal. Such action may be taken only where the farmer, in reasonable reliance on any instruction or commitment of any member, employee, or representative of the ASC State Office, in good faith performed an eligible conservation practice and such performance reasonably accomplished the conservation purpose of the practice. The amount of the cost-share in such cases shall be computed on the actual performance and shall not exceed the amount to which the farmer would have been entitled if the performance rendered had met all requirements for the practice.

GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

§ 1102.1123 Compliance with regulatory measures.

Persons who carry out conservation practices under the 1961 program shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary to the performance and maintenance of the practices in keeping with applicable laws and regulations. The person with whom the cost of the practice is shared shall be responsible to the Federal Government for any losses it may sustain because he infringes on the rights of others or fails to comply with applicable laws and regulations.

§ 1102.1124 Maintenance and use of practices.

The sharing of costs, by the Federal Government, for the performance of ap-

proved conservation practices on any farm under the 1961 program will be subject to the condition that the person with whom the costs are shared will maintain and use such practices for the conservation purpose for which cost-sharing was authorized throughout their normal lifespans in accordance with good farming practices as long as the land on which they are carried out is under his control, unless the ASC State Office determines that good farming practice does not require such maintenance and use, or that the failure to so maintain and use the practices was due to conditions beyond his control.

§ 1102.1125 Practices defeating purposes of programs.

If the ASC State Office finds that any person has adopted or participated in any practice during the 1961 program year which tends to defeat the purposes of the 1961 or any previous program, including, but not limited to, failure to maintain, in accordance with good farming practices, practices carried out under a previous program, it may withhold, or require to be refunded, all or any part of the Federal cost-share which otherwise would be due him under the 1961 program.

§ 1102.1126 Depriving others of Federal cost-shares.

If the ASC State Office finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of the Federal cost-share due that person under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the Federal cost-share which otherwise would be due him under the 1961 program.

§ 1102.1127 Filing of false claims.

If the ASC State Office finds that any person has knowingly supplied false information, or has knowingly filed a false claim, including a claim for payment of the Federal cost-share under the program for practices not carried out or for practices carried out in such a manner that they do not meet the required specifications therefor, such person shall not be eligible for any Federal cost-share under the 1961 program and shall refund all amounts that may have been paid to him under the 1961 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 1102.1128 Misuse of purchase orders.

If the ASC State Office finds that any person has knowingly used a purchase order issued to him for conservation materials or services for a purpose other than that for which it was issued, and that such misuse of the purchase order tends to defeat the purpose for which it was issued, such person shall not be eligible for any Federal cost-share under the 1961 program and shall refund all amounts that may have been paid to

him under the 1961 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 1102.1129 Federal cost-shares not subject to claims.

Any Federal cost-share, or portion thereof, due any person shall be determined and allowed without regard to questions of title under State law; without deduction of claims for advances (except as provided in § 1102.1130, and except for indebtedness to the United States subject to setoff under orders issued by the Secretary (Part 13 of this title)); and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 1102.1130 Assignments.

Any person who may be entitled to any Federal cost-share under the 1961 program may assign his right thereto, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1961, including the carrying out of soil and water conservation practices. No assignment will be recognized unless it is made in writing on Form ACP-69 and in accordance with the regulations issued by the Secretary (Part 1110 of this chapter).

DEFINITIONS

§ 1102.1133 Definitions.

For the purposes of the 1961 Agricultural Conservation Program:

(a) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(b) "Administrator, ACPS," means the Administrator of the Agricultural Conservation Program Service.

(c) "State" means the Commonwealth of Puerto Rico.

(d) "ASC State Office" means the Caribbean Area Agricultural Stabilization and Conservation Office, San Juan, Puerto Rico.

(e) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise, or other legal entity (and, wherever applicable, a State, a political subdivision of a State, or any agency thereof) that, as landlord, tenant, or sharecropper, participates in the operation of a farm.

(f) "Farm" means that area of land considered as a farm under the current definition of farm applicable to marketing quota and acreage allotment programs.

(g) "Coffee farm" means the same as "farm," except that it shall contain at least 0.5 acre of coffee in production in any one contiguous area.

(h) "Sugarcane farm" means any farm that has sugarcane growing in 1961.

(i) "Cropland" means that land considered as cropland under the current definition of cropland applicable to marketing quota and acreage allotment programs.

(j) "Orchards" means the acreage in planted fruit trees, nut trees, coffee trees, vanilla plants, and banana plants.

(k) "Pastureland" means farmland, other than rangeland, on which the predominant growth is forage suitable for grazing and on which the spacing of any trees or shrubs is such that the land could not fairly be considered as woodland.

(l) "Program year" means the period from September 1, 1960, through December 31, 1961.

AUTHORITY, AVAILABILITY OF FUNDS, AND APPLICABILITY

§ 1102.1135 Authority.

The program contained in this subpart is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148; 16 U.S.C. 590g-590q), and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1961.

§ 1102.1136 Availability of funds.

(a) The provisions of the 1961 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the paying of the Federal cost-shares provided in this subpart is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation.

(b) The funds provided for the 1961 program will not be available for paying Federal cost-shares for which applications are filed in the ASC district offices after December 31, 1962.

§ 1102.1137 Applicability.

(a) The provisions of the 1961 program contained in this subpart are not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; (2) noncropland owned by the United States which was acquired or reserved for conservation purposes, or which is to be retained permanently under Government ownership, including, but not limited to, grazing land administered by the Forest Service of the United States Department of Agriculture, or by the Bureau of Land Management (including lands administered under the Taylor Grazing Act) or the Fish and Wildlife Service of the United States Department of the Interior, except as indicated in paragraph (b) (6) of this section; and (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it.

(b) The program is applicable to (1) privately owned lands; (2) lands owned by a State or political subdivision or agency thereof; (3) lands owned by cor-

porations which are partly owned by the United States, such as production credit associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the Federal Farm Mortgage Corporation, the United States Department of Defense, or by any other Government agency designated by the Administrator, ACPS; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; and (6) noncropland owned by the United States for performance by private persons of conservation practices which directly conserve or benefit nearby or adjoining privately owned lands of such persons who maintain and use such federally owned noncropland under agreement with the Federal agency having jurisdiction thereof.

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

§ 1102.1140 Concurrent operation of 1960 and 1961 Agricultural Conservation Programs for Puerto Rico.

The practices, specifications, and rates of cost-sharing included in this subpart are applicable to practices carried out on or after January 1, 1961. The practices, specifications, and rates of cost-sharing contained in the 1960 Agricultural Conservation Program for Puerto Rico are applicable to practices carried out on or before December 31, 1960.

§ 1102.1141 Practice 1: Initial establishment of permanent sod waterways to dispose of excess water without causing erosion.

In order to qualify for Federal cost-sharing, the establishment of natural waterways or disposal areas and the construction of outlet channels must conform with specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. (a) \$2.25 per 1,000 square feet, when established by shaping and planting cuttings, runners, stolons, or broadcasting seed.

(b) \$9.75 per 1,000 square feet, when established by shaping and sodding.

(c) \$0.30 per cubic yard of earth moved, when a channel is constructed by excavation and vegetation is established.

§ 1102.1142 Practice 2: Constructing continuous terraces to detain or control the flow of water and check soil erosion on sloping land.

In order to qualify for Federal cost-sharing, a channel or Nichols type terrace shall be constructed on land of from 2 to 12 percent slope. The terrace system must also comply with the conditions and specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. \$1.25 per 100 linear feet of terrace.

§ 1102.1143 Practice 3: Establishing field diversion ditches or diversion terraces to intercept surface runoff from the watershed above and divert it into protected outlets to prevent erosion and protect lower lying cultivated areas.

No Federal cost-sharing will be allowed for this practice if the cultivation of the lower lying areas does not follow the approximate contour. Necessary protected outlets must be established in accordance with the specifications for practice 1 (§ 1102.1141) prior to construction of field diversion ditches. In order to qualify for Federal cost-sharing, the establishment of field diversion ditches or diversion terraces must conform with the specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. \$0.20 per cubic yard of earth moved.

§ 1102.1144 Practice 4: Constructing or enlarging permanent open drainage systems to dispose of excess water.

(a) Federal cost-sharing will be allowed for both new ditches and for clearing and/or enlarging old channels where there is poor drainage and flood damage due to poor conditions of natural streams of extremely low gradients, or to impaired carrying capacity because of vegetative or woody growth or irregularities in channel gradients, and where a new straight channel would have excessive gradient.

(b) No Federal cost-sharing will be allowed for ditches, the primary purpose of which is to bring new land into agricultural production. This practice is not applicable to land other than that devoted to the production of cultivated crops or crops normally seeded to hay or pasture during at least 2 of the 5 years preceding that in which the practice is applied: *Provided, however,* That upon a showing by a farmer applicant for this practice that the land on which the practice is to be applied was in cultivated crops or seeded pasture 2 years out of 10 years preceding the application applied for, he may be allowed cost-shares as to such land. The installation of this practice on eligible land shall not be ineligible for cost-shares because its use results in incidental drainage on ineligible land. No Federal cost-shares are allowable for cleaning a ditch, installing crossing structures, or for other structures primarily for the convenience of the farm operator. In the installation of drainage systems, due consideration shall be given to the maintenance of wildlife habitat. No Federal cost-sharing will be allowed for permanent open farm drainage ditches constructed or enlarged on sugarcane land, except where such drainage is carried out as a community project under a pooling agreement approved by the ASC State Office. No Federal cost-sharing will be allowed for this practice where there is any likelihood that it will create an erosion or flood hazard.

(c) Construction or improvement of channels under this practice will not be approved where the watershed being drained discharges large quantities of sand or silt creating a sedimentation problem in drainage channels, unless protective measures are applied in the contributing watershed such as vegetative cover on sand or silt contributing areas and/or silt detention reservoirs or desilting basins established prior to construction of ditches.

(d) In order to qualify for Federal cost-sharing, the construction or enlargement of permanent open drainage systems must conform with the specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. (a) \$0.20 per cubic yard of earth moved.

(b) \$15.00 per acre for clearing existing channel and 15 feet beyond each bank, but not to exceed 50 percent of actual cost of clearing. (Receipts or records showing payment for labor will be required by the inspector as evidence of accomplishment under this rate of cost-sharing.)

§ 1102.1145 Practice 5: Installing permanent underground tile drainage systems to dispose of excess water.

(a) This practice will be applicable where internal drainage is needed, soils are adaptable, and all possible surface drainage consistent with farming practices has been completed.

(b) No Federal cost-sharing will be allowed for systems, the primary purpose of which is to bring new land into agricultural production. This practice is not applicable to land other than that devoted to the production of cultivated crops or crops normally seeded to hay or pasture during at least 2 of the 5 years preceding that in which the practice is applied: *Provided, however,* That upon a showing by a farmer applicant for this practice that the land on which the practice is to be applied was in cultivated crops or seeded pasture 2 years out of 10 years preceding the application applied for, he may be allowed cost-shares as to such land. The installation of this practice on eligible land shall not be ineligible for cost-shares because its use results in incidental drainage on ineligible land. In the installation of drainage systems, due consideration shall be given to the maintenance of wildlife habitat.

(c) Regardless of the size of tile used, Federal cost-sharing shall not exceed \$50.00 per acre. No Federal cost-sharing will be allowed for repairing or maintaining existing tile drainage systems.

(d) In order to qualify for Federal cost-sharing, acceptable size and grade of tile shall be laid to a predesigned depth, grade, and alignment, and covered, all in a workmanlike manner. An acceptable outlet must be provided.

(e) The tile drainage system must comply with the conditions and specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. (a) \$0.08 per linear foot for 4-inch tile.

(b) \$0.10 per linear foot for 6-inch tile.
(c) \$0.12 per linear foot for 8-inch tile.
(d) \$0.15 per linear foot for 10 but less than 12-inch tile.
(e) \$0.20 per linear foot for 12-inch tile and above.

§ 1102.1146 Practice 6: Constructing hillside ditches with or without vegetative barriers to detain or control the flow of water and check erosion on sloping land.

(a) In order to qualify for cost-sharing, the hillside ditch system must be established on fields where plantings and cultivation follow the approximate contour or in orchards of 2 to 40 percent slope in accordance with the conditions and specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

(b) No Federal cost-sharing will be allowed under this practice if the Commonwealth Government shares in the cost under any other program.

Maximum Federal cost-share. (a) \$1.00 per 100 linear feet of ditches without vegetative barriers.

(b) \$1.30 per 100 linear feet of ditches with vegetative barriers.

§ 1102.1147 Practice 7: Constructing rock barriers to form and support bench terraces and control the flow of water and check erosion on sloping land.

In order to qualify for Federal cost-sharing, the rock barriers must be constructed in accordance with specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. \$1.50 per cubic yard of rock used.

§ 1102.1148 Practice 8: Constructing, enlarging, or sealing dams, pits, or ponds as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

(a) The dams, pits, or ponds must be at locations which will bring about the desired protection of vegetative cover through proper distribution of grazing or better grassland management or make practicable the utilization of the land for vegetative cover.

(b) In order to qualify for Federal cost-sharing, the construction, enlarging, or sealing of dams, pits, or ponds must conform with the conditions and specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. (a) \$0.20 per cubic yard of earth moved in the construction of an earth dam, pond, or pit.

(b) \$15.00 per cubic yard of concrete or rubble masonry used in the construction of a concrete dam or in lining any part of an excavated pond or pit when the permeability of the soil makes such lining desirable, or in the construction of a masonry dam.

(c) \$22.00 per cubic yard of steel reinforced concrete used for cutoff walls, headwalls, outlet structures, and/or risers.

(d) 50 percent of actual cost of conduits and metal cutoff collars. (Receipts or invoices showing the purchase of these materials will be required by the inspector as evidence of accomplishment under this rate of cost-sharing.)

§ 1102.1149 Practice 9: Constructing, enlarging, or sealing dams, pits, or ponds to impound surface water for irrigation.

(a) The purpose of this practice is to conserve agricultural water or to provide water necessary for the conservation of soil resources. No Federal cost-sharing will be allowed for constructing or lining dams, pits, or ponds, the primary purpose of which is to bring into agricultural production land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years.

(b) In order to qualify for Federal cost-sharing, the construction, enlarging, or sealing of dams, pits, or ponds for irrigation water must conform with the conditions and specifications set forth in "Detailed Specifications for Conservation Practices—Puerto Rico," prepared by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. (a) \$0.20 per cubic yard of earth moved in the construction of an earth dam, pond, or pit.

(b) \$15.00 per cubic yard of concrete or rubble masonry used in the construction of a concrete dam or in lining any part of an excavated pond or pit when the permeability of the soil makes such lining desirable, or in the construction of a masonry dam.

(c) \$22.00 per cubic yard of steel reinforced concrete used for box culvert, cradle, cutoff walls, headwalls, outlet structures, and/or risers.

(d) 50 percent of actual cost of conduits, slide gates, and metal cutoff collars. (Receipts or invoices showing the purchase of these materials will be required by the inspector as evidence of accomplishment under this rate of cost-sharing.)

§ 1102.1150 Practice 10: Planting vegetative barriers on cultivated land, orchards, or coffee groves of 10 percent or more slope.

No Federal cost-sharing will be allowed on cultivated land if plantings and cultivation do not follow the approximate contour. Cost-sharing will be allowed when the grasses forming the barrier are planted in accordance with the following specifications:

(a) Grasses listed under the specifications for practice 6 (§ 1102.1146) may be used and must be planted along contour lines.

(b) The vertical distance between the barriers must not exceed 9 feet.

(c) When cuttings of stiff-stemmed grasses are used, two rows 6 inches apart must be planted. When clump divisions of such grasses are used, the rows must be approximately 6 inches wide.

(d) When sod-forming grasses are used, the planted rows must be approximately 3 feet wide.

(e) No Federal cost-sharing will be allowed under this practice if the Com-

monwealth Government shares in the cost under any other program.

Maximum Federal cost-share. \$0.30 per 100 linear feet.

§ 1102.1151 Practice 11: Initial establishment of contour stripcropping on nonterraced land to protect soil from water erosion by planting alternate strips of clean-tilled crops and non-cultivated grasses or legumes which will prevent soil washing.

No cost-sharing will be allowed on cultivated land if plantings and cultivation do not follow the approximate contour. Contour lines must be established and all cultural operations performed as nearly as practicable on the contour. The spacing and width of the strips must be in accordance with the recommendations of the Soil Conservation Service. The width of the clean-tilled area must not exceed twice the width of the non-cultivated area of vegetation.

Maximum Federal cost-share. \$6.00 per acre.

§ 1102.1152 Practice 12: Leveling land for more efficient use of irrigation water and to prevent erosion.

(a) The purpose of this practice is to alter the slope or topography of irrigated land in such a manner as to (1) hold erosion damage to the minimum, (2) make maximum use of rainfall, (3) obtain effective use of irrigation water, and (4) facilitate soil and water management.

(b) Federal cost-sharing will not be approved for routine floating or restoration of grade, or on any land for which cost-sharing for leveling was given under a previous program. Federal cost-sharing will not be approved if the primary purpose of the leveling is to bring into agricultural production land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years. The leveling must be carried out in accordance with a plan approved by the responsible technician.

(c) The practice must be recommended, supervised, and approved by a Soil Conservation Service representative, and performed to meet the requirements of SCS Conservation Practice Engineering Specifications on "Land Leveling for Irrigation."

Maximum Federal cost-share. \$0.20 per cubic yard, not to exceed \$30.00 per acre.

§ 1102.1153 Practice 13: Constructing or installing miscellaneous permanent structures such as dams, chutes, drops, flumes, or similar structures to prevent or heal gully, or in connection with farm drainage systems, or in connection with the reorganization of farm irrigation systems.

(a) In order to qualify for cost-sharing, measures performed under this practice must be in accordance with technical standards approved by the Soil Conservation Service, Caribbean Area Office.

(b) The reorganization of farm irrigation systems (a change for the better in the method of conveying water to and in fields) must be in accordance with a

plan approved by an SCS technician. No Federal cost-sharing will be allowed for structures installed for crossings, or for other structures primarily for the convenience of the farm operator.

(c) No Federal cost-sharing will be allowed for structures constructed or installed in connection with irrigation if the primary purpose is to bring additional land under irrigation or to reorganize a system not used during at least 2 of the last 5 years.

(d) No Federal cost-sharing will be allowed for structures constructed or installed in connection with drainage, the primary purpose of which is to bring new land into agricultural production.

Maximum Federal cost-share. (a) \$0.20 per cubic yard of earth moved in the construction of earth dams.

(b) \$15.00 per cubic yard of rubble masonry.

(c) \$22.00 per cubic yard of steel reinforced concrete.

(d) 50 percent of the actual cost of materials used other than concrete and rubble masonry. (Receipts or invoices showing the purchase of these materials will be required by the inspector as evidence of accomplishment under this rate of cost-sharing.)

§ 1102.1154 Practice 14: Initial establishment of a stand of trees for erosion control and/or for windbreaks.

For erosion control, trees must be planted on the contour and be protected from fire and grazing. A permanent cover of grass, legumes, or mulch must be maintained under the trees. For windbreaks, the trees must be planted in such a pattern as to constitute an effective barrier against the prevailing winds. They must afford protection for adjacent areas which are devoted to agricultural purposes.

Maximum Federal cost-share. (a) \$0.10 per fruit tree, not to exceed 200 trees per farm.

(b) \$0.04 per tree for other than fruit trees, provided not less than 150 trees per farm are planted.

§ 1102.1155 Practice 15: Planting of trees on farmland for purposes other than the prevention of wind or water erosion.

In order to qualify for Federal cost-sharing, at least ¼ acre must be planted, and the trees are to be spaced no wider than 8 by 8 feet. Plantings must be protected from fire and grazing. Competing vegetative growth within one foot of the trees must not be more than 6 inches in height. Federal cost-sharing may be authorized for fences, where needed to protect the trees being planted, but shall be limited to permanent fences. Boundary and road fences and the repair, replacement, or maintenance of existing fences are excluded. The fences must be constructed with new materials. The posts must be spaced not more than 8 feet apart with the corner posts adequately braced. Three strands of barbed wire, No. 12½ gauge or heavier, properly stretched must be used.

Maximum Federal cost-share. (a) \$4.00 per 100 trees living at the time of inspection, not to exceed 1,750 trees per acre.

(b) \$3.00 per 100 linear feet of fences.

§ 1102.1156 Practice 16: Controlling competitive shrubs to permit growth of adequate desirable vegetative cover for soil protection on pastures.

(a) This practice is eligible only on pastures of the grasses and legumes specified in practice 20 (§ 1102.1160). In order to qualify for the cost-share allowed under this practice, all competitive shrubs, such as the following, must be eliminated by uprooting or through the use of herbicides: Santa Maria, Zarzas, Tunas, Margarita, Albahaca, Cadillo, Guayabo, Jaraguazo, Verbena, Aroma, Escoba, Mesquite.

(b) On areas where it is determined that the control of competitive shrubs will reduce the vegetative cover to such an extent as to induce erosion, the practice will not be approved unless followed by seeding or other approved erosion control measures.

(c) Cost-sharing for carrying out this practice is limited to farms located within the North Area, comprising the municipalities of Tao Baja, Bayamon, Catano, Guaynabo, Carolina, Río Piedras, Trujillo Alto, and Dorado; the West Area, comprising the municipalities of Aguada, Aguadilla, Anasco, Rincon, Moca, Mayaguez, Cabo Rojo, Hormigueros, and San German; the Southeast Area, comprising the municipalities of Arroyo, Cayey, Guayama, and Salinas; the Southwest Area, comprising the municipalities of Guanica, Lajas, Sabana Grande, and Yauco; the South Area, comprising the municipalities of Guayanilla, Penuelas, Juana Diaz, Villalba, Santa Isabel, and Ponce; the East Area, comprising the municipalities of Humacao, Juncos, Las Piedras, Naguabo, Patillas, Yabucoa, and Maunabo; the Central East Area, comprising the municipalities of Gurabo, Aguas Buenas, Cidra, Caguas, and San Lorenzo; and the Northeast Area, comprising the municipalities of Loiza, Luquillo, Río Grande, Fajardo, Ceiba, Vieques, and Culebra.

(d) No Federal cost-sharing will be allowed for carrying out this practice on any acreage for which cost-sharing for eliminating the same competitive shrubs was allowed by the Commonwealth Government under a previous program. No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. \$4.00 per acre.

§ 1102.1157 Practice 17: Constructing permanent fences as a means of protecting vegetative cover.

(a) This practice may be approved only where fencing will contribute to better distribution of livestock and seasonal use of the forage. Fences between pasture and other land will not qualify for cost-sharing. Fences must have pasture or range land on both sides of the fence.

(b) Cost-sharing will be allowed only for new fences constructed entirely of new materials. Cost-sharing will not be allowed for the repair, replacement, or maintenance of existing fences.

(c) Eligible fences are generally those which are constructed for the purpose of dividing an original field into two or more small fields between which livestock will be rotated. If it is necessary to construct some boundary or road fence, as well as the dividing fence, to accomplish the needed protection of the vegetative cover, cost-sharing will be allowed for the boundary or road fence.

(d) Hardwood, steel, or concrete posts or living tree posts shall be used. Posts must be spaced not more than 8 feet apart with corner posts adequately braced. For barbed wire fences, three strands of No. 12½ standard gauge or heavier wire must be used and tightly stretched. For woven wire fences, the wire must be not less than 4 feet high with a top and bottom strand of No. 10 standard gauge wire, and No. 12½ standard gauge in all intermediate wires and with stay wires 12 inches apart. The woven wire must be tightly stretched.

(e) Cost-sharing for carrying out this practice is limited to farms located within the eight areas mentioned in practice 16 (§ 1102.1156).

(f) No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. \$9.00 per 100 linear feet.

§ 1102.1158 Practice 18: Installing pipelines for livestock water as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

(a) The pipelines must deliver water to locations which will bring about the desired protection of vegetative cover through proper distribution of grazing or better grassland management or make practicable the utilization of the land for vegetative cover.

(b) Cost-sharing will be allowed when the pipeline carries water to areas where no other water supply for livestock is available and proper drinking troughs have been provided; and where the pipe used is new galvanized or comparable pipe meeting the following minimum specifications: (1) Metal pipes (galvanized, wrought iron, welded steel, lead, copper, or brass) meeting specifications as adopted by all reputable pipe manufacturers; (2) plastic pipes either flexible or rigid as specified in standards established by the Society of Plastic Industry. The pipe will be buried sufficiently deep to prevent damage by farm machinery where crossings are needed.

(c) Receipts or invoices showing the purchase of new pipe, properly dated and signed by the vendor, should be retained for presentation to the farm inspector at the time of inspection.

(d) Cost-sharing for carrying out this practice is limited to farms located within the eight areas mentioned in practice 16 (§ 1102.1156).

(e) No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. (a) \$0.10 per linear foot when new pipes of from ½ to 1 inch diameter are used.

(b) \$0.15 per linear foot when new pipes of from 1¼ to 1¾ inches diameter are used.

(c) \$0.25 per linear foot when new pipes of 2 inches or more diameter are used.

§ 1102.1159 Practice 19: Applying ground limestone, or its equivalent, to permit the initial establishment of grasses and legumes under practice 20 (§ 1102.1160) and the improvement of established permanent pastures under practice 22 (§ 1102.1162) or to improve pastures established prior to 1961.

(a) Cost-sharing for the application of ground limestone is based on soil pH as follows: (1) If the pH determination shows 5.2 or less, cost-sharing will be allowed for applying up to 4 tons per acre. (2) If the pH determination shows more than 5.2, but not more than 5.8, cost-sharing will be allowed for applying up to 2 tons per acre. (3) If the pH determination shows more than 5.8, no cost-sharing will be allowed.

(b) Cost-sharing for carrying out this practice is limited to farms located within the eight areas mentioned in practice 16 (§ 1102.1156).

(c) No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. \$4.00 per ton of ground limestone containing at least 80 percent calcium carbonate equivalent.

§ 1102.1160 Practice 20: Initial establishment of improved permanent pasture for erosion control by seeding, sodding, or sprigging perennial legumes or self-reseeding annual or perennial grasses, or a mixture of legumes and perennial grasses, or other approved forage plants.

(a) Commercial fertilizers of formulas other than 12-6-10 or 12-6-8 may be accepted if approved by the ASC State Office.

(b) The varieties of grasses and legumes planted must be well adapted to the conditions of the particular area. Plantings must be carried out on not less than ½ acre to qualify for cost-sharing. The land must be properly prepared by plowing, harrowing (if necessary), and furrowing on approximate contour lines, or by hand preparation. Sufficient clump divisions, sprigs, cuttings, or seeds must be used to secure a good ground cover at maturity.

(c) When a Guinea grass pasture is established by using seed, the rate of seeding should not be less than 20 pounds per acre. When Guinea and/or Molasses grass is seeded in mixtures with Tropical Kudzu, the rate of seeding will be as follows: (1) Molasses grass, 5 pounds per acre, Tropical Kudzu, 4 pounds per acre; (2) Guinea grass, 8 pounds per acre, Tropical Kudzu, 4 pounds per acre.

(d) When grass pasture is established by using slips or cuttings, the distance between the rows must not be more than 3 feet. On land of 2 percent or more slope, the plantings and all cultivating must be as near as practicable along the contour lines.

(e) Cost-sharing for carrying out this practice is limited to farms located

within the eight areas mentioned in practice 16 (§ 1102.1156).

(f) No Federal cost-sharing will be allowed for any component of this practice for which the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. (a) \$15.00 per acre for planting Para, Guinea, Gramalote, Pangola, Giant St. Augustine, Buffel, or Merker grass, or any combination of these grasses.

(b) \$18.00 per acre for planting Tropical Kudzu in combination with Molasses, Guinea, Gramalote, or Para grass, or a combination of these grasses.

(c) \$30.00 per ton of 12-6-10 or 12-6-8 fertilizer applied to permit the initial establishment of grasses and legumes under rates (a) and (b), but not exceeding 1,000 pounds per acre.

§ 1102.1161 Practice 21: Initial application of refuse from sugar mill grinding operations, known as filter cake, to permit the initial establishment of pasture under practice 20 (§ 1102.1160) for soil protection and moisture conservation.

(a) Farms from which more than 100 acres of sugarcane are harvested in 1961, and any farm operated by a producer-processor as defined under the Sugar Program, are not eligible for cost-sharing under this practice.

(b) The filter cake should be spread over the land and plowed under with the second plowing and before furrowing. A certificate from the mill showing the tons of filter cake delivered to the participating farmer must be retained for presentation to the farm inspector at the time of inspection. If such certificate is not obtainable, the farmer must request the corresponding ASC district office to inspect the filter cake before it is spread over the land.

(c) Cost-sharing for carrying out this practice is limited to farms located within the eight areas mentioned in practice 16 (§ 1102.1156).

(d) No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. \$0.50 per ton, but not exceeding 20 tons per acre.

§ 1102.1162 Practice 22: Improvement of established permanent pasture of Molasses, Guinea, Gramalote, and Para grass by seeding Tropical Kudzu for soil or watershed protection.

(a) Commercial fertilizers of formulas other than 12-6-10 or 12-6-8 may be accepted if approved by the ASC State Office.

(b) To qualify for cost-sharing, the seeding must be carried out on not less than ½ acre and the Tropical Kudzu must occupy at least 40 percent of the area in pasture to be improved.

(c) Cost-sharing for carrying out this practice is limited to farms located within the eight areas mentioned in practice 16 (§ 1102.1156).

(d) No Federal cost-sharing will be allowed for any component of this practice for which the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. (a) \$10.00 per acre for seeding at a rate of not less than 4 pounds of Tropical Kudzu. This rate of cost-sharing applies to the total area occupied by the Tropical Kudzu and the established pasture.

(b) \$30.00 per ton of 12-6-10 or 12-6-8 fertilizer applied to the area seeded to Tropical Kudzu, but not exceeding 500 pounds per acre.

§ 1102.1163 Practice 23: Development of permanent woodland cover for erosion control on steep slopes and for watershed protection through the initial establishment of coffee groves.

(a) In order to qualify for cost-sharing, all components which are needed must be carried out on the 1961 area designated for the initial establishment of the coffee groves.

(b) Only the leguminous species commonly known as guaba del país, guaba venezolana, guama, moca, bucare enano, and madre del cacao shall be used for the initial establishment of shade trees. Not more than 50 shade trees shall be planted per acre and they should be well distributed throughout the area in order to provide, when grown, an average of 30 percent shade. By the time of inspection, the shade trees shall be well established, free from vines and weeds and at least 18 inches high. If the coffee farmer plants his coffee trees under an existing stand of shade trees, he must clear the area of all excessive shade leaving only around 50 young trees measuring around 6 inches in diameter at breast height per acre. The remaining trees should be of the aforesaid leguminous species and distributed throughout the area in order to provide, when grown, an average of 30 percent shade.

(c) Under no circumstances will cost-sharing be allowed if the coffee plantings are made with spontaneous seedlings (wildings). From 700 to 1,200 trees shall be planted per acre in rows 8 to 10 feet apart. The varieties of coffee trees to be planted shall be selections of the arabica species, namely, Selección Puerto Rico, Columnaris, Bourbon, Caturra, Mundo Nuevo, Villalobos, Villa Sarchi, or any other variety as determined by the Agricultural Experiment Station or the Commonwealth Department of Agriculture. The trees to be planted shall have been grown by the farmer himself or by some other person or entity in properly established nurseries, either in open ground or in individual pots. Only the best coffee land within the coffee area of the farm should be devoted to new coffee plantings. The field to be planted to new coffee trees should be selected jointly by the participating farmer and the agricultural technicians serving the community, namely, County Agricultural Agents of Extension Service, Teachers of Vocational Agriculture, Soil Conservation Service Technicians, and Coffee Supervisors of the Commonwealth Department of Agriculture. Planted trees should be at least 18 inches high by the time of inspection and free of weeds, insects, and diseases to such an extent as is considered desirable by the aforesaid technicians. Coffee trees may be planted under an existing stand of old coffee trees or under bananas and plan-

tains, serving as temporary shade, provided such old coffee trees or the bananas and plantains are removed after such period of time as is recommended by the aforesaid technicians, but in no event later than after the second year. The acreage of bearing coffee where the new plantings are carried out is not eligible to participate under practice 25 (§ 1102.1165).

(d) Fertilizer formulas other than those specified in this practice may be accepted only upon request and with the approval of the ASC State Office.

(e) No Federal cost-sharing will be allowed for any component of this practice for which the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. (a) Initial establishment of permanent shade trees or improvement of an existing stand of shade trees:

(1) \$0.04 per tree planted in 1961, but in no event for more than 50 trees per acre.

(2) \$8.00 per acre for the improvement of an existing stand of shade trees.

(b) \$30.00 per ton of fertilizer applied of the formulas 9-10-5 or 10-10-8, but for not more than 500 pounds per acre.

§ 1102.1164 Practice 24: Development of permanent woodland cover for erosion control on steep slopes and for watershed protection through the application of fertilizer to coffee groves more than 1 year old but not more than 4 years old.

(a) Fertilizer formulas other than those specified in this practice may be accepted only upon request and with the approval of the ASC State Office.

(b) Cost-shares will be allowed only for acreage rejuvenated or initially established in prior years and which is still less than 4 years old.

(c) The coffee trees shall be healthy trees free of diseases and harmful insects, to such an extent as is considered desirable by the agricultural technicians. Where necessary to maintain the coffee trees in a healthy condition, spraying or dusting must be carried out in accordance with specifications approved by the ASC State Office.

(d) No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. \$30.00 per ton of fertilizer applied of formulas 12-6-10, 12-6-16, 12-8-14, or 10-6-20, but for not more than 1,000 pounds per acre.

§ 1102.1165 Practice 25: Improving the woodland protection which coffee groves provide for steep slopes by applying to coffee trees fertilizer of formulas 12-6-10, 12-6-16, 12-8-14, or 10-6-20.

(a) Fertilizer formulas other than those specified in this practice may be accepted only upon request and with the approval of the ASC State Office.

(b) For farms with less than 4 acres of bearing coffee, the maximum number of pounds of fertilizer allowed will be as follows:

Acres of bearing coffee:	Pounds of fertilizer
0.5 to 1.0-----	300
1.1 to 2.0-----	400
2.1 to 3.9-----	500

RULES AND REGULATIONS

For farms with 4 acres or more of bearing coffee, the maximum number of pounds of fertilizer allowed shall be the product of (i) 500 times (ii) 25 percent of the actual number of bearing coffee acres on the farm or 35 acres, whichever is smaller.

(c) The live ground cover (grass and herbs) shall not be cut to a height of less than about 3 inches. Dead ground cover and the forest litter accumulated shall not be removed, except to the extent necessary for carrying out harvesting operations. The coffee trees must be properly pruned by removing surplus young shoots growing on the tree trunks and non-bearing and dead branches. Shade trees shall be kept so pruned or thinned as to provide approximately 30 percent cover for the area. Old and non-productive coffee trees, as well as old shade trees, shall be removed and replaced with sound seedlings.

(d) No Federal cost-sharing will be allowed under this practice if the Commonwealth of Puerto Rico shares in the cost under any other program.

Maximum Federal cost-share. \$30.00 per ton of fertilizer applied.

§ 1102.1166 Practice 26: Installing sprinkler irrigation in permanent pasture to develop forage so as to encourage rotation grazing and better pasture management for protection of all grazing land in the farm against overgrazing and erosion.

(a) Installation of sprinklers must be solely for irrigation in connection with the initial establishment or improvement of old or new permanent pastures on steep slopes and in accordance with a written plan approved by an SCS field engineer prior to the installation.

(b) No Federal cost-sharing will be allowed under this practice if the Commonwealth Government shares in the cost under any other program.

Maximum Federal cost-share. 35 percent of the cost of plain or perforated pipe, sprinklers, and fittings, but not over \$100 per acre. (Receipts or invoices showing the purchase of these materials will be required as evidence of accomplishment under this practice.)

§ 1102.1167 Practice 27: Shaping or land grading to permit effective drainage.

(a) No Federal cost-sharing will be allowed for any shaping or grading which is performed through farming operations in connection with land preparation for planting or cultivation of crops. No Federal cost-sharing will be allowed for shaping or land grading on land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years.

(b) The practice must be recommended, supervised, and approved by a Soil Conservation Service representative, and performed to meet the requirements of SCS Conservation Practice Engineering Specifications on "Land Grading for Drainage."

Maximum Federal cost-share. \$0.20 per cubic yard, not to exceed \$25.00 per acre.

§ 1102.1168 Practice 28: Establishment of vegetative cover for green manure and for protection from erosion.

(a) Federal cost-sharing will be limited to acreages of annual or perennial legumes, seeded during the 1961 program year. A good stand and good growth must be obtained.

(b) Pasturing consistent with good management may be permitted, but none of the growth may be harvested for hay or seed. Volunteer stands will not qualify for cost-sharing. Plantings must be carried out on not less than ½ acre to qualify for cost-sharing.

(c) The practice is applicable only to cropland that in the course of normal rotation is shifted from crop production to green manure and cover crops.

(d) The following legumes are eligible for cost-sharing under this practice: Jackbeans, Crotalaria, Velvetbeans, Kudzu, and Indigo.

Maximum Federal cost-share. 50 percent of the current local cost of seed and fertilizer. (Receipts or invoices must be furnished as evidence of accomplishment.)

§ 1102.1169 Practice 29: Developing springs or seeps for livestock as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

(a) The springs or seeps must be at locations which will bring about the desired protection of vegetative cover through proper distribution of grazing or better grassland management or make practicable the utilization of the land for vegetative cover.

(b) In order to qualify for cost-sharing, measures performed under this practice must be in accordance with technical standards approved by the Soil Conservation Service, Caribbean Area Office.

Maximum Federal cost-share. 60 percent of actual cost of materials used in establishing the practice. (Receipts or invoices showing the purchase of these materials will be required by the inspector as evidence of accomplishment under this rate of cost-sharing.)

§ 1102.1170 Practice 30: Lining irrigation ditches with concrete or other suitable material to prevent erosion and loss of water by seepage.

(a) This practice is limited to ditches that are properly located and constructed as a part of an irrigation system which has been in use during at least 2 of the last 5 years.

(b) No Federal cost-sharing will be allowed for lining irrigation ditches on sugarcane lands, except where such lining is carried out as a community project under a pooling agreement approved by the ASC State Office.

(c) All lining must be in accordance with plans and specifications developed prior to performance and approved by the Soil Conservation Service, Caribbean Area Office.

(d) Federal cost-sharing under this practice will not exceed \$250 per farm.

Maximum Federal cost-share. (a) \$0.25 per square yard for 1½-inch lining.

(b) \$0.35 per square yard for 2-inch lining.

(c) \$0.45 per square yard for 2½-inch lining.

(d) \$0.70 per square yard for 3-inch lining and above.

§ 1102.1171 Practice 31: Cleaning of young forest plantations on farmland to assure their successful establishment.

In order to qualify for Federal cost-sharing, at least ¼ acre must be cleaned, the plantation must be no more than 32 months of age at the end of the practice year, and there must be at least 600 living planted trees per acre. Plantings must be protected from fire and grazing. Weeding must keep competing vegetation within one foot of the planted trees to a height of no more than 6 inches. Normally, this will require at least two weedings per year.

Maximum Federal cost-share. \$8.00 per acre.

§ 1102.1172 Practice 32: Improvement of a stand of forest trees on farmland for the production of timber.

(a) In order to qualify for Federal cost-sharing, at least one acre of forest must be improved, and the work must be carried out under the supervision of the Department of Agriculture of Puerto Rico. All areas improved must be protected from fire and grazing. Improvement practices include thinning, the release of desirable tree seedlings, and the preparation of forestland for natural re-seeding. Trees may be removed by felling, girdling, or poisoning. Federal cost-sharing for the preparation of forestland for natural re-seeding will be limited to areas which have a sufficient number of desirable trees for natural re-seeding which will not restock unless brush, dense litter, and other material on the forest soil is broken up or removed so that the soil is exposed, and on which the seed trees will be left until the area is restocked. This practice is limited to stands of five years or more.

(b) Federal cost-sharing may be authorized for fences, where needed, to protect the improved area, but shall be limited to permanent fences. Boundary and road fences and the repair, replacement, or maintenance of existing fences are excluded.

(c) The fences must be constructed with new materials. The posts must be spaced not more than 8 feet apart, with the corner posts adequately braced. Three strands of barbed wire No. 12½ gauge or heavier, properly stretched, must be used.

Maximum Federal cost-share. (a) \$10.00 per acre.

(b) \$3.00 per 100 linear feet of fences.

§ 1102.1173 Practice 33: Emergency conservation measures to restore to productive use land damaged by natural disasters.

(a) *General provisions.* (1) This practice is applicable only in District No. 1, which includes the municipalities of Caguas, Aguas Buenas, Rio Piedras, San Lorenzo, Trujillo Alto, Carolina, Ceiba, Fajardo, Gurabo, Juncos, Las Piedras, Loiza, Luquillo, Naguabo, Rio Grande, Cidra, Humacao, and Yabucoa.

(2) The cost-share computed for any person for this practice shall not be increased in accordance with § 1102.1118,

and shall not be included with the cost-shares computed for such person for other practices in applying the maximum Federal cost-share limitation in § 1102.1119.

(3) The total of all Federal cost-shares for this practice to any person shall not exceed the sum of \$2,500, except that, with the written prior approval of the Caribbean Area ASC Office, a higher maximum may be approved in individual cases upon justification by the farmer on the basis of exceptional need and his inability to otherwise carry out the work.

(4) Costs for this practice will be shared only for eligible measures carried out on or after September 6, 1960, and only if requested by the farm operator within 30 days after the practice is publicly announced for use in District No. 1, or before the date on which performance of the eligible measures is started, whichever is the later.

(5) With the approval of the Caribbean Area ASC Office, costs of performing this practice may be shared with farmers who carry out eligible measures on their lands or, with the permission of the owners or operators of adjacent or nearby lands, on such adjacent or nearby lands.

(6) Responsibility for the technical phases of this practice is assigned to the Soil Conservation Service. This responsibility shall include (i) a finding that the practice is needed and practicable on the farm, (ii) necessary site selection, other preliminary work, and layout work of the practice, (iii) necessary supervision of the installation, and (iv) certification of performance for all requirements of the practice, except those for which certification by the farmer is to be accepted in accordance with instructions issued by the Administrator, ACPS.

(7) This practice applies only on land which immediately prior to the flood was in cultivated crops or pasture.

(8) Federal cost-sharing will be allowed under this practice only for restoration or replacement needed to solve conservation problems arising from the floods of September 5-6, 1960.

(b) *Eligible conservation measures—*
 (1) *Repair or replacement of permanent farm drainage ditches or channels damaged or impaired by floods.* This practice is applicable only to the repairing or replacement of ditches or channels which were adequate to meet the normal conservation problem of the area before the floods. Newly constructed ditches or channels must meet technical standards adopted by the Soil Conservation Service. It is not required that the new ditch or channel be on the exact location of the structure which was destroyed or damaged by the floods. The filling up of the destroyed or damaged ditch or channel will be eligible for cost-sharing. The obstructing materials, such as sand, gravel, brush, trees, logs, or other debris that cause flow to be retarded or diverted, must be properly disposed of, i.e., so as to remove the danger of its getting back into the ditch or channel. The ditches or channels must be cleared so that normal water carrying capacity is restored and the banks

smoothed and graded to prevent serious sloughing.

Maximum Federal cost-share. (a) \$0.20 per cubic yard of earth moved.

(b) 50 Percent of actual costs for removing debris. (Receipts or records showing actual costs must be furnished as evidence of accomplishment under this rate of cost-sharing.)

(2) *Restoring hillside ditches where the usefulness of such ditches was destroyed or materially impaired by flood or excessive rain.* Federal cost-sharing will be allowed only in connection with the restoration of ditches constructed previously as part of a hillside ditch system meeting the standards of the Soil Conservation Service.

Maximum Federal cost-share. \$1.00 per 100 linear feet of ditches restored.

(3) *Restoring flood damaged furrows.* Cost-sharing will be allowed only on land that at the time immediately prior to the flood damage was in cultivated crops planted on the ridge.

Maximum Federal cost-share. \$2.00 per acre.

(4) *Restoring dikes previously constructed for protection from erosion or flood damage.* This measure is applicable to restoration of channel or stream dikes which were adequate to meet the normal conservation problem on the area before their usefulness was destroyed or materially impaired by floods. In addition, it must meet the standards adopted by the Soil Conservation Service.

Maximum Federal cost-share. 50 percent of the actual cost. (Itemized cost invoices must be furnished by the farmer before payment is made.)

(5) *Removal of debris deposited by flood.* The volume of the debris must be of such size or of such other physical characteristics that it cannot be incorporated into the soil through normal cultural operations. Debris must be removed from the area, effecting complete disposal. The method of disposal may include piling, burying, or burning, where feasible. No debris should be piled or buried where it interferes with existing drainage facilities or with normal cultural operations. Itemized cost invoices must be furnished by the farmer before payment is made.

Maximum Federal cost-share. (a) 50 percent of the actual cost of removing high accumulation of debris, not to exceed \$60.00 per acre.

(b) 50 percent of the actual cost of removing medium accumulation of debris, not to exceed \$30.00 per acre.

(c) 50 percent of the actual cost of removing low accumulation of debris, not to exceed \$15.00 per acre.

(6) *Deep plowing to turn under flood deposits of silt, sand, or gravel to permit the utilization of the land for agricultural production.* Federal cost-sharing will be allowed only on land where the quantity of deposits is such that deep plowing is necessary to bring the land into agricultural production. The plowing must be sufficiently deep to bring a minimum of 6 inches of the original topsoil to the surface, thereby making the land suitable for the production of

crops normally grown in the area. Itemized cost invoices or records must be furnished by the farmer before payment is made.

Maximum Federal cost-share. 50 percent of the actual cost, not to exceed \$6.00 per acre.

(7) *Restoring natural grade to land affected by accumulations of earth, silt, etc. brought about by floods.* The purpose of this practice is to restore the surface smoothness of land which has been affected by deposits as a result of floods to such an extent that the surface unevenness prevents or hinders normal cultural operations on the land. Restoration measures may include the removal or spreading of deposits and smoothing of the land.

Maximum Federal cost-share. \$0.20 per cubic yard of earth moved.

Done at Washington, D.C., this 9th day of February 1961.

ORVILLE L. FREEMAN,
 Secretary.

[F.R. Doc. 61-1308; Filed, Feb. 14, 1961; 8:49 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

[Release No. 3187]

Chapter II—Securities and Exchange Commission

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Offering of Common Stock to the Public at a Per Share Price Substantially in Excess of the Net Asset Value of the Stock

The Commission has noted that recently there have been a few instances in which a small business investment company, registered under the Investment Company Act of 1940, proposed to offer to the public common stock, not previously offered to the public, at a per share price substantially in excess of the net asset value of the stock. Since the promoters in these cases paid no more than the net asset value for their shares, the purpose of the higher offering price appears to be principally to benefit the promoters by the resultant increase in the net asset value of their shares.¹ Unless some other and more legitimate purpose in these situations can be shown, it is the Commission's view that public offerings at such prices may not lawfully be made

¹ For example, if a company privately sells 50,000 shares of its stock to its promoters at the asset value of \$10 per share and thereafter, when the net asset value is still \$10 per share, sells 200,000 shares to the public at a net price of \$20 per share, the net asset value, after the public sale of the shares held by the promoters, climbs to \$18 per share, while that of the shares purchased by the public at \$20 net price is also \$18.

under the Investment Company Act of 1940.

Section 1 of the Investment Company Act of 1940 makes clear that, so far as feasible, the provisions contained in the Act should be interpreted to prohibit the operation of investment companies in the interests of their officers, directors and other insiders. Section 17(e)(1) makes it unlawful for an affiliated person of a registered investment company, acting as agent, to accept compensation (other than a regular salary or wages from such registered company) from any source for the purchase or sale of any property to or for such registered company except in the course of such person's business as an underwriter or broker. Section 23(a) of the Act states in part that no closed-end investment company shall issue stock for services. Section 48(a) makes it unlawful for any person to do or cause to be done indirectly that which it is unlawful to do directly.

The Commission believes that the foregoing sections prohibit the offering of securities of closed-end investment companies in the manner set forth in the instances described above.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

FEBRUARY 6, 1961.

[F.R. Doc. 61-1302; Filed, Feb. 14, 1961;
8:47 a.m.]

Title 19—CUSTOMS DUTIES

[T.D. 55315]

Chapter I—Bureau of Customs,
Department of the Treasury

PART 16—LIQUIDATION OF DUTIES

Union of South Africa Removed From the List of Quarterly Rate Countries

The Federal Reserve Bank of New York has advised the Bureau that the Bank was informed that under the South African Decimal Coinage Act the currency of the Union of South Africa, effective February 14, 1961, will be placed on a decimal basis by the introduction of a new unit of currency to be styled the Rand.

The Bank's intention is to discontinue, effective February 14, 1961, the daily certification of the South African Pound and to certify on a daily basis a rate of exchange of the South African Rand, which is to be the equivalent of ten shillings in the existing currency or one-half of the present Pound.

Therefore, the Union of South Africa, designated in § 16.4(d) of the Customs Regulations (19 CFR 16.4(d)) as a country whose currency shall be subject to conversion for customs purposes at the rate first certified by the Bank for a day within each calendar quarter, is hereby removed effective February 14, 1961, from

the list of such countries pursuant to section 522(c)(1)(B) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)(1)(B)).

The list of quarterly-rate countries set forth at the end of paragraph (d) of § 16.4 of the Customs Regulations is amended by deleting Union of South Africa, effective on the date this Treasury decision is published in the FEDERAL REGISTER but not before February 14, 1961.

Publication of notice and public procedure under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) is found to be impracticable because it is imperative in the proper administration of the above-mentioned provision of the Tariff Act of 1930, as amended, that this Treasury decision be put into effect without delay. This urgency is also found to be good cause for not deferring the effective date pursuant to section 4(c) of the Administrative Procedure Act.

(R.S. 251, secs. 522, 624, 46 Stat. 379, as amended, 759; 19 U.S.C. 66, 1624, 31 U.S.C. 372)

If the occasion for further instructions arises, they will be issued as soon as practicable with respect to the rate or rates applicable for customs purposes as to exportations occurring on dates on and after February 14, 1961, and prior to the effective date of this Treasury decision.

[SEAL] LAWTON M. KING,
Acting Commissioner of Customs.

Approved: February 13, 1961.

DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 61-1430; Filed, Feb. 14, 1961;
10:38 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerances for Residues of O,O-Diethyl S-2-(Ethylthio) Ethyl Phosphorodithioate

A petition was filed with the Food and Drug Administration by Chemagro Corporation, Post Office Box 4913, Kansas City 20, Missouri, requesting the establishment of tolerances for residues of O,O-diethyl S-2-(ethylthio) ethyl phosphorodithioate in or on raw agricultural commodities as follows:

2.0 parts per million in or on sugar beet tops.
0.5 part per million in or on sugar beets.

The Secretary of Agriculture has certified that this pesticide chemical is use-

ful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7(g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR Part 120) are amended as indicated below:

§ 120.3 [Amendment]

1. In § 120.3 *Tolerances for related pesticide chemicals*, paragraph (e)(5) is amended by adding as the third item in the list of cholinesterase-inhibiting compounds the name:

O,O-Diethyl S-2-(ethylthio) ethyl phosphorodithioate.

2. Part 120 is amended by adding thereto the following new section:

§ 120.183 Tolerances for residues of O,O-diethyl S-2-(ethylthio) ethyl phosphorodithioate.

Tolerances for residues of O,O-diethyl S-2-(ethylthio) ethyl phosphorodithioate in or on raw agricultural commodities are established as follows:

2 parts per million in or on sugar beet tops.
0.5 part per million in or on sugar beets.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER 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 the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 8, 1961.

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

[F.R. Doc. 61-1304; Filed, Feb. 14, 1961;
8:48 a.m.]

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

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

Penicillin V, Streptomycin-Nystatin for Oral Suspension; Changes in Expiration Dates

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; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR 146a.103, 146c.236) are amended as follows:

1. Section 146a.103(c) (3) is amended to read as follows:

§ 146a.103 Penicillin V (phenoxymethyl penicillin).

(c) *Labeling.* * * *

(3) The statement "Expiration date -----," the blank being filled in with the date that is 24 months after the month in which the batch was certified, except that the blank may be filled in with the date that is 36 months or 48 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section.

2. In § 146c.236, paragraph (c) is amended by extending the expiration date of the drug from 12 months to 18 months, under certain conditions. As amended, § 146c.236(c) reads as follows:

§ 146c.236 Tetracycline-nystatin for oral suspension.

(c) Each package shall bear on its label and labeling the total number of grams of tetracycline and the total number of units of nystatin contained therein, and the number of milligrams of tetracycline and the number of units of nystatin per milliliter when reconstituted as directed in the labeling. The expiration date of the drug shall be 12 months, except that the date that is 18 months after the month during which the batch was certified may be used if the person who requests certification has submitted to the Commissioner results of tests and assays showing that such drug as prepared by him is stable for such period of time.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the nature of the change is such that it cannot be applied to any specific product

unless and until the manufacturer thereof has supplied adequate data regarding that article.

Effective date. This order shall become effective 30 days from the date of its publication in the FEDERAL REGISTER. (Sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: February 7, 1961.

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

[F.R. Doc. 61-1305; Filed, Feb. 14, 1961; 8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

CONTINUANCE IN EFFECT OF ALL CURRENT REGULATIONS AND OTHER FORMAL ISSUES AND CONFIRMATION OF ISSUES PROMULGATED BY OR PURSUANT TO THE AUTHORITY OF SUMNER G. WHITTIER TO BECOME EFFECTIVE AFTER TERMINATION OF HIS APPOINTMENT

All current Veterans Administration regulations, manuals, instructions, bulletins, circulars, Administrator's decisions, delegations of authority and other issues applicable to the Veterans Administration shall remain in full force and effect.

In addition all Veterans Administration issues applicable to the Veterans Administration which were approved by or pursuant to the authority of Sumner G. Whittier to become effective on a date subsequent to the termination of his appointment as Administrator of Veterans Affairs are hereby confirmed and approved as though the same had been approved by me.

All the above issues shall remain in full force and effect until such time as they may be specifically amended or revoked.

[SEAL] J. S. GLEASON, Jr.,
Administrator of Veterans Affairs.

[F.R. Doc. 61-1345; Filed, Feb. 14, 1961; 8:54 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2264]

[Anchorage 017473]

ALASKA

Correcting Public Land Order No. 1762 of December 2, 1958

The lands in sec. 12 referred to in the fifth line of paragraph 3(c) of subject order, appearing at pages 9485-86 of the FEDERAL REGISTER of December 6, 1958, are a part of Township 13 N., Range 3 W., Seward Meridian, rather than Town-

ship 13 N., Range 2 W., and the said order is hereby corrected accordingly.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

FEBRUARY 8, 1961.

[F.R. Doc. 61-1296; Filed, Feb. 14, 1961; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Carolina Sandhills National Wildlife Refuge, South Carolina

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

SOUTH CAROLINA

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Sport fishing on the Carolina Sandhills National Wildlife Refuge is permitted only on the areas designated by signs as open fishing. This open area, comprising 64 acres or 0.0013 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta 23, Georgia. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Black bass, jackfish (Eastern pickerel), crappie, catfish and other minor species permitted by State regulations.

(b) Open season: Martins Pond, March 15 through October 15; Twin Lakes, Triple Lakes, Lakes 12, 16, and 17, February 15 through November 30. Daylight hours only. Fishing on Sunday prohibited.

(c) Daily creel limits:

Black bass, 8.
Game fish other than bass, 20.
No creel limit on catfish.

(d) Methods of fishing:

1. Pole and line, rod and reel, artificial and live baits permitted.
2. Rowboats and canoes permitted. Gasoline powered motors prohibited; electric motors permitted.

(e) Other provisions:

1. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

2. A Federal permit is not required to enter the public fishing area.

3. The provisions of this special regulation are effective to December 1, 1961.

WALTER A. GRESH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

FEBRUARY 7, 1961.

[F.R. Doc. 61-1321; Filed, Feb. 14, 1961; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Coast Guard

[33 CFR Part 82]

[46 CFR Parts 30-35, 37, 52, 54-58, 71-78, 91-93, 95-98, 110-113, 144, 146, 147, 157, 160-164, 167, 177, 182]

[CGFR 61-3]

NAVIGATION AND VESSEL INSPECTION REGULATIONS

Public Hearing on Proposed Changes

1. The Merchant Marine Council will hold a Public Hearing on Monday, March 27, 1961, commencing at 9:30 a.m., in the Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C., for the purpose of receiving comments, views, and data on the proposed changes to the vessel inspection rules and regulations as set forth in Items I to XII, inclusive, of the Merchant Marine Council Public Hearing Agenda, CG-249, dated March 27, 1961. This Agenda contains the changes proposed, and for certain items the present and proposed regulations are set forth in comparison form, together with the reasons for the changes where necessary.

2. This document contains a general description of the proposed changes in the navigation and vessel inspection regulations, together with the statutory authorities for making such changes. The complete description of the proposed changes are set forth in a separate pamphlet entitled "Merchant Marine Council Public Hearing Agenda" (CG-249), dated March 27, 1961. Copies of this pamphlet Agenda are mailed to persons and organizations who have expressed a continued interest in the subjects under consideration and have requested that copies be furnished to them. Copies of the Agenda will be furnished, upon request to the Commandant (CMC), United States Coast Guard, Washington 25, D.C., so long as they are available. After the supply of extra copies is exhausted, copies will be available for reading purposes only in Room 4104, Coast Guard Headquarters, or at the offices of the various Coast Guard District Commanders.

3. Comments on the proposed regulations are invited. If it is believed a comment, view, or suggestion clarifies or improves a proposed regulation or amendment, it is changed accordingly, and, after adoption by the Commandant, the revised regulation is published in the FEDERAL REGISTER. Each person who desires to submit written comments, views or suggestions in connection with the proposed regulations as set forth in the Agenda should submit them so that they will be received prior to March 20, 1961, by the Commandant (CMC), U.S. Coast Guard Headquarters, Washington 25,

D.C. Comments, views or suggestions may be presented orally or in writing at the hearing before the Merchant Marine Council on March 27, 1961. In order to insure consideration of comments and facilitate checking and recording, it is essential that each comment be submitted on a separate Form CG-3287, showing the section number, the proposed change, the reason or basis, and the name, business firm or organization (if any), and the address of the submitter. A small quantity of Form CG-3287 is attached to each copy of the pamphlet Agenda. Additional copies of this form may be obtained upon request from the Commandant (CMC) or from any Coast Guard District Commander, or it may be reproduced by typewriter or otherwise.

4. Each item in the Agenda has been given a general title, intended to encompass the specific proposals presented. It is urged that each item be read completely because the application of proposals to specific employment or types of vessels may be found in more than one item. For example, Item VII contains proposals applicable only to tank vessels, but Items I, II, V, VIII, IX, X, and XI also contain proposals affecting tank vessels.

ITEM I—SHIPBOARD CARGO GEAR

5. The proposed amendments in this Item are designed to provide a uniformity of standards and to afford more specific information for the inspection, examination and testing of shipboard cargo gear. Insofar as it has been possible, the proposed regulations have been formulated in accordance with standards and procedures presently employed by cargo gear testing organizations approved by the Commandant. In general these standards have not been exceeded, and to this end the American Bureau of Shipping and the International Cargo Gear Bureau, Inc., have been consulted.

6. A need for the proposed regulations is evident as a result of the added emphasis placed on the safe handling of cargo aboard ships, both in the United States and by many of the other maritime nations. The maritime industry has progressed in the development of new means and methods for handling cargo, including the redesigning of vessels and use of special types of cargo gear intended for handling "container" cargo. Another development has been the employment of vessels originally designed for handling bulk cargoes of inflammable or combustible liquids in the tank-vessel trade for the carriage of different types of dry cargo in bulk (such as grain), or for packaged cargo. As the use of hoisting machinery installed on vessels has increased, the proposed regulations include special provisions for inspection, examination and testing of cranes and hoists together with related equipment.

7. The applicability of the vessel inspection regulations will be revised. It is proposed to have tank vessels (primarily inspected under R.S. 4417a, as amended, 46 U.S.C. 391a, as vessels carrying only liquid cargoes in bulk), meet similar requirements applicable to dry cargo vessels since such vessels are carrying dry cargo and have installed shipboard cargo gear. In addition, the proposed regulations will revise and expand current requirements applicable to cargo and miscellaneous vessels and passenger vessels.

8. Several maritime nations have similar requirements to these proposals in one form or another. During recent years many foreign nations have applied to United States vessels loading or unloading in their ports the applicable provisions of the Convention Concerning the Protection Against Accident of Workers Employed in Loading or Unloading Ships (Revised), otherwise commonly referred to as the International Labor Organization (ILO) Convention No. 32. These nations often require certificates and/or registers attesting to the strength and safety of shipboard cargo gear. Therefore, it is proposed to have the Commandant recognize and approve, as in the past, certain specified inspections and examinations by private non-profit organizations. The American Bureau of Shipping, The National Cargo Bureau, Inc., The International Cargo Gear Bureau, Inc., and The Universal Cargo Gear Survey and Certification Bureau, Inc., are now authorized to conduct inspections and examinations of cargo gear used on shipboard and to issue certificates and registers attesting to such inspections and examinations. These certificates and registers may be accepted as prima facie evidence of the condition and suitability of such cargo gear as described therein. The standards to be followed will be those set forth in the proposed regulations. By this action these cargo gear certificates and registers will have the benefit of both national recognition and authority. Additionally, such certificates and registers signifying compliance with Coast Guard regulations will also signify compliance with the standards for shipboard cargo gear as set forth in the Convention Concerning the Protection Against Accident of Workers Employed in Loading or Unloading Ships (Revised) (ILO Convention No. 32) so they may be recognized and accepted by foreign countries.

9. In the Cargo and Miscellaneous Vessel Regulations (CG-257), it is proposed to amend 46 CFR 91.25-25(a) regarding inspections and certifications to include specific requirements for cargo gear registers and certificates. The amendment proposed to 46 CFR 91.55-5 (b) will add requirements regarding the plans of cargo gear needed to be submitted with other plans showing the construction, etc., for new cargo and

miscellaneous vessels. It is proposed to add a new subpart designated 46 CFR Subpart 91.37, consisting of §§ 91.37-1 to 91.37-65, inclusive, setting forth these proposed requirements as "Inspection of Cargo Gear." These proposals include such requirements as to when the inspections shall be made, the plans required; factors of safety; certificates regarding loose gear and their tests; certificates regarding tests for wire rope; proof test of cargo gear as a unit; the markings placed on booms and cranes; use of wire rope and chains; annealing of wrought iron used in various parts of the cargo gear; authorization for additions, alterations, renewals or repairs of cargo gear; responsibility of ships' officers for inspection of cargo gear; vessel's records of cargo gear inspections; and advance notice to the Coast Guard when cargo gear testing is desired. It is proposed to have these regulations identical with the proposed requirements for tank vessels and passenger vessels, described in the following paragraphs 10 and 11.

10. In the Tank Vessel Regulations (CG-123), it is proposed to amend 46 CFR 31.01-1(b) by inserting under "inspection and certification" new requirements for inspection, examination and testing of shipboard cargo gear. It is proposed to insert a new section designated 46 CFR 31.10-16 describing the "inspection of cargo gear," and a section designated 46 CFR 31.10-5 describing the plans of cargo gear needed to be submitted with other plans showing the construction, etc., for new tank vessels. These proposed regulations are identical with the proposed requirements for dry cargo vessels and miscellaneous vessels.

11. In the Passenger Vessel Regulations (CG-256), it is proposed to amend 46 CFR 71.25-25(a) regarding inspections and certifications to include specific requirements for cargo gear registers and certificates. The amendment proposed to 46 CFR 71.65-5(b) will add requirements regarding the plans of cargo gear needed to be submitted with other plans showing the construction, etc., for new passenger vessels. It is proposed to add a new subpart designated 46 CFR Subpart 71.47, consisting of §§ 71.47-1 to 71.47-65, inclusive, setting forth these proposed requirements as "Inspection of Cargo Gear." These proposed regulations are identical with the proposed requirements for cargo and miscellaneous vessels.

12. The authority to prescribe regulations generally with respect to shipboard cargo gear is in R.S. 4405, as amended, and 4462, as amended (46 U.S.C. 375, 416). With respect to shipboard cargo gear on cargo and miscellaneous vessels and passenger vessels, the regulations interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4418, as amended, 4421, as amended, 4423, as amended, 4426, as amended, 4433, as amended, 4453, as amended, 4481, as amended, section 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1 and 2, 49 Stat. 1544, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 361, 362, 391, 392, 399, 400, 404, 411, 435, 481, 366, 395, 363, 367, 50 U.S.C. 198; E.O. 10402, 17

F.R. 9917; 3 CFR, 1952 Supp. With respect to tank vessels, the regulations interpret or apply R.S. 4417a, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391a, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.

ITEM II—POWER-OPERATED INDUSTRIAL TRUCKS

13. The use of power-operated industrial trucks in handling cargo in the holds or on the decks of merchant vessels has increased in the past several years. It is now desired to have such use regulated by general regulations. It is proposed to specify minimum safety features in the design of such trucks, as well as to establish minimum safety standards governing the use of such equipment when on board certain categories of vessels or when handling dangerous cargo on any type of vessel. This proposal will replace the individual authorizations or permits given to certain vessels or facilities under present practices.

14. It is proposed to add new regulations to the vessel inspection requirements for cargo and miscellaneous vessels, tank vessels, and passenger vessels, as well as to the Dangerous Cargo Regulations. These proposed regulations are the results based on the comments, views and suggestions previously submitted by interested persons and organizations when the Merchant Marine Council considered this subject as Item VIII of the Merchant Marine Council Public Hearing Agenda at the Public Hearing held April 27, 1959. So many requests were received asking extension of time for submission of comments that the deadline for their submission was extended until May 1, 1960. Briefly, the revised proposals in the Agenda:

A. Describe application of requirements, which consist of two parts. First, describe the requirements governing the design features of industrial trucks permitted. Second, set forth the requirements governing the vessel when using industrial trucks in handling cargo in holds or on decks.

B. Define power-operated industrial trucks. For the purposes of these regulations, power-operated industrial trucks are considered to be tractors, lift trucks and other specialized industrial trucks used for material handling on board a vessel.

C. Provide for approved power-operated industrial trucks. Such trucks will be those having a specific designation of a recognized testing laboratory. The proposals will recognize the Underwriters' Laboratories, Inc., as a recognized testing laboratory and will permit the use of trucks bearing its designations E, EE, EX, G, GS, LPS, D, and DS.

D. Describe permissible areas of use on board tank vessels, cargo and miscellaneous vessels and passenger vessels. Areas containing explosives or flammable liquids are forbidden areas except under specifically described conditions.

E. Establish requirements governing refueling, charging or replacing of batteries, and stowage of both trucks and fuel.

F. Establish special design requirements for trucks in service prior to July

1, 1962, on vessels which did not require special authorizations or permits. These requirements will apply to bulldozers on board ore carriers, as well as to lift trucks used in handling general cargo on board vessels that are owned by stevedoring companies.

G. Permit permissive compliance with requirements when published in the FEDERAL REGISTER and require mandatory compliance on and after July 1, 1962. Where previous requirements required a special authorization or permit to use power-operated industrial trucks in the handling of dangerous cargo or the use on board specific categories of vessels, such as tank vessels, the permissive compliance to be permitted will require (1) the design features of such trucks used prior to or after July 1, 1962, shall be met, and (2) special operating conditions applicable to the vessel shall be met.

15. In the Tank Vessel Regulations (CG-123), it is proposed to revise 46 CFR 30.01-5, regarding application of regulations, to specifically state that the proposed requirements for power-operated industrial trucks and their use on shipboard will apply to both domestic and foreign flag tank vessels. It is proposed to add a new subpart to the regulations designated 46 CFR Subpart 35.70, consisting of §§ 35.70-1 to 35.70-90, inclusive, entitled "Power-Operated Industrial Trucks." These proposals describe application, what is meant by approved power-operated industrial trucks, permissible areas of use, types of cargo permitted to be handled by trucks, refueling of trucks, charging or replacing batteries on trucks, stowage of trucks aboard a vessel, stowage of fuel-handling devices aboard a vessel, and special conditions for power-operated industrial trucks placed in service prior to July 1, 1962.

16. In the Cargo and Miscellaneous Vessel Regulations (CG-257), it is proposed to add a new subpart designated 46 CFR Subpart 97.70, consisting of §§ 97.70-1 to 97.70-90, inclusive, entitled "Power-Operated Industrial Trucks." These proposals describe the application of regulations, what is meant by approved power-operated industrial trucks, use of power-operated industrial trucks in various locations, special operating conditions for trucks, refueling of trucks, charging or replacing batteries on trucks, stowage of trucks aboard a vessel, stowage of fuel handling devices aboard a vessel, and special requirements for power-operated industrial trucks placed in service prior to July 1, 1962. These proposed regulations are to be identical with the proposed requirements for power-operated industrial trucks used on passenger vessels.

17. In the Passenger Vessel Regulations (CG-256), it is proposed to add new requirements designated 46 CFR Subpart 78.70, consisting of §§ 78.70-1 to 78.70-90, inclusive, entitled "Power-Operated Industrial Trucks." The texts of these proposed regulations are to be the same as for cargo and miscellaneous vessels in 46 CFR Subpart 97.70 as described in paragraph 16. It is proposed that any change made in 46 CFR Subpart 97.70

will also be made to the requirements proposed in this subpart.

18. It is proposed to revise the Dangerous Cargo Regulations to specifically state requirements for approved power-operated trucks and their use on shipboard. These regulations are in a separate volume of the Code of Federal Regulations, Title 46—Shipping, Parts 146 to 149 (revised as of January 1, 1960), with a Pocket Supplement dated January 1, 1961. These proposals describe which power-operated industrial trucks may be used in holds or compartments in which dangerous cargoes are stowed, including the handling thereof, and are similar to the requirements designated 46 CFR Subpart 97.70 as described in paragraph 16. A new section designated 46 CFR 146.09-15 is proposed which will define approved power-operated industrial trucks; describe the type designations and approval of the Underwriter's Laboratory, Inc., as a recognized testing laboratory; specify the operating conditions under which such trucks may be used; specify conditions governing refueling and stowage of such trucks aboard vessels; and provide for charging of batteries for electric trucks under controlled conditions. The proposed amendments or new requirements designated 46 CFR 146.20-35, 146.21-57, 146.22-7, 146.23-13, 146.24-27, 146.25-43, 146.26-35, 146.27-35 authorize the use of power-operated industrial trucks in holds or compartments in which specific classes of dangerous cargoes are stowed, including the handling thereof. The proposed amendment to 46 CFR 147.05-100 adds requirements which will permit and provide for the carriage of fuel for the power-operated equipment as "ships' stores and supplies."

19. The authority to issue regulations generally with respect to power-operated industrial trucks is in R.S. 4405, as amended, and 4462, as amended (46 U.S.C. 375, 416). With respect to the proposals regarding power-operated industrial trucks, the regulations interpret or apply R.S. 4417a, as amended, 4426, as amended, 4472, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, and sec. 3, 68 Stat. 675; 46 U.S.C. 391a, 404, 170, 481, 489, 367, 1333, 50 U.S.C. 198. With respect to the use of power-operated industrial trucks on board tank vessels, cargo and miscellaneous vessels, and passenger vessels, the regulations interpret or apply R.S. 4417a, as amended, 4426, as amended, 4472, as amended, 4488, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, and sec. 3, 68 Stat. 676; 46 U.S.C. 391a, 404, 170, 481, 367, 1333, 390b, 50 U.S.C. 198.

ITEM III—DANGEROUS CARGOES

20. Various amendments to the Dangerous Cargo Regulations in 46 CFR Part 146 have been necessitated by corresponding changes made in the Interstate Commerce Commission's regulations governing land transportation of the same commodities. R.S. 4472, as amended (46 U.S.C. 170), requires that the Coast Guard accept and adopt the

definitions, descriptions, descriptive names, classifications, specifications of containers, packing, marking, labeling, and certification of explosives or other dangerous articles or substances to the extent as are or may be established from time to time by the Interstate Commerce Commission insofar as such requirements should apply to shippers by carriers engaged in interstate and foreign commerce by water. 46 CFR 146.02-19 makes these Dangerous Cargo Regulations applicable to all types of carriers. Therefore, amendments applying only to shippers' requirements upon which the Interstate Commerce Commission has already complied with the Administrative Procedure Act are not included in this Agenda (CG-249), but will be published as amendments in a separate document in the FEDERAL REGISTER. In this agenda are set forth those proposed amendments to these Dangerous Cargo Regulations other than those containing ICC shippers' requirements, which include provisions for water shipment of new articles of commerce, editorial changes to existing regulations, and other proposed changes.

21. It is proposed to add "titanium sulfate solution containing not more than 45 percent sulfuric acid" to the commodity list in 46 CFR 146.04-5. This item is classed as a corrosive liquid and will require a "white" label. It is also proposed to add shipping requirements for this commodity to the table in 46 CFR 146.23-100.

22. The present requirements provide for shipment of dangerous cargoes on trainships, trailerships or containerships or combinations thereof. It is now being proposed to permit shipment of dangerous cargoes as "containerized cargo" in all types of cargo vessels. To accomplish this it is proposed to revise descriptions of applicability in 46 CFR 146.07-1, 146.07-5 and 146.07-10, as well as to revise 46 CFR 146.07-25 to exempt from labeling the individual packages in the container if such packages are not removed from the container while aboard the vessel. The proposed change designated 46 CFR 146.07-35 is editorial in nature and is contingent on the adoption of a permit requirement in 46 CFR 146.22-40 regarding nitro carbo nitrate.

23. The proposed changes to the Coast Guard container specifications for construction of magazines and portable magazines for stowage of explosives are designated 46 CFR 146.09-2(c) and 146.09-6(c), respectively, and will permit spacing uprights on 24-inch centers when 3/4-inch plywood is used as bulkhead material for magazines, and by the addition of the words "and arrangement" in specification for portable magazines it will permit the requirements to cover the spacing of the framework for the magazines.

24. When loading or discharging nitro carbo nitrate packages in burlap bags, multi-wall paper bags, or other non-rigid combustible containers, the regulations require that an isolated location remotely situated from populous and congested areas be used. It is proposed that 46 CFR 146.22-40 be amended to require that the vessel's owner, agent, charterer,

master or person in charge obtain a permit for such loading or discharging of nitro carbo nitrate from the Coast Guard prior to the commencement of such work. This procedure is considered necessary so that the Coast Guard will have knowledge of and be able to better control these operations. This work is under the control of the Captain of the Port who should be informed of this work and he would then approve the facility in advance to the actual loading or discharging of nitro carbo nitrate packed in combustible containers.

25. It is proposed to revise 46 CFR 146.24-55(a), regarding the stowage of compressed gases with explosives and other dangerous articles, to clarify the requirements when such cargoes are stowed "on deck."

26. It is proposed to revise the requirements for "motor fuel antiknock compound" in 46 CFR 146.25-200 to better define the composition of such compound by including in the description "tetramethyl lead."

27. It is proposed to revise 46 CFR 146.27-25(b) to provide for the shipment of high-density baled cotton linters with bagging on the soft sides only. These shipments have been permitted over a period of two years under special permits granted to shippers meeting certain standards. To date no incident of fire in this type of a bale has been reported. This proposal will incorporate into the regulations the conditions specified in the special permits.

28. It is proposed to add new requirements designated 46 CFR 146.27-30 to cover automobiles or other self-propelled vehicles offered for transportation with fuel tanks containing gasoline. This proposal will permit the acceptance for transportation of such vehicles under controlled conditions. The changes proposed in 46 CFR 146.27-100 for hazardous articles will: (a) provide for the carriage of vehicles with fuel in the tanks under specified conditions; (b) add a new shipping container for solid caustic potash; (c) refer to conditions established for baled cotton linters, and (d) accept the spelling of the word "sulphur" as an acceptable shipping name for "sulfur."

29. The authority for dangerous cargo regulations is in R.S. 4405, as amended, 4462, as amended, and 4472, as amended (46 U.S.C. 375, 416, 170). These regulations also interpret or apply section 3, 68 Stat. 675 (50 U.S.C. 198); E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.

ITEM IV—MARINE ENGINEERING

30. Certain proposed amendments to the Marine Engineering Regulations (CG-115), as set forth in Subchapter F (Marine Engineering) of 46 CFR Chapter I, deal with boilers, unfired pressure vessels and welding and are intended to bring these regulations into substantial agreement with the latest rules of the American Bureau of Shipping and the American Society of Mechanical Engineers: Boiler and Unfired Pressure Vessel Codes. Certain proposals will revise requirements regarding bilge and ballast piping, fuel oil systems, steering gear, and nuclear vessels. It is proposed to permit

an alternate pump to be used for emergency bilge service when the main circulating pump is not considered suitable. In general these proposals will permit certain equivalents to be acceptable in bilge and ballast systems, thereby providing greater flexibility in evaluating the safety of such systems. These proposals are also in agreement with the actions taken by the 1960 International Conference on Safety of Life at Sea. The majority of the proposals do not impose additional restrictions on the industry. However, in certain cases additional requirements are proposed where improved safety is considered desirable.

31. It is proposed to amend 46 CFR 52.05-10 by adding a new formula for cylindrical shells 24 inches in diameter and below, as well as providing additional changes to bring corresponding regulations into agreement with this proposal. The proposed amendment to 46 CFR 52.20-5(b) will clarify which specific diameter is to be accepted in determining the minimum radius of the flange of a dished head. The proposed amendment to 46 CFR 52.20-10(a) will provide a more precise definition of the minor axis for ellipsoidal heads. The proposed amendment to 46 CFR 52.20-20(a) will clarify the depth requirements of the flange for a flanged-in manhole opening in a dished head. The proposed amendment to 46 CFR 52.50-15(a) will permit some tolerance in the dimensions where the minimum required thickness approaches the maximum limit of $1\frac{3}{16}$ inch in the furnace shell thickness. The proposed amendment to 46 CFR 52.55-10(a) will permit a lesser thickness for tubes in way of tube sheets. The proposed amendment to 46 CFR 52.60-15(a) will change these requirements to agree with the proposed changes in 46 CFR 52.05-10 for the design of the superheater and water wall economizer heaters.

32. It is proposed to cancel 46 CFR 54.01-1(g) regarding installation of ASME unfired pressure vessels on board inspected vessels when such pressure vessels are not manufactured in accordance with Coast Guard regulations. It is proposed to revise 54.03-10 so that these requirements will be in conformance with current industrial standards.

33. It is proposed to revise 46 CFR 55.07-25(d) regarding the use of heat sensitive materials in piping systems which penetrate watertight subdivision bulkheads. It is proposed to revise in its entirety 46 CFR 55.10-25 regarding bilge and ballast piping. The proposals: (a) include specific requirements for drainage of specific compartments and will permit equivalent arrangements under the 1948 Safety of Life at Sea Convention; (b) require additional remote controls together with appropriate markings in order to obtain use of remaining bilge pumps; (c) require bilge pipes under fuel oil tanks to be made of acceptable material in order to minimize the hazards in the event of fire; (d) permit an alternate pump in lieu of main circulating pump; (e) require an oil and water separator under certain conditions when it is not practicable to avoid putting water in the fuel oil tanks in order to prevent or minimize oil pollution; and, (f) have

special requirements for the bilge and ballast systems in wood vessels which will require that ballast tanks in such vessels be of independent construction. This proposal regarding ballast tanks in wood vessels will also be included in an amendment to 46 CFR 182.20-1 and a new § 182.20-15. The effective date will be January 1, 1962, for all new vessels contracted for after that date, and for conversions to inspected vessels.

34. It is proposed to revise 46 CFR 55.10-30 regarding the bilge pumps required for self-propelled vessels. These proposals include prohibiting use of hand pumps for bilge service; revising requirements governing the pump for bilge service; prescribing the capacity of power bilge pumps; and prohibiting the location of emergency bilge pumps forward of the collision bulkhead. It is proposed to revise 46 CFR 55.10-70(i) to prohibit the use of lead or heat sensitive materials in piping systems outboard of the shell valves in order to minimize the danger of flooding in event of a fire.

35. It is proposed to revise 46 CFR 56.01-30 regarding welded joint efficiencies to permit a 100 percent joint efficiency for double welded butt joints for unfired pressure vessels if the joint is fully radiographed in accordance with proposed standards. It is proposed to revise 46 CFR 56.05-3 to amplify the procedures for radiographic tests. It is proposed to revise 46 CFR 56.05-5 regarding nondestructive tests so that the regulations will be in agreement with current acceptable industrial standards.

36. It is proposed to revise 46 CFR 57.01-10 to establish a lower limit on the flash point of fuel oil used in internal combustion engines on passenger vessels. The fuel oil for both main propulsion or auxiliary machinery should have a flash point exceeding 110° F. in order to reduce fire hazards. It is proposed to revise 46 CFR 57.05-5 to require all vessels to have sufficient power for going astern in order to secure proper control of the ship in all normal circumstances.

37. It is proposed to add a new regulation designated 46 CFR 57.10-15 which will describe specific requirements for the design, construction and installation of gas turbines of merchant vessels. It is desired to establish standards in order to obtain uniformity in requirements and to provide adequate safety.

38. It is proposed to revise 46 CFR 57.25-5, 57.25-10, 57.25-20, 57.25-25, and 57.25-45 containing requirements regarding steering apparatus. It is proposed to revise these requirements with a view to improving the handling or steering characteristics of vessels. These proposals include changes to: (a) clarify requirements; (b) specify capacity of auxiliary steering gear; (c) require a rudder angle indicator if steering gear is power operated; (d) require all main power steering gear to meet rudder movement criteria for speed; (e) reduce size criterion of rudder stock from 14 to 9 inches for auxiliary steering gear on passenger vessels; (f) require each power unit to have full capacity of the main steering gear; (g) have requirements apply equally to tank, cargo and passenger vessels; and (h) require a means of

communication between bridge and after steering station.

39. It is proposed to require nuclear vessels to submit a "Safety Assessment" and an "Operating Manual." These documents are considered to be necessary in order to permit the regulatory agencies to properly evaluate the safety of the nuclear plant and the nuclear vessel as a whole. It is proposed to revise 46 CFR 57.30-10 and 57.30-20 to provide requirements for the design of the reactor installation and to transfer revised requirements to new sections. New regulations designated 46 CFR 57.30-25, 57.30-30, and 57.30-35 are proposed to cover such proposed requirements as radiation protection, safety assessment, and Operating Manual.

40. To clarify the requirements for furnace repairs, it is proposed to revise 46 CFR 58.15-1. These changes are proposed in order to have consistency in the interpretation and application of these requirements.

41. It is proposed to require certain machinery to be fitted with remote controls so that such equipment may be stopped in the event of fire. To accomplish this, it is proposed to add a new regulation designated 46 CFR 61.05-25 and entitled "means of stopping machinery."

42. The specification for boiler safety valves in 46 CFR Subpart 162.001 currently requires relieving devices by which the valve disc may be lifted from its seat at a pressure of not more than 75 percent of the set pressure of the valve. This is in conflict with other Coast Guard requirements and the ASME Boiler Code. To clarify the requirements it is proposed to revise 46 CFR 52.65-15(e)(1), 54.07-5(d), and 162.001-5(f) by making the wording similar in every section. For safety valves and relief valves it is proposed to require a substantial lifting device so the disc may be lifted from its seat at a pressure of 75 percent of the set pressure of the valve.

43. It is proposed to revise 46 CFR 98.25-5 and 98.25-10, which govern the transportation of anhydrous ammonia, to permit the movement of refrigerated anhydrous ammonia when carried at atmospheric pressures in non-pressure vessel tanks. It is proposed to remove the minimum design pressure of 90 p.s.i. for refrigerated anhydrous ammonia cargo tanks, which is consistent with the requirements for other refrigerated compressed gases, such as propane and butane.

44. It is proposed to revise 46 CFR 35.15-1 in the Tank Vessel Regulations (CG-123), 46 CFR 78.07-1 in the Passenger Vessel Regulations (CG-256), and 46 CFR 97.07-1 in the Cargo and Miscellaneous Vessel Regulations (CG-257), by adding regulations which will: (a) provide for a required notice of casualty and voyage records for nuclear ships; and (b) require the masters of nuclear vessels to immediately inform the Commandant of any accident or incident which may lead to an environmental hazard. These proposals are also in agreement with the requirements in

the 1960 Safety of Life at Sea Convention.

45. The regulations with respect to marine engineering and material specifications are issued under R.S. 4405, as amended, and 4462, as amended; 46 U.S.C. 375, 416. These regulations also interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426-4431, as amended, 4433, as amended, 4434, as amended, 4453, as amended, 4472, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 1544, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 361, 362, 391, 391a, 392, 404-409, 411, 412, 435, 170, 481, 489, 366, 363, 367, 526p, 1333, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.

ITEM V—ELECTRICAL ENGINEERING

46. The proposed changes to 46 CFR Parts 110-113, inclusive (Subchapter J), which are the Electrical Engineering Regulations (CG-259), are intended to clarify, correct, bring up-to-date, or bring into agreement the regulations with reference standards, etc. These changes in general do not impose additional restrictions on the industry. Where consistent with safety, some of the proposals will permit wider latitude in arrangements. These proposals have already had wide circulation among representative groups of industry and reflect the primary comments received from members of the American Institute of Electrical Engineers, the American Bureau of Shipping, and the American Petroleum Institute.

47. The proposed regulation designated 46 CFR 110.05-3 will state a policy regarding the effective date in which revisions or amendments to the regulations will become effective. Unless specifically stated otherwise, the proposals provide that requirements in amendments or revisions to the regulations will be applicable only to new vessels or new installations placed on both new and existing vessels on or after the effective date of such changes. The amendment to 110.10-1(b) will bring the reference publications up-to-date.

48. With respect to general requirements for electrical systems, it is proposed to amend 46 CFR 111.05-15 (f), 111.10-1(b), 111.25-5(b), 111.35-1, 111.35-5, 111.35-25(f), 111.45-5, 111.45-20, 111.45-30(e), 111.50-1(a), 111.50-5(d), 111.50-10(d), 111.50-15, 111.55-1(b), 111.55-5(a), 111.55-15, 111.60-1(d), 111.60-10(b), 111.60-35, 111.60-40, 111.65-5(b), 111.65-30(f), and 111.70-10(c).

49. With respect to emergency lighting and power systems, it is proposed to amend 46 CFR 112.05-1(a), 112.05-5, 112.05-10(c), 112.15-5, 112.40-1(a), 112.45-1(a), 112.50-1, and 112.55-15.

50. With respect to communication and alarm systems and equipment, it is proposed to amend 46 CFR 113.25-5(b), 113.25-15, 113.30-15(f), 113.40-5(a), and 113.70-10(a).

51. In the Tank Vessel Regulations (CG-123), it is proposed to revise 46

CFR 32.45-1 and 32.25-1 to bring these requirements up to date and into agreement with the electrical engineering regulations. The change to § 32.45-1 is also in accordance with a recommendation of the American Petroleum Institute. It is proposed to add regulations designated 46 CFR 35.40-6, 35.10-7, and 35.10-15, which will set up new requirements for emergency lights on all tank vessels, and electric power-operated lifeboat winches, emergency lighting and power systems for all tank ships. These proposals are in agreement with requirements in the electrical engineering regulations and requirements applicable to other vessels for these same items.

52. It is proposed to revise 46 CFR 77.20-1(a), 96.20-1(a), 113.65-1, and 113.65-5 in order to permit the primary means of operating the ship's whistle to be other than strictly mechanical. Recent developments have established effective means for operating the ship's whistle other than by mechanical means. One proposed operation of such whistles is by hydraulic controls. This will permit such controls to be lead under deck and it will permit elimination of the requirement for the use of mechanical contrivances which are vulnerable to damage.

53. With respect to the specification for fire-protective systems, it is proposed to revise 46 CFR 161.002-15(c) to permit the electrical power for the smoke detecting system to be supplied from an emergency light and power distribution panel. This arrangement is to be in lieu of a separate circuit from the emergency switchboard.

54. The regulations with respect to electrical engineering are issued under R.S. 4405, as amended, and 4462, as amended; 46 U.S.C. 375, 416. These regulations interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4453, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1 and 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 489, 366, 395, 363, 369, 367, 1333, 390b, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.

ITEM VI—BULK GRAIN CARGOES

55. The present regulations governing bulk grain cargoes in 46 CFR Part 144 include those requirements initially adopted October 19, 1952, when the implementing regulations to the 1948 Safety of Life at Sea Convention were promulgated, plus special equivalent provisions subsequently adopted. In recent years, it has become clear that there are additional alternative means for stowing grain cargoes safely, although not specifically covered by the present regulations. As a result of the experiences gained from observing vessels using all types of stowage and a

study of a vessel's stability as affected by shifting of bulk grain cargo, it is proposed to provide a rational and flexible basis for requirements applicable to a specific vessel. To a large degree these proposals reflect arrangements which have already been accepted as alternatives under the present rules. It is believed these proposals will be of economic benefit to United States' shipping without comprising the standard of safety presently attained.

56. With respect to feeders, bins and bulkheads, it is proposed to revise 46 CFR 144.10-70. With respect to loading and stowage requirements, it is proposed to redesignate 46 CFR 144.20-1 to § 144.20-2 and to insert a new § 144.20-1 to describe the requirements for trimming of holds or compartments to prevent the grain from shifting. With respect to stowage, it is proposed to cancel 46 CFR 144.20-10, 144.20-20, 144.20-30, and 144.20-40, and to substitute revised requirements designated 46 CFR 144.20-10, 144.20-20, 144.20-22, 144.20-24, 144.20-26, 144.20-28, 144.20-30, 144.20-32, 144.20-34, and 144.20-36. The proposed amendment to 46 CFR 144.30-1 is to clarify requirements governing vessels when shifting from one port to another. With respect to equivalents, it is proposed to cancel the present rules designated 46 CFR 144.40-1 to 144.40-50, inclusive. It is considered desirable that these proposals be made effective as quickly as possible. Therefore, it is also proposed that these amendments be effective one month after the date of publication in the FEDERAL REGISTER of the final requirements. It should be noted that these proposed changes also take into account the discussions and actions taken with respect to grain cargoes at the 1960 International Conference on Safety of Life at Sea.

57. The authority to prescribe regulations generally is set forth in R.S. 4405, as amended, and 4462, as amended; 46 U.S.C. 375, 416. These regulations regarding bulk grain cargoes interpret or apply R.S. 4417, as amended, sec. 1, 2, 49 Stat. 1544, 1545, as amended, and sec. 3, 68 Stat. 675; 46 U.S.C. 391, 367, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM VII—TANK VESSELS

58. It is proposed to revise and bring up-to-date the fire-fighting requirements in the Tank Vessel Regulations (CG-123) in 46 CFR Parts 30 to 35, inclusive, as well as to change the arrangement of these regulations to follow more closely that used in the Cargo and Miscellaneous Vessel Regulations (CG-257). The proposed changes for fire-fighting on tank vessels represent the recommendations of an industrial group which studied the subject at the request of the Coast Guard. This study included a review of all presently known methods of fire-fighting. It is felt these proposals reflect the benefit of this study. The proposals revise 46 CFR Part 34, entitled "Fire-Fighting Equipment," in its entirety, with a proposed effective date of January 1, 1962. The changes provide more detailed specifications for various types of fire-fighting equipment

than are presently provided. For new vessels it is proposed to make a deck foam system mandatory for the protection of all cargo tank spaces. Such a system offers more versatility and possible protection than any other currently known system. The use of steam smothering systems will be prohibited in new vessels, and it is felt that other presently approved fire-extinguishing systems offer greater protection, as well as the distinct advantage of taking less time to be placed in operation. Another essential need in fire extinguishing, as well as for the protection of the fire fighters, is an adequate supply of water. For new vessels it is proposed to require a greater capacity and pressure to be maintained on the fire main system, consistent with the size of the vessel. This will also assure satisfactory performance of the approved spray nozzles. For existing vessels the policy in 46 CFR 30.01-15(b) will be followed with respect to fire-fighting equipment presently installed and used. This policy is that any changes in specification requirements shall not apply to equipment which has been passed as satisfactory until replacement shall become necessary, unless a specific finding is made that such equipment is unsafe or hazardous and has to be removed from tank vessels. With respect to the inspection of fire-fighting equipment, it is proposed to transfer from 46 CFR Part 34 certain requirements which more appropriately belong in 46 CFR Part 31. In this connection new regulations designated 46 CFR 31.10-18, 31.10-19, 31.10-20, and 31.10-50 are proposed and include such subjects as general requirements and testing for fire-fighting equipment, testing of fire hose and pumps, and the inspection of bilges. It is proposed to insert a new section designated 46 CFR 32.85-1 regarding fire-proofing of lamp, oil, and paint rooms, which is similar to present 46 CFR 34.22-1. It is proposed to insert a new section designated 46 CFR 35.01-85 regarding repairs or alterations to fire-fighting equipment, which is similar to present 46 CFR 34.01-5. It is also proposed to add 46 CFR 35.40-17 to require the markings on the vessel to include "foam hose or monitor station" in red letters and figures not less than 2-inches high.

59. The authority for prescribing regulations governing tank vessels is in R.S. 4405, as amended, 4417a, as amended, and 4462, as amended; 46 U.S.C. 375, 391a, 416. These regulations also interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; and E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM VIII—FIRE-FIGHTING EQUIPMENT OR FIRE PREVENTION

60. In order to assure a reasonable degree of safety, it is proposed to require that all new vessels, which carry more than 150 passengers, or more than 12 passengers on international voyages, shall be of the fire retardant construction. This proposal will apply to (a) all vessels which carry more than 150 passengers, regardless of gross tonnages of the vessels; (b) all vessels carrying more than 12 passengers, which are on

international voyages; and (c) all vessels of 100 gross tons and over (as presently required). It is also proposed that these requirements shall apply to all such vessels contracted for on or after January 1, 1962 and for major repairs and major alterations. For vessels contracted for prior to January 1, 1962, the proposals provide that existing structure, arrangements, and materials previously approved will be considered satisfactory so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection, having jurisdiction, with the understanding that only minor repairs and minor alterations may be made to the same standards as the original construction.

61. In order to minimize the fire risk where large numbers of persons are involved and where the effects of panic are most serious, it is proposed to require higher fire-retardant standards. Further, these proposals will assure better strength and watertight integrity in these vessels. In the event of a collision this additional strength will reduce the danger to the persons aboard. When such vessels are of wood construction there is also a danger resulting from splintering of the wood hull. Other changes are also proposed for the purpose of clarifying the requirements and bringing them up-to-date. To accomplish this the regulations in 46 CFR 72.05-1 to 72.05-90, inclusive, will be amended. In addition the regulation designated 46 CFR 72.10-45(a), regarding weather deck communications, will be amended to permit vertical ladders in special cases where the use is limited to the crew only.

62. The requirements for most small passenger vessels of not more than 65 feet in length are prescribed under the Act of May 10, 1956 (P.L. 519, 84th Congress); and are in a separate Subchapter T in 46 CFR Chapter I. In order to prevent confusion, it is proposed that a small vessel which carries more than 150 passengers will comply with the provisions in Subchapter T (Small Passenger Vessels), and certain portions of the regulations in Subchapter H (Passenger Vessels), Subchapter F (Marine Engineering), and Subchapter J (Electrical Engineering) of 46 CFR Chapter I as determined by the Commandant. For the fire protection of such passenger vessels, it is proposed that the general construction requirements set forth in 46 CFR 175.05-1 and 177.05-5 be revised to agree with the proposed requirements in Paragraphs 60 and 61.

63. The structural fire protection standards followed in the construction of a majority of the larger cargo vessels in recent years have been in excess of the minimum requirements specified in the Cargo and Miscellaneous Vessel Regulations (CG-257). It is proposed to revise the present structural fire protection requirements and to add a new subpart entitled "General Fire Protection" and designated 46 CFR 92.07, consisting of §§ 92.07-1 to 92.07-90, inclusive, under the heading "structural fire protection." These proposals in addition to establishing minimum standards, will require the

elimination of drafts and flue effects as one of the methods of fire control which may be accomplished by requiring means for closing off stairway openings. These standards will apply to all cargo vessels of 4,000 gross tons and over contracted for on or after January 1, 1962. For such cargo vessels contracted prior to January 1, 1962, the existing structural arrangements and materials previously approved will be considered satisfactory so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection, having jurisdiction, with the understanding that minor repairs and minor alterations may be made to the same standard as used in the original construction. The proposals will: (a) include a statement of application, definition of common terms and construction requirements; (b) require the hull and superstructure, structure bulkheads, decks and deck-houses to be constructed with steel but the Commandant may permit use of other materials having in mind the risk of fire; (c) since open stairways form flues that will carry the fire from deck to deck, require automatic doors to be installed in order to assure prompt closure at all levels; (d) to control the spread of fire and to reduce it as much as possible, require ceilings, linings, insulation, etc., to be constructed of approved incombustible materials; (e) limit the use of wood hatches to "between cargo spaces" or "between stores spaces," while in other spaces hatch covers shall be of steel or equivalent metal construction; and (f) require tonnage openings to be closed by means of steel plates.

64. Regarding the use of motion picture film and equipment on board passenger vessels and cargo and miscellaneous vessels, it is proposed to establish new regulations designated 46 CFR 78.70-1 and 97.55-1. These proposals are in general agreement with present practices followed by most ship operators. The proposals will prohibit the exhibition of films made of nitrocellulose film. The motion picture film which may be used should be acetate film or slow-burning film. The projectors for motion picture film will be required to be of an approved type.

65. It is proposed to establish a new specification designated 46 CFR Subpart 164.012, consisting of §§ 164.012-1 to 164.012-15, inclusive, which will set forth the fire protection standards for "interior finishes" which may be applied to "bulkhead panels" or "incombustible materials." This term "interior finish" means any coating, overlay or veneer except standard paint which is applied for decorative or other purposes. It includes not only the visible finish but all material used in its composition and its application to the bulkhead panel or incombustible materials which are approved under specifications designated 46 CFR Subpart 164.008 or 164.009. Paint may be applied to one or both sides of bulkhead panels or incombustible material but paint shall never be applied as an internal layer in sandwich or laminar construction. These proposals apply generally to the manufacturer of any interior finish, bulkhead panels, or incombustible materials. No general

Coast Guard approval will be granted in each case, but the manufacturer will be required to demonstrate to the Officer in Charge, Marine Inspection, having jurisdiction, that his interior finish has successfully complied with the specified test requirements. If the product bears a label of the Underwriters' Laboratories, Incorporated, Chicago, Illinois, which identifies the material and states it complies with the requirements in this specification, such materials will normally be accepted without further proof of compliance.

66. The use of steam as a fire-extinguishing or smothering medium has been reviewed and certain disadvantages noted. The conditions noted were:

a. It takes an excessive length of time to introduce sufficient steam into a space to control combustion in most types of fires.

b. The use of steam adds heat to the space containing the fire.

c. After the fire is out the steam must be continued to be introduced into the space until the space is cooled to below the re-ignition temperature of the fire. If the use of steam is discontinued too soon, the condensation forming on the ship's sides, bulkheads, decks and other cool areas draws into the space fresh air which defeats any inerting accomplished by the steam.

d. The quantity of steam required for smothering a fire for a prolonged period of time often exceeds the capacity of vessel's boilers to produce fresh water and steam for such fire-fighting purposes.

e. The steam generated by the vessel's boilers is very often not sufficient in quantity to permit the vessel to operate and to fight a fire simultaneously. In fighting certain types of fires it may take several days, or in fact, to effectively smother the fire by steam may never be accomplished. In such a situation it becomes necessary for the vessel's officers to decide whether to stop the vessel and attempt to smother the fire or to disregard the fire and attempt to reach a port.

f. An economic factor also exists which is that, if a fire is successfully extinguished by steam, the water damage to the cargo may exceed the actual fire damage.

67. To assure adequate fire protection for all vessels, it is proposed to revise the fire-fighting requirements in 46 CFR subchapters H (Passenger Vessels), I (Cargo and Miscellaneous Vessels), and R (Nautical Schools) to prohibit the use of steam as a permissible means for fire extinguishing on new vessels or for new fire-extinguishing systems installed on existing vessels. The reasons are set forth in paragraph 66. In conjunction with this a similar modification is proposed in Item VII regarding use of steam for fire-fighting purposes on new tank vessels. At the 1960 Safety of Life at Sea Conference the use of steam as a fire-extinguishing medium was considered. The revised 1960 Convention will prohibit the use of steam as an extinguishing medium on new passenger vessels. Steam is also prohibited to be used in holds where explosives are car-

ried in cargo vessels. Where steam smothering will be permitted, it will be necessary for the vessel to have sufficient steam capacity immediately available (not dependent upon the lighting of boilers) to satisfy the fire-fighting needs without interfering with the normal operation of the vessel, including propulsion. The supply of steam and ability of the vessel to provide or produce fresh water for the boilers must be sufficient for continuous fire fighting and simultaneous normal operation of the vessel, which must last until the vessel can reach a port. From a practical standpoint, these proposed requirements in the 1960 SOLAS will probably eliminate steam smothering even for a new cargo vessel.

68. With respect to steam smothering systems on passenger vessels, it is proposed to revise the requirements in 46 CFR 76.05-1, 76.05-20, 76.13-1, 76.13-5, 76.13-10, and 76.13-90. With respect to steam smothering systems on cargo and miscellaneous vessels, it is proposed to revise 46 CFR 95.05-10, 95.13-1, 95.13-5, 95.13-10, and 95.13-90. With respect to steam smothering systems on nautical school ships, it is proposed to revise 46 CFR 167.45-1. These proposals are in line with the revised requirements in the 1960 Convention for the Safety of Life at Sea.

69. It is proposed to add more detailed requirements regarding the conducting and logging of fire and boat drills. The changes will require:

a. Additional log entries with respect to the drills conducted.

b. The holding of drills within a specified time period after a large percentage of the crew members has been replaced on either a tank vessel or a cargo vessel.

c. A monthly check of the lifeboat equipment at the time of the lifeboat drill on every tank vessel and cargo vessel.

d. The swinging out of the lifeboats during lifeboat drills conducted in port as well as at sea.

e. For every tank vessel, during lifeboat drills, require the lowering of every lifeboat at least once every three months. (This is presently required for other types of vessels.)

70. To accomplish the changes described in paragraph 69, it is proposed to revise 46 CFR 35.10-5 in the Tank Vessel Regulations (CG-123), 46 CFR 78.17-50 in the Passenger Vessel Regulations (CG-256), and 46 CFR 97.15-35 in the Cargo Vessel Regulations (CG-257). These proposals are also in agreement with the revised requirements for practice musters and drills contained in the 1960 International Convention for Safety of Life at Sea (see Chapter III, Regulation 26).

71. On some vessels there is no means of direct communication between the pilothouse and those spaces containing smoke detecting cabinets. In order to improve safety on a vessel, it is considered desirable that the detection of a possible fire be reported to the bridge as quickly as possible and immediate steps taken to control the fire if present or to ascertain the cause of the smoke reported. It is proposed to revise 46 CFR

76.33-20 in the Passenger Vessel Regulations (CG-256) to require on new vessels and on installations installed on existing vessels after January 1, 1962, that some means of direct communication be installed between the pilothouse and those spaces containing smoke detecting cabinets where such cabinets are not located in the pilothouse. This will be in addition to the visual indication and automatic alarm now required in the pilothouse.

72. The authority to prescribe regulations dealing with fire-protection equipment and fire prevention is in R.S. 4405, as amended, 4462, as amended, 4488, as amended, and 4491, as amended; 46 U.S.C. 375, 416, 481, 489. These regulations also interpret or apply R.S. 4417a, as amended, 4426, as amended, 4427, as amended, sections 1 and 2, 49 Stat. 1544, 1545, as amended, section 3, 54 Stat. 347, as amended, section 3, 70 Stat. 152, and section 3, 68 Stat. 675; 46 U.S.C. 391a, 404, 405, 367, 1333, 390b, 50 U.S.C. 198; and E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM IX—LIFESAVING APPLIANCES

73. With respect to lifesaving appliances the statutory requirements were revised by the Act of September 9, 1959, which amended section 4488 of the Revised Statutes (46 U.S.C. 481), and other sections of law. The specific purpose for this law was to revise the archaic and preclusive requirements. In this act was a repeal of section 4482 of the Revised Statutes pertaining to the use of wood floats on river steamers. The existing passenger vessels presently permitted to use wood floats and not required to provide children's life preservers are river steamers, river steam ferryboats, and the passenger barges in tow of steamers on other than those in ocean or coastwise service. It is proposed to require all passenger vessels to carry children's life preservers. It is also proposed to withdraw the permission to river steamers, river steam ferryboats and passenger barges while in tow of steamers to install and use wood floats in lieu of life preservers in the future. For those vessels presently equipped with wood floats, they will be permitted to continue using such floats so long as they are in good and serviceable condition, but when replacement becomes necessary, approved life preservers will be used. To accomplish this it is proposed to revise 46 CFR 75.40-1 to 75.40-90, inclusive, in the Passenger Vessel Regulations (CG-256).

74. The weight testing of lifeboat installations on tank and cargo vessels is proposed. Because of the "aging" of many of these vessels, there is a need for a practical method to determine if the lifeboat installation will hold up in the event of an emergency. The present Tank Vessel Regulations (CG-123) do not contain a requirement for weight testing lifeboats at inspection for certification. The present Cargo Vessel Regulations (CG-257) require a testing of lifeboat installations but only if it is practicable. It is proposed to make such a test mandatory at 2-year intervals for both tank and cargo vessels. In the Tank Vessels Regulations (CG-123), it is

proposed to insert a new regulation designated 46 CFR 33.01-27. In the Cargo Vessel Regulations (CG-257), it is proposed to amend 46 CFR 91.25-15(a).

75. The specifications for buoyant cushions permitted on motorboats of Classes A, 1, or 2 not carrying passengers for hire which apply primarily to manufacturers are set forth in 46 CFR Subpart 160.048 or 160.049. The proposals will change the requirements for kapok, fibrous glass and unicellular plastic foam buoyant cushions by (a) prohibiting the use of unsupported plastic film for use as cover, gusset or strap material because of the poor performance of such material; (b) revising and standardizing requirements to improve the quality of cover, gusset and strap materials; and (c) making other minor changes to bring these specification requirements up-to-date. To accomplish these changes it is proposed to revise 46 CFR 160.048-1, 160.048-3, 160.048-4, 160.048-6, 160.049-1, 160.049-3, 160.049-4, and 160.049-6. In order to discourage the wearing of buoyant cushions on the user's back and their use by non-swimmers, it is proposed to require that the markings on buoyant cushions contain appropriate warnings.

76. The specification for inflatable life rafts is designated 46 CFR Subpart 160.051. It is proposed to clarify the procedures for establishing an approved servicing facility and to require that certain records be established and maintained at such approved facilities. To accomplish this it is proposed to revise 46 CFR 160.051-6.

77. With the acceptance of inflatable life rafts as an approved lifesaving appliance, it is necessary that vessels equipped with such rafts have on board and readily available a boat which can be used as a "man overboard" boat and for similar purposes. It is proposed to establish a specification for a small boat, which can be used as a "rescue boat," and at the same time meet the required maneuverability standards considered necessary or desirable for use with inflatable life rafts. This specification will be designated 46 CFR Subpart 160.056, consisting of §§ 160.056-1 to 160.056-7, inclusive, and entitled "Rescue Boat." This specification applies primarily to the manufacturers of such equipment, and sets forth general requirements for rescue boats, construction requirements, fittings and equipment, approval tests of prototype rescue boat required, factory inspections, name plate required to be placed on rescue boats, and procedures for obtaining approval. It is proposed that the Officer in Charge, Marine Inspection, having jurisdiction of the place of manufacture will issue a letter to the manufacturer indicating that approval of the rescue boat has been granted and will include any conditions imposed. It is not presently contemplated that a Certificate of Approval will be issued to the manufacturer by Coast Guard Headquarters at Washington, D.C.

78. The authority to prescribe regulations with respect to lifesaving appliances is in R.S. 4405, as amended, 4462, as amended, 4488, as amended, and 4491, as amended; 46 U.S.C. 375, 416, 481, 489.

These proposals also interpret or apply R.S. 4417a, as amended, 4426, as amended, sections 1 and 2, 49 Stat. 1544, 1545, as amended, sections 6 and 17, 54 Stat. 164, 166, as amended, section 3, 70 Stat. 152, and section 3, 68 Stat. 675; 46 U.S.C. 391a, 404, 367, 526e, 526p, 1333, 390b, 50 U.S.C. 198; and E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM X—CONSTRUCTION AND INSPECTION

79. It is proposed to revise the Passenger Vessel Regulations (CG-256) regarding the construction, arrangement, subdivision and stability of passenger vessels constructed on and after January 1, 1962, in order to bring these regulations into closer agreement with current practices, to provide improved safety where this can be done without economic burden, to define certain requirements more clearly, and to provide for greater flexibility in administration. Some of these proposals are based on interpretations and findings that permit these changes as equivalents under the provisions of the 1948 Convention for the Safety of Life at Sea. If the proposal designated 46 CFR 74.10-15(c) (7) with respect to unsymmetrical flooding with assumed side damage less than 30 feet, plus .03L is adopted, a formal notice of acceptance as an equivalent will be forwarded to nations signatory to the Convention. Since a large portion of these proposals are also consistent with the provisions of the 1960 Safety of Life at Sea Convention (SOLAS), the corresponding 1960 SOLAS regulation numbers are indicated for convenience in making comparisons. It is felt that this agreement between regulations and 1960 SOLAS will be advantageous to owners of new vessels which may be constructed after January 1, 1962, but before the date the new Convention comes into effect, as well as to keep to a minimum the changes which will be necessary when the Convention becomes effective. The proposals for subdivision include certain provisions to permit comparable treatment of lifeboatage on United States and foreign vessels on short international voyages. The stability proposals include requirements regarding desirability of automatic equalization and operation of necessary controls from above the bulkhead deck.

80. With respect to hull structure of passenger vessels, it is proposed to revise 46 CFR 72.01-25. With respect to watertight subdivision for passenger vessels, it is proposed to revise 46 CFR 73.05-1, 10, 73.25-5, 73.30-1, 73.35-5, 73.35-10, 73.35-15, 73.35-20, 73.35-25, 73.40-20, 73.45-1, 73.90-1, 78.17-35, and 78.45-1, as well as to add new regulations designated 46 CFR 73.10-65, 73.35-17, 73.45-5, 73.45-10, 78.47-37(b) and 78.47-38. With respect to stability of passenger vessels, it is proposed to revise regulations designated 46 CFR 74.05-1, 74.10-15, 74.15-10, 74.20-1, and 74.20-15. In order to permit United States vessels on short international voyages, which meet special watertight subdivision requirements, to obtain special relaxations with respect to lifeboatage accorded to foreign vessels, it is also proposed to revise certain requirements designated 46 CFR 75.10-10

regarding lifeboat requirements for vessels in ocean and coastwise service.

81. It is proposed to revise the Cargo and Miscellaneous Vessel Regulations (CG-257) in 46 CFR 93.10-1 and 93.15-5 with respect to the stability information available to operating personnel and the stability letter in order to provide up-to-date information.

82. With respect to the specification requirements for watertight sliding doors and door controls in 46 CFR 163.001, it is proposed to revise and bring this specification up to date. These proposals include requiring automatic sequential operation with time limitations to insure rapid securing of doors. These specification requirements govern the manufacturer of watertight doors which are required to be approved by the Coast Guard prior to installation on board merchant vessels. It is proposed to require that these changes become effective for all doors installed on or after January 1, 1962, on merchant vessels. The proposed changes will revise regulations designated 46 CFR 163.001-3, 163.001-4, 163.001-5 and 163.001-6.

83. The authority to prescribe regulations regarding vessel construction, arrangement, subdivision, and stability is in R.S. 4405, as amended, and 4462, as amended. These proposals also interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4488, as amended, 4491, as amended, section 3, 24 Stat. 129, as amended, 41 Stat. 305, as amended, section 2, 45 Stat. 1493, as amended, section 2, 49 Stat. 888, as amended, section 5, 49 Stat. 1384, as amended, sections 1 and 2, 49 Stat. 1544, 1545, as amended, section 3, 54 Stat. 347, as amended, section 3, 70 Stat. 152, and section 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 481, 489, 363, 85a, 369, 367, 1333, 390b, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

84. In connection with a study into the causes of certain casualties which resulted in loss of life, the requirements regarding the gas freeing, inspections and testing of holds, compartments, etc., when making repairs, alterations, etc., involving hotwork were considered. The casualties studied indicated that serious consequences do result when inadequate or improper practices or procedures for gas freeing of compartments occur in which hotwork may be performed. To reduce the hazards it is proposed to revise the requirements to assure the maintenance of a safe condition throughout the operation. Another hazard observed in this study of casualties was with respect to preservative coatings which had been applied to surfaces prior to completion of the alterations, repairs or operations which involved riveting, welding, burning or other fire or spark-producing actions. Therefore, it is proposed to revise the Tank Vessel Regulations (CG-123), the Passenger Vessel Regulations (CG-256), and the Cargo and Miscellaneous Vessel Regulations (CG-257) by revising the regulations designated 46 CFR 35.01-1, 71.60-1, and 91.50-1, respectively, to include requirements that gas freeing conditions established at the outset of the work be maintained during entire operation; to clarify intent of re-

quirements, and to amplify inspections and testing required.

85. The factory inspections by Coast Guard marine inspectors at manufacturers' plants making deck coverings, bulkhead panels and incombustible materials are proposed in order that the Coast Guard may spot check the manufacturer's production of such equipment or materials which are subject to specifications designated 46 CFR 164.006, 164.008, or 164.009. This factory inspection is in line with the Coast Guard practices and procedures for other types of equipment or materials required to meet standard specifications. The proposals will amend 46 CFR 164.006-4, 164.008-3, and 164.009-3.

86. It is proposed to change the Passenger Vessel Regulations (CG-256) to require that vessels on international voyages shall be drydocked at 12-month intervals in lieu of the present 18-month interval by a revision of 46 CFR 71.50-1. This proposal will recognize the requirement for an inspection of the outside of the ship's bottom once every 12 months as required by Regulation 7 of Chapter I of the 1948 International Convention for Safety of Life at Sea. In effect this change will not result in more frequent drydockings for those passenger vessels engaged on international voyages since Coast Guard records show that practically all such vessels are now being drydocked at least once in every 12 months.

87. It is proposed to change the Cargo and Miscellaneous Vessel Regulations (CG-257) with respect to drydocking such vessels by revising 46 CFR 91.40-1 in order to permit a 48-month interval in lieu of the present 36-month interval for those vessels in salt water not more than 3 months out of a 12-month period. This proposal takes into account the vessels which normally operate in fresh water but which occasionally make voyages on salt water.

88. The authority to prescribe regulations regarding gas freeing, inspection and testing of holds, etc., in which hot-work will be performed, and drydocking of vessels is in R.S. 4405, as amended, 4462, as amended, and 4488, as amended; 46 U.S.C. 375, 416, 481. These regulations also interpret or apply R.S. 4417, as amended, 4417a, as amended, 4418, as amended, sections 1 and 2, 49 Stat. 1544, 1545, as amended, section 3, 54 Stat. 347, as amended, and section 3, 68 Stat. 675; 46 U.S.C. 391, 391a, 392, 367, 1333; 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM XI—MANNING OF VESSELS

89. An investigation of a recent collision casualty revealed that certain vessels were being navigated at times with only the licensed officers required by the certificates of inspection on watch in the pilothouse, especially when such vessels were steered by automatic pilot. In order to assure sufficient personnel to safely navigate such vessels under all circumstances, it is proposed to require pilothouse watches for tank and cargo vessels which carry unlicensed deck crews of 6 or more members. On such a vessel it is proposed to require that a quartermaster or helmsman will be in

or near the pilothouse in addition to the licensed officer or pilot. This crew member is to be available in emergencies, and shall be qualified to handle the navigation under the direction of the licensed officer or pilot. To accomplish this new regulations designated 46 CFR 35.25-17 will be added to the Tank Vessel Regulations (CG-123), and 46 CFR 97.27-1 will be added to the Cargo Vessel Regulations (CG-257). These requirements are similar to present regulations in 46 CFR 78.30-5 for passenger vessels.

90. The general authority to prescribe regulations with respect to a pilothouse watch required on tank vessels and cargo vessels is in R.S. 4405, as amended, and 4462, as amended; 46 U.S.C. 375, 416. These regulations also interpret or apply R.S. 4417a, as amended, 4453, as amended, 4463, as amended, sections 1 and 2, 49 Stat. 1544, 1545, as amended, section 3, 54 Stat. 347, as amended, and section 3, 68 Stat. 675; 46 U.S.C. 391a, 435, 222, 367, 1333, 50 U.S.C. 198.

91. There is a need to have the minimum manning standards for safe navigation of special service vessels specified in the regulations. At present the manning for certain special service vessels, such as cable ships, oceanographic survey vessels, etc., which are inspected and certificated by the Coast Guard but usually are not documented vessels of the United States, may not be placed on the Certificates of Inspection. Depending on the size of the vessel and/or waters on which operated, it appears this omission may be a reason for unintentional violations of certain manning laws or international conventions. Therefore, it is proposed to revise 46 CFR Part 157 to describe by reference the laws which specify minimum manning standards, as well as jurisdiction and authority for manning requirements, and to provide minimum manning standards for inspected and certificated special service vessels. The changes to 46 CFR 157.01-10, 157.05-1, and 157.15-1 are intended to accomplish these proposals.

92. The manning standards for uninspected motor-propelled vessels of over 200 gross tons, such as those engaged in the fishing industry, which operate on long voyages have been requested as one means to facilitate the filing of lists of officers with the Collector of Customs as required under 46 CFR 157.18-15. It is proposed to establish a standard in the amendment to 46 CFR 157.30-10 for the guidance of all concerned. The Officers' Competency Certificates Convention, 1936, and the implementing law in title 46, U.S. Code, Section 224a do not specifically stipulate the minimum number of licensed officers which must be carried. The law requires that the person in charge on the bridge or in the pilothouse must be licensed and the person in charge of the engine room must be licensed. Obviously, it is humanly impossible for the licensed master and licensed chief engineer to be "in charge of the watch" continuously. This means, therefore, that when the master must of necessity be absent from the bridge or pilothouse and the chief engineer must be absent from the engine room, the persons, whoever they may be, who are left "in charge of the watch" must be

licensed to perform their respective duties. Consequently, from a practical point of view, it is considered necessary that a vessel on a long voyage shall carry a minimum of two licensed deck officers (one the master) and two licensed engineers (one the chief engineer).

93. The general authority to prescribe these manning regulations is in R.S. 4405, as amended, and 4462, as amended; 46 U.S.C. 375, 416. These proposals also interpret or apply R.S. 4438a, as amended, 4453, as amended, 4463, as amended, sections 1 and 2, 49 Stat. 1544, 1545, as amended, section 3, 54 Stat. 347, as amended, and section 3, 68 Stat. 675; 46 U.S.C. 224a, 435, 222, 367, 1333, 50 U.S.C. 198.

ITEM XII—RULES OF THE ROAD

94. In view of major increases in boating activity in certain areas along the California coast, the need for established lines of demarcation to delineate the areas where International and Inland Rules apply has been urged as a safety measure. This proposal will establish specific lines of dividing the high seas from inland waters for the purposes of applying the "Inland Rules" to waters now subject to "International Rules," as set forth in "Rules of the Road—International—Inland" (CG-169). It is proposed to add new sections designated 33 CFR 82.126, 82.127 and 82.128 for Crescent City Harbor; Arcata—Humboldt Bay; Bodega Bay—Tomales Point; respectively, in California.

95. For the Monterey Bay area, California, two alternate proposals are presented. The "First Alternate" would permit the use of Inland Rules for the Monterey Bay area as a whole. The "Second Alternate" would permit International Rules to be used generally within the Bay area and Inland Rules specified for designated harbor areas. Comments as to which alternate is considered preferable are also desired. With respect to the "First Alternate," it is proposed to establish a new section designated 33 CFR 82.131A for Monterey Bay. For the "Second Alternate" it is proposed to add new regulations designated 33 CFR 82.131B for Santa Cruz Harbor, Moss Landing Harbor, and Monterey Harbor for three designated areas. The other proposed lines of demarcation for specific harbors have been designated 33 CFR 82.132 for Estero—Morro Bay; 82.133 for San Luis Obispo Bay; 82.134(a) for Santa Barbara Harbor; 82.134(b) for Port Hueneme; 82.134(c) for Playa del Rey; 82.134(d) for Redondo Harbor; 82.136 for Newport Bay; 82.145 for Isthmus Cove (Santa Catalina Island); and 82.146 Avalon Bay (Santa Catalina Island).

96. The authority for regulations describing the lines dividing the high seas from rivers, harbors, and inland waters is in section 2, 28 Stat. 672, as amended; 33 U.S.C. 151.

Dated: February 6, 1961.

[SEAL] A. C. RICHMOND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 61-1319; Filed, Feb. 14, 1961; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 902]

[Docket No. AO-293-A3]

MILK IN WASHINGTON, D.C.,
MARKETING AREANotice of Recommended Decision and
Opportunity To File Written Exceptions
on Proposed Amendments
to Tentative Marketing Agreement
and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), 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 Washington, D.C., 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 15th 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 Washington, D.C., on September 28 and 29, 1960, pursuant to notice thereof which was issued September 6, 1960 (25 F.R. 8745).

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

1. Modification of the definition of "handler" to cover a cooperative association with respect to farmers' milk delivered to pool plants in trucks owned, operated, or controlled by the association;
2. Permitting unlimited diversion of a producer's milk in certain circumstances;
3. Accounting for milk received from a nonpool plant to which producer milk is diverted from a pool plant;
4. Accounting for shrinkage;
5. The price level for Class I milk;
6. The price for milk used in the manufacture of butter and cheese;
7. Establishment of a base-excess plan; and
8. Miscellaneous provisions.

Issue No. 5 was dealt with in a recommended decision issued December 20, 1960 (25 F.R. 13720). Proposals 9 and 10 in the notice of hearing were not supported by any testimony at the hearing and accordingly no findings or conclusions with respect to those proposals are contained 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. *Cooperative association as handler on bulk tank milk.* The definition of handler should not be changed to make a cooperative association a handler on bulk tank milk "caused to be delivered" to other handlers' pool plants.

A proprietary handler proposed that a cooperative association should be the receiving handler with respect to bulk tank milk of a farmer member which the cooperative causes to be delivered to a pool plant of another handler in a tank truck owned, operated, or controlled by the association. This proposal was offered to reduce problems in accounting for such milk, particularly as to weights, butterfat tests, and recordkeeping.

In this market, most of the milk received at pool plants is delivered from farms in tank trucks. A large percentage of the producers are members of cooperative associations. In some cases member milk is delivered largely to the association's plant(s) while members of other associations deliver their milk directly to pool plants not owned or controlled by the association. There was no instance shown in which trucks are owned by a cooperative association or in which truckers are employees of, or under contract to, an association.

The truck drivers are licensed weighers and samplers under the regulations of the State in which they pick up the milk at the farm. Such drivers, who measure milk at the farm and take milk samples, are not under the authority or control of the cooperative association of which the farmer is a member. From time to time the association provides an employee to ride on the truck with the driver to check the measuring and sampling operation. The employee observes but does not have authority to command the driver. The same opportunity for surveillance is available also to the handler who purchases the milk from the association.

When milk is delivered to a plant in a tank truck, the driver leaves at the plant an individual weight ticket for each producer. Such weight shown on the ticket is a derived figure arrived at by converting the dip-stick measurement made at the farm to a figure in terms of pounds of milk. The driver also leaves samples at the plant which, in the case of one cooperative association, are later picked up by an employee of the association for transportation to a laboratory.

In view of the above circumstances, we find no basis in the record for placing on any cooperative association in the market greater responsibility than exists at present for the handling and accounting of bulk tank milk from the time it leaves the farm until delivered to a pool plant. The proposed change in the handler definition therefore should not be adopted.

2. *Diversions.* No change should be made in the periods during which milk of a producer may be diverted.

A handler proposed that a cooperative association should be allowed to divert a member producer's milk to a nonpool plant on each day of the month if 70

percent of the membership of the cooperative association are producers whose milk is regularly delivered to pool plants. This proposal was intended to assure a steady supply of milk to his manufacturing plant at Frederick, Maryland. Cottage cheese, nonfat dry milk and condensed milk are produced at the plant and fluid cream is shipped therefrom to his Washington plant.

Since the pool plant provisions of the order were amended November 1, 1959, to add § 902.9(c), the Frederick plant has qualified as a pool plant pursuant to this provision. Under this provision the plant qualifies on the basis that it makes shipments of cream to a pool plant distributing in the market and all milk received at such plant from dairy farmers is from members of a cooperative association of which 70 percent or more of the members are qualified producers whose milk is regularly received at other pool plants qualified pursuant to § 902.9 (a). The proposal to allow unlimited diversions was offered so that if in any month the plant failed to qualify as a pool plant it could continue, as a nonpool plant, to receive all the milk of the same producers.

The diversion provision in the order, contained in the definition of "producer", allows for unlimited diversion of producer milk to a nonpool plant during March through September, and on 8 days of any month during October through February.

The plant in question is located in an area of heavy milk production where many of the dairy farmers are producers under this order and have supplied the Washington market over a long period. The proponent handler claimed, however, that if the plant became a nonpool plant, maintenance of producer status for the farmers now supplying the plant would entail uneconomical hauling. For 22 days of each 30-day month during the October-March period each farmer's milk would need to be hauled to a pool plant to qualify the farmer as a producer.

The diversion of producer milk to nonpool plants by cooperative associations or pool plant operators is recognized as a means of promoting the orderly handling of reserve milk for the market. The proposal contemplates that the plant would be continuously served by the same group of dairy farmers during periods of nonpool status as have normally served it during pool status. The situation could develop, therefore, that the plant would be continuously in nonpool status but the dairy farmers supplying it nevertheless would continue in producer status.

The identification of dairy farmers with the market as producers who shall receive the uniform price has been based on delivery of their milk to a pool plant to an extent which establishes their association with the market as an essential part of its supply. The proposal would establish a different basis for qualifying producers in that such status could be based on continuous delivery to a nonpool plant. It is apparent, also, that pool or nonpool status of the plant in question could depend upon the choice of the handler operating the plant. For

these reasons the proposal does not give an appropriate basis for qualifying the dairy farmers delivering to the plant as producers.

The proposal was not addressed to a reconsideration of the basis on which the plant may or may not qualify as a pool plant. Furthermore, the evidence does not show difficulty exists in qualifying the plant under the current order provision. The problem of inadvertence in the receipt of milk which might disqualify the plant is a matter which can be controlled with ordinary business methods.

3. *Classification of milk received from nonpool plants.* The application of compensatory payments should be modified in the case of other source milk received from a nonpool plant which receives milk from a pool plant.

A handler proposed that milk received at a pool plant from a nonpool plant be accounted for as producer milk to the extent that producer milk is diverted from a pool plant to the nonpool plant. Proponent operates a manufacturing plant (previously referred to) which currently qualifies as a pool plant under § 902.9(c).

The purpose of the proposal is to guarantee that if at any time the plant fails to qualify as a pool plant and yet receives milk of producers' diverted to it, cream derived from such producer milk and shipped to the city bottling plant will not be treated as other source milk subject to compensatory payments.

At a hearing held September 23, 1959, consideration was given to a basis on which this plant might qualify as a pool plant. Previously it had been a nonpool plant. At the time of the hearing its only supply was producer milk diverted to it. About half of the butterfat from such milk was moving to the handler's pool plant in the form of cream. Since the amendment of November 1, 1959, the plant has qualified continuously as a pool plant on the basis previously described. It has received, besides producer milk, also milk from plants regulated under other orders.

If there is sufficient identification of the various types of receipts and dispositions at the nonpool plant from which milk is moved, as well as at the pool plant to which it is moved, the obligation of the handler operating the pool plant may be computed in a manner which reflects the order pricing of milk received at the nonpool plant. For this purpose a more specific assignment of receipts at the nonpool plant to appropriate use classifications is necessary.

For producer milk diverted to nonpool approved plants, or milk transferred thereto from pool plants in the form of products specified in § 902.41(a)(1), the order now provides a system of assignment in § 902.44(c). This provision assigns such receipts first to any Class I disposition from the nonpool plant into the marketing area. Remaining quantities of such receipts are assigned to the highest remaining uses at the nonpool plant after prior assignment of milk received from dairy farmers whom the market administrator determines constitute the regular source of supply for the plant.

The more specific assignment of milk transferred or diverted to a nonpool approved plant should provide that it will be assigned first to Class I route disposition in the marketing area by the nonpool plant. This would be before assignment of any other receipts at the nonpool plant. Secondly, such milk transferred or diverted to the nonpool approved plant would be assigned to Class I milk disposition of the nonpool plant made in the form of transfers to pool plants. Such transfers are classified under the allocation procedure in § 902.46(a)(3). The latter provision allocates at the transferee pool plant such milk as a receipt of "other source milk". Any remainder of the transfer and diversion to the nonpool plant would be assigned to the extent possible to other Class I use at the nonpool plant after prior assignment of milk from nonproducer dairy farmers whom the market administrator determines constitute the regular fluid milk supply of the nonpool plant. A nonpool plant may receive in the same month milk in the form of both transfers and diversions. In this case the milk transferred and milk diverted to the nonpool plant should share pro rata the classification to be arrived at under the system just described.

When milk is received at a pool plant from a nonpool approved plant not regulated under any order, the system of assignment just described will recognize the extent to which such milk already has been priced as Class I milk under this order. Compensatory payments should not apply on milk so priced in computing the obligation of the pool plant receiving such other source milk.

4. *Shrinkage.* No change should be made in the method of accounting for shrinkage.

Two handler proposals were made to change the method of accounting for shrinkage. One of these was designed to fit order changes contemplated in another proposal which would make a cooperative association a handler with respect to milk it causes to be delivered to pool plants in tank trucks. This proposal would (1) increase from 1.5 percent to 2 percent the allowable amount of producer milk shrinkage which may be classified as Class II milk; and (2) divide the 2 percent shrinkage allowance in the case of milk transferred between handlers to allow the receiving handler (plant operator or cooperative association) 0.5 percent and the processing handler the remaining 1.5 percent. A shrinkage proposal sponsored by other handlers would simply increase the total allowance from 1.5 percent to 2 percent.

In the decision issued May 1, 1959 (24 F.R. 3630) the Assistant Secretary recognized that small, unavoidable losses are experienced in the handling of milk and concluded that such losses should be accounted for under a Class II shrinkage allowance. A shrinkage allowance was adopted such that shrinkage of producer milk not exceeding 1.5 percent producer milk would be classified as Class II milk and any producer milk shrinkage in excess of that quantity would be classified as Class I milk.

Since handlers may receive other source milk, the total shrinkage was prorated between the receipts of producer milk and other source milk. Under this system none of the shrinkage is assigned to milk received from other pool plants, since shrinkage of such milk is allowed to the transferor-handler. All shrinkage prorated to other source milk is Class II milk.

The average shrinkage at all milk bottling plants during the first year of order operation, was 1.71 percent. During the first 6 months of order operation, the average shrinkage was 2.27 percent and during the second 6 months, 1.49 percent. Although these figures do not include shrinkage at plants where milk is received but not processed, such receiving milk plants furnish only a small fraction of the milk supply for city distributing plants in this market. Most of the milk for the city distributing plants is received directly from farms.

Data presented in the record by proponent handlers to support a division of the total shrinkage allowance between (1) a cooperative association as a receiving handler of bulk tank milk and (2) the handler to whose plant such milk is delivered, were offered to show the amount of loss or difference in measurements which could occur between the quantity of milk measured at the farm and the quantity as measured at the plant. Since it has been concluded elsewhere in this decision that there is no basis for making a cooperative association a handler with respect to bulk tank milk, such corollary proposal to divide the shrinkage allowance between the first handler and second handler should not be adopted.

Denial of the proposal to make a cooperative association a handler on bulk tank milk would not preclude relief to handlers on the total shrinkage allowance if such relief were justified. The record does not show, however, that any increase in the shrinkage allowance is needed. For the most recent 6 months of record which include the months of highest seasonal level of production when milk handling is likely to involve a higher percentage of loss, average marketwide shrinkage for all bottling plants averaged 1.49 percent of receipts.

5. *Butter-cheese class price.* No change should be made in the price for milk used in the manufacture of butter or hard cheese.

A handler who operates a milk manufacturing plant asked for a special class price for milk used to manufacture butter and hard cheese. Proponent argued that loss could be avoided if the applicable class price were low enough to permit the sale of surplus cream for butter or cheese manufacture. The handler did not specify a formula for arriving at such class price, but indicated that the applicable price should be less than the present Class II price and competitive with prices paid by unregulated milk manufacturers. As a basis for arriving at such a competitive level of price, proponent offered data on prices for butter in New York City and prices on sales of cream outside this market.

No butter or hard cheese is manufactured by the proponent handler. His manufacturing plant produces principally cottage cheese, cream for use in cottage cheese and to supply the fluid market in Washington, and condensed skim milk for use in ice cream. No ice cream is made, however, in this plant. The entire operation results in an excess of butterfat in the form of cream. This generally has been sold to a cooperative association which uses it in its manufacturing plant. Although butter is among the products produced at the association's manufacturing plant, none of this butter is marketed. Instead it is stored for later use in the processing of ice cream mix. The association plant does not manufacture any hard cheese.

Only once was any of the excess butterfat sold to a plant other than that of the association. Except for this rather minor disposition to a butter manufacturer, none of the butterfat in producer milk finds its way into butter in commercial trade channels. Also, no producer milk is used for the manufacture of hard cheese. The loss the proponent handler may experience with respect to excess butterfat does not represent a condition generally affecting the handling of reserve milk in this market. The butterfat involved in the months of January 1960 through July 1960 represented 7.8 percent of the total butterfat in Class II producer milk during those months.

Any change in an order price, as requested, must be viewed in the light of whether (a) it would be an incentive to bring additional milk supplies under the marketwide pool even though such supplies are not needed; (b) the prevailing Class II price level permits the market to clear its reserve supply; and (c) the loss of which the handler complains is incurred largely because of the nature of his operations. In view of the present adequacy of supply, any lowering of the price for reserve milk in a manner which would tend to increase the supply is not justified. Except for the instance presented by the handler, there has been no indication of any difficulty in disposing of reserve milk at the order prices. Although in proponent's operations butterfat is to a degree an excess product, it is part of the regular manufacturing operation of the plant where it is used in ice cream mix. The quantity of butterfat on which the handler complains of loss represents only a minor part of the use he makes of the milk from which such butterfat is obtained. The importance of a loss on butterfat to a handler must be considered in relation to whether the whole milk from which the butterfat is derived was reasonably priced.

It is concluded that the Class II price formula as presently constituted reasonably represents the value of Class II milk in this market. The disposition of butterfat for butter or cheese manufacture is the infrequent exception to the rule of disposition of reserve milk for the higher-valued Class II uses which are available in this market. Any relaxing of the price formula could result in greater problems in the handling of reserve milk.

6. *Base plan.* The order should provide for payment in certain months to

each producer for base milk and excess milk depending on such producer's deliveries in a prior period.

A producer association which represents a large part of the supply for the market proposed that in the months of April, May and June producers be paid on "base" and "excess" milk. A base would be earned by each producer on his deliveries during the preceding period of July through December. The base would be computed by dividing the total pounds of the producer's deliveries during such period by the number of days on which he delivered, but not less than 154. Such a computation would thus make some allowance for accidents which might prevent a producer from making deliveries during the entire six-month period.

Prior to the establishment of a Federal order in this market, the proponent association operated a "take-out and pay-back" plan to foster more even seasonal production. Such a plan was not included in the order. Proponent requests that a base plan be adopted in the order at this time to encourage producers to retain their relatively good production pattern.

Deliveries per day per dairy during the July-December period 1959 varied from a low of 1,001 pounds per day in November to 1,096 pounds in August, or an average of 1,053 pounds. During April, May and June of 1960 deliveries per day per producer varied from 1,186 to 1,298, or an average of 1,225 pounds. These spring months represent the highest seasonal level of production. Deliveries per day per dairy in the April-June period averaged 116 percent of the rate of delivery during the previous July-December period.

While only moderate seasonal changes in production occur in this market, a base plan such as proposed would tend to maintain or improve the evenness of production and thus assist in assuring adequate market supplies at all times. The six-month base-earning period suggested provides full opportunity for each producer to earn a base. A producer who enters the market as late as 31 days after the beginning of the earning period may be accommodated by a provision that his base would be calculated by dividing his total deliveries during the July-December period by the number of days from the first day of delivery through December 31, but not less than 154 days.

Because this market and the Upper Chesapeake Bay market draw milk from the same supply areas, dairy farmers from time to time may shift from one market to the other. Ideally, base plans in both markets should be arranged so as to not materially inhibit the shifting of farmers in either direction. Bases for farmers who transfer to this market can be computed in a manner which neither favors nor inhibits such a shift. Such a farmer, if he is a producer whose milk is received under this order during the months of October, November and December, should be allotted a base computed from deliveries which include those made in the preceding months of July, August and September to any pool plant under Order No. 127. The requirement of receipt of his milk under this

order for the October-December period is a reasonable measure of association with this market.

Provision should be made for bases to be assigned to farmers who become producers after the beginning of the base-earning period for the reason that the plant to which they deliver becomes a pool plant. In such instances, records made available to the market administrator showing deliveries during the July-December period, including deliveries prior to the time the farmer became a producer, should be used in computing the producer's base.

One of the problems of seasonality in the Washington market has been the result of the operation of a base plan in the Upper Chesapeake Bay market which has given dairy farmers seeking a fluid market an additional incentive to gravitate to the Washington market for the relatively higher return available to a new producer here in the summer months in the absence of a base plan. Adoption of the plan in this market will provide a better alignment of prices to producers throughout the year in the two markets.

Another provision should apply to producers who during the months of July, August and September would have been "dairy farmers for other markets" if they had delivered their milk to the same plant at which it is received each month during the following October through December. Any such producer should be assigned a base equal to the total of his deliveries to the handler during the July-December period divided by the number of days from the first day of delivery through December 31, but not less than 154.

To implement the distribution of returns to producers in accordance with the bases they have earned, the order should provide for computation of a base price and an excess price in certain months. The excess price should be computed by assigning the total excess milk of all producers first to Class II producer milk, any remainder of excess milk to be assigned to Class I producer milk. The value of the excess milk should be computed according to such class assignments, and the excess price by dividing such value by the total hundredweight of excess milk. The remaining value of producer milk in each class should be assigned to base milk, and after the subtraction of not less than 4 cents nor more than 5 cents for reserve, the result should be divided by the total hundredweight of base milk to arrive at the uniform base price. Since the excess price ordinarily would represent a surplus milk value, producer location differentials should not apply to it. Location differentials should apply to the base price.

The base plan should become effective for payments beginning in April, 1962. Thus, producers will have full opportunity to be prepared for making base-earning deliveries beginning in July, 1961.

Rules should be provided for the transfer of a base, along with the farm, from one producer to another. To prevent manipulation in the earning of base con-

trary to the purpose of the plan, if a herd, land, buildings, or equipment are used jointly by more than one person for the production of milk on a farm or farms, only one base would be assigned. A producer operating more than one farm should be required to establish a separate base for each farm.

7. The table of skim milk values in the Class II milk price provision should be corrected by inserting, in proper sequence, a price bracket of \$0.086 to \$0.095 for nonfat dry milk. The correspondings skim milk value should be \$0.225. The skim milk values for the lower nonfat dry milk price brackets should decrease 7.5 cents for each bracket, consecutively.

Milk received from a "dairy farmer for other markets" is treated as other source milk. Along with revision of the allocation procedure required herein by other proposed amendments, it should be provided that milk from dairy farmers for other markets will be subtracted concurrently with any other source milk received in the form of products specified in § 902.41(a)(1) from nonpool plants not fully subject to the pricing provisions of another order.

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 Washington, D.C., 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:

§ 902.22 [Amendment]

1. In § 902.22 delete the word "and" at the end of § 902.22(j)(2), change the period at the end of § 902.22(k) to a semicolon and add the word "and", and add a new paragraph as follows:

(1) On or before February 20 of each year (beginning in 1962), notify:

(1) Each cooperative association of the daily base established by each producer member of such association; and
(2) Each nonmember producer of the daily base established by such producer.

2. Add a new § 902.19 as follows:

§ 902.19 Base and excess milk.

(a) "Base milk" means milk received at a pool plant from a producer during any of the months of April through June which is not in excess of such producer's daily base computed pursuant to § 902.63 multiplied by the number of days in such month on which such producer's milk was received at such pool plant: *Provided*, That with respect to any producer on every-other-day delivery, a day of nondelivery following a day on which delivery is made shall be considered as a day of delivery for purpose of this paragraph.

(b) "Excess milk" means milk received at a pool plant from a producer during any of the months of April through June which is in excess of base milk received from such producer during such month.

§ 902.44 [Amendment]

3. In § 902.44 delete paragraph (c) and substitute the following:

(c) As Class I milk if transferred in the form of any product designated as Class I milk pursuant to § 902.41(a)(1) to a nonpool approved plant or if in producer milk diverted to such nonpool approved plant, unless otherwise classified pursuant to subparagraphs (1) through (4) of this paragraph, in which case all milk diverted and transferred to the nonpool plant shall share pro rata in such classification:

(1) As Class I milk to the extent of such nonpool plant's disposition of skim milk and butterfat, respectively, as Class I milk on routes in the marketing area;

(2) Any remaining quantities of skim milk and butterfat as Class I milk equal to the extent of assignment to Class I pursuant to § 902.46 (a) (3) and (b) of

transfers from the nonpool plant to pool plants; and

(3) Any further remaining quantities of skim milk and butterfat as Class I milk to the extent of remaining Class I utilization in the nonpool plant after prior assignment of receipts at such nonpool plant from nonproducer dairy farmers whom the market administrator determines constitute its regular source of fluid milk supply to such Class I utilization.

(4) Any further remaining quantities of skim milk and butterfat may be assigned to Class II milk.

§ 902.50 [Amendment]

4. In § 902.50(b) delete subparagraph (2) and substitute the following:

(2) *Skim milk.* The average of carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as reported for the period from the 26th day of the preceding month through the 25th day of the current month by the Department of Agriculture shall determine the skim values as follows:

Average price per pound of nonfat dry milk-spray and roller process:	Skim value
\$0.085 or below.....	\$0.00
\$0.086 to \$0.075.....	.075
\$0.076 to \$0.085.....	.15
\$0.086 to \$0.095.....	.225
\$0.096 to \$0.105.....	.30
\$0.106 to \$0.115.....	.375
\$0.116 to \$0.125.....	.45
\$0.126 to \$0.135.....	.525
\$0.136 to \$0.145.....	.60
\$0.146 to \$0.155.....	.675
\$0.156 to \$0.165.....	.75
\$0.166 to \$0.175.....	.825
\$0.176 to \$0.185.....	.90
\$0.186 to \$0.195.....	.975

§ 902.62 [Amendment]

5. In § 902.62 delete paragraph (b) and substitute the following:

(b) Each pool handler who received at his pool plant other source milk which is allocated pursuant to § 902.46 (a) (3) and (b) shall make payment on the quantity so allocated to Class I milk which is in excess of the quantities of skim milk and butterfat, respectively, assigned to Class I milk pursuant to § 902.44(c)(2) in milk and milk products received at the nonpool plant, at the difference between the Class I price and the Class II price applicable at the location of the nearest nonpool plants (as determined by the application of the location differential schedule set forth in § 902.52) from which an equivalent amount of such other source milk was received; and

6. Insert new sections numbered §§ 902.63 and 902.64 as follows:

§ 902.63 Computation of base for each producer.

For each of the months of April through June of each year beginning in 1962 the market administrator shall compute a base for each producer as follows, subject to the rules set forth in § 902.64:

(a) Except as provided in paragraphs (b), (c), and (d) of this section divide the total pounds of milk received by all

pool handler(s) from such producer during the months of July through December of the preceding year by the number of days from the first day of receipt through December 31, but not less than 154 days;

(b) The base of any producer whose milk during the preceding July-December period was received at a plant which became a pool plant during such base-earning period shall be computed by dividing the total pounds of milk received from such dairy farmer at the plant and at pool plants as producer milk, both during such July-December period, by the number of days from the first day of such receipt through December 31, but not less than 154;

(c) The base of any producer who was a producer during all the months of October, November, and December of the preceding year, and during any of the just preceding months of July, August, and September qualified under the Upper Chesapeake Bay Federal milk Order No. 127 as a "producer" as defined in that order, shall be computed by dividing the total pounds of milk received from such farmer during all of such months (July through December, inclusive) at pool plants under both orders by the number of days from the first day of receipt through December 31, but not less than 154; and

(d) The base of any producer who is not described in paragraphs (b) and (c) of this section but who was a producer in each of the months of October, November, and December of the preceding year and whose milk was received during each of these months at a pool plant at which receipt of his milk in the just preceding months of July, August, and September would have (or did) qualify him as a "dairy farmer for other markets", shall be computed by dividing the total pounds of milk received from such producer at the pool plant during such months of July through December and verified receipts at the nonpool plant of the handler during such months of July through September, inclusive, by the number of days from the first day of receipt through December 31, but not less than 154.

§ 902.64 Base rules.

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

(a) A base computed pursuant to § 902.63 may be transferred in its entirety upon written notice to the market administrator on or before the last day of the month of transfer, but only if a producer sells, leases or otherwise conveys his herd to another producer and it is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this part;

(b) If a producer operates more than one farm, each delivering milk to a pool plant, he shall establish a separate base with respect to producer milk delivered from each such farm; and

(c) Only one base shall be allotted with respect to milk produced by one or more persons where the herd, land, buildings, and equipment used are jointly owned or operated: *Provided*, That if a

base is held jointly, the entire base shall be transferable only upon the receipt of an application signed by all joint holders or their heirs, or assigns.

7. In § 902.71 delete the language preceding paragraph (a) and substitute the following:

§ 902.71 Computation of the uniform price.

For each month prior to April 1962, and thereafter for each of the months of July through March, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, f.o.b. market as follows:

8. Insert a new section numbered § 902.72 as follows:

§ 902.72 Computation of uniform prices for base milk and excess milk.

For each of the months of April through June, beginning with April 1962, the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. market, shall be as follows:

(a) Compute the aggregate value of excess milk for all handlers who made reports prescribed in § 902.30(a), and who are not in default of payments pursuant to § 902.84 for the preceding month as follows: (1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply the remaining hundredweight quantity of excess milk by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(c) Subtract the value of excess milk computed pursuant to paragraph (b) of this section from the total value of producer milk for the month as determined according to the calculations set forth in § 902.71 (a) through (d);

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk for handlers included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

§ 902.80 [Amendment]

9. In § 902.80 delete paragraph (a) and substitute the following:

(a) Except as provided in paragraph (b) of this section each pool handler on or before the 15th day after the end of each month shall make payment to each producer for milk which was received from such producer during the month at not less than the uniform price computed pursuant to § 902.71 for each month prior to April 1962 and thereafter for

the months of July through March, and at not less than the price for base milk computed pursuant to § 902.72(b) with respect to base milk received from such producer, and not less than the excess price determined pursuant to § 902.72(a) for excess milk received from such producer for the months of April through June (beginning in 1962) subject to the following adjustments: (1) The butterfat differential computed pursuant to § 902.81, (2) less the location differential computed pursuant to § 902.82, and (3) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 902.85 for such month, he may reduce pro rata his payments 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 payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

10. Delete § 902.82 and substitute the following:

§ 902.82 Location differential to producers.

In making payments to producers or to a cooperative association pursuant to § 902.80 (a) and (b) except with respect to excess milk, a handler shall deduct with respect to all such milk received at pool plants located 75 miles by shortest highway distance from the zero milestone in the District of Columbia, as determined by the market administrator, 12 cents per hundredweight plus 1.5 cents for each 10-mile additional distance, or fraction thereof, which such plant is located from such milestone.

Issued at Washington, D.C., this 10th day of February 1961.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 61-1336; Filed, Feb. 14, 1961;
8:53 a.m.]

[7 CFR Part 909]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Proposed Revision of Salable and Surplus Percentages for 1960-61 Crop Year

Notice is hereby given that there is under consideration a proposal to increase the salable percentage for California almonds during the 1960-61 crop year which began July 1, 1960, from 75 percent (25 F.R. 8711) to 84 percent, with a corresponding decrease in the surplus percentage. The proposed revisions are based on recommendations of the Almond Control Board and other available information, and would be established under provisions of amended Marketing Agreement No. 119 and Order No. 9 (7 CFR Part 909), regulating the handling of almonds grown in California. Said amended marketing agreement and order are effective under the provisions

of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C., 601-674).

Control Board data as of December 31, 1960, indicate that trade demand for California almonds in 1960-61 may reach 55 million pounds rather than 50 million as estimated when the present percentages were proposed on August 13, 1960, (25 F.R. 7760, 8711) and later established. Other estimates remain essentially unchanged. The proposed increase in the salable percentage is based on the following estimates (in terms of kernel weight) for the crop year beginning July 1, 1960: (1) production of 54 million pounds; (2) trade demand for domestic almonds of 55 million pounds (based on a total trade demand of 55.5 million pounds less 500,000 pounds of imported almonds); (3) a handler carryover of 22.6 million pounds on July 1, 1960; (4) provision for a handler carryover of 13.1 million pounds on June 30, 1961; (5) total trade demand and carryover requirements for 1960 crop of 45.5 million pounds; and (6) a surplus supply of 8.5 million pounds.

Consideration will be given to written data, views and arguments pertaining thereto which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than ten days after publication of this notice in the FEDERAL REGISTER.

Dated: February 9, 1961.

FLOYD F. HEDLUND,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 61-1334; Filed, Feb. 14, 1961;
8:52 a.m.]

[7 CFR Parts 923, 1012]

[Docket Nos. AO-251-A3, AO-278-A4]

MILK IN APPALACHIAN AND BLUEFIELD MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Bristol, Virginia, on April 12-13, 1960, and Bluefield, West Virginia, on April 14, 1960, pursuant to notice thereof issued on March 23, 1960 (25 F.R. 2579).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on December 2, 1960 (25 F.R. 12558; F.R. Doc. 60-11393), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. Consolidation of the Bluefield order with the Appalachian order.

2. Provisions in the consolidated Appalachian order with respect to:

- (a) Marketwide pooling for distribution of proceeds among producers;
- (b) Milk to be priced and pooled;
- (c) Classification and allocation of milk;
- (d) Class prices;
- (e) Payments on other source milk;
- (f) Producer-settlement fund;
- (g) Base and excess plan; and
- (h) Administrative provisions.

1. Consolidation of the Bluefield order with the Appalachian order.

Order No. 112 regulating the handling of milk in the Bluefield marketing area should be consolidated with Order No. 23 regulating the handling of milk in the Appalachian marketing area.

The Appalachian and Bluefield marketing areas are composed of nine counties, three of which are in Southwestern Virginia, and the remainder in adjoining or nearby areas in West Virginia, Kentucky, and Tennessee. Tazewell County in Virginia, which comprises the southern part of the Bluefield marketing area, extends to within a few miles of Washington County which is in the Appalachian marketing area. The two marketing areas thus constitute a nearly continuous territory except for Harlan County, Kentucky, and Wise County, Virginia, which are a part of the Appalachian marketing area but separated from the rest by intervening counties.

The Appalachian order was made effective October 1, 1954, and the Bluefield order on October 1, 1956. Since the issuance of the Bluefield order, developments in the marketing system for milk in both areas have tended to bring the markets into closer relationship with respect to both supplies and sales.

Plants regulated under the Appalachian order and handling more than half of the milk regulated under the order are in competition with the four Bluefield handlers. An Appalachian handler with a plant at Bristol, Virginia, maintains a distribution point at Richlands, Virginia, in the Bluefield marketing area. Another Appalachian handler with a plant at Big Stone Gap, Virginia, distributes milk on routes in the Bluefield marketing area. There are also regular movements of packaged milk from an Appalachian order plant at Bristol, Virginia, to a Bluefield order plant at Welch, West Virginia, both of which are operated by the same company. This handler is one of the largest of the four handlers regulated by the Bluefield order.

Members of the cooperative association represent approximately 85 percent of all producers on the markets, supplying 90 percent of the fluid milk requirements of handlers under both orders. This association also operates a milk receiving plant presently regulated under the Appalachian order. Shipments of milk from this plant are made to plants under both orders to supply variable day-to-day fluid milk requirements.

The Bluefield marketing area is located north of the Appalachian marketing area. The supply for the Bluefield market comes from farms located in the

counties in the marketing area and counties to the south and southeast of the marketing area. Some of these counties adjoin the Appalachian marketing area. In large part, handlers serving the two markets now depend upon a common supply. The milk deliveries of producers whose farms are located between or approximately equidistant from the two marketing areas are commonly shifted back and forth among handlers in the two markets according to individual handlers' daily needs. This accommodation of handlers' requirements is provided for by the proponent producer association. The association also arranges for the disposition of the surplus milk of both markets by diversion to manufacturing plants or shipment of milk to other markets after the milk is accumulated at its receiving plant.

Handlers in these markets are engaged mainly in fluid milk operations, although several have minor manufacturing operations, mostly for cottage cheese. They receive at their plants only that milk needed for such uses. From time to time, as their requirements vary, they call upon the cooperative association for milk from additional producers. The disposition of the standby reserve of milk has become the primary responsibility of the cooperative association. The association also has become the primary agency for disposing of the normal seasonal surplus of milk.

The cooperative association has adopted the policy of reblending the proceeds from the sale of its members' milk. Some members objected to this arrangement and withdrew from the association. This has increased the burden of market surplus carried by the remaining members. The proposed consolidation of the two markets, along with a change to marketwide pooling, will result in a proportionate sharing of the burden of surplus milk by producers.

The Appalachian and Bluefield orders should be consolidated to cover the combined territory of the existing marketing areas. The administrative and marketing service accounts under both orders should be consolidated also. At the time the new order is made effective, some handlers will owe producers certain monies for preceding months. Any such amount owed by handlers should be paid into the producer-settlement fund; on the other hand, audit adjustments with respect to underpayment of individual producers for milk delivered prior to order consolidation should be paid to the producers to whom the money is owed. Producers thus will receive all monies owed them for milk delivered in prior periods.

2. Provisions in the consolidated Appalachian order.

Provisions in the Appalachian and Bluefield orders are substantially similar and the Appalachian order provisions are appropriate as the terms and provisions of the consolidated order except as hereinafter discussed. The following findings and conclusions describe the instances in which provisions of the consolidated order would differ from the provisions of the present Appalachian order.

(a) *Marketwide pooling.* Individual-handler pools have been operated under

both the Appalachian and Bluefield orders since their inception. Handlers have continued to be primarily distributors of fluid milk, and have little in the way of manufacturing operations except cottage cheese for their own route disposition. At the time the orders were established it was the practice of handlers to divert seasonal or week-end surplus of milk to nearby manufacturing plants.

The cooperative association, representing about eighty-five percent of the producers for these markets, now has assumed the responsibility for balancing supplies among handlers. This is accomplished through operation of truck routes to bring the milk from producers' farms to handler's plants, the operation of an association plant to carry short-time standby reserves, and diversion of unneeded milk to manufacturing plants. As a result of carrying on this operation of balancing supplies among handlers and disposing of surplus milk, the association has found it necessary to reblend returns from all sales of their members' milk. Otherwise, members delivering milk to the association plant would receive less than fluid, or Class I, milk prices for a larger proportion of their milk than members delivering to other handlers' plants.

Some members of the association have objected to the reblending of proceeds, and one group of producers whose milk is delivered to a high utilization handler have cancelled their membership. Under individual-handler pooling such producers have received virtually a straight Class I price for their milk while the burden of carrying the balancing supplies of the market reserves has fallen on the association. As a result the association members receive a significantly lower blended return than non-member producers.

To yield an equitable sharing by all producers of the lower returns realized from the necessary seasonal excess and reserve supplies of milk by all producers delivering milk to plants regulated under the consolidated Appalachian order, marketwide pooling should be provided.

(b) *Milk to be priced and pooled.* The intent and precise application of the order regulation will be facilitated by definitions of the terms "producer", "handler", "pool plant", and other terms as needed. The term "plant" should be defined as the lands, buildings, surroundings, facilities and equipment, whether owned and operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged. It is intended that this definition will include not only the plants at which handlers receive and bottle milk for distribution, but also any plant at which the operation consists merely of receiving the milk into holding tanks and shipping the milk out to other plants. In the case of a manufacturing facility handling milk not qualified for the fluid market and operated in conjunction with a facility for handling milk for the fluid market, the two facilities would be considered as one plant unless they are physically separated in a manner which

would preclude any commingling of the two milk supplies and separate records are maintained in a manner satisfactory to the market administrator. A facility should not be considered a plant if it serves solely as a place or shelter for transferring milk from one truck to another truck without any other facility for holding and processing the milk on the premises. Use of a building primarily for holding bottled (packaged) milk or products in finished form would not qualify it as a "plant".

The establishment of a marketwide pool requires definition of pool plants. Pool plants should be defined in a manner which qualifies any plant which is substantially associated with the market. Except for the cooperative association plant, all plants upon which the market now depends for fluid milk are engaged primarily in distributing milk on routes in and near the marketing area. Such manufacturing operations as exists are used almost exclusively for the manufacture of cottage cheese. Most of the milk supply of local plants comes directly from producers' farms. Some milk, however, moves through the association plant to proprietary handlers' plants.

Although in the present situation all plants from which distribution is made in the marketing area are largely engaged in only this business, the order should provide standards whereby any plant may qualify as a pool plant if it is substantially associated with the fluid business of the market. Any plant which has as its major function the distribution of milk for fluid use would qualify under these standards, provided it also has a substantial portion of its fluid milk business in the marketing area. On the other hand, if a plant has only a minor portion of its business in the marketing area, it would not be subject to regulation. Regulation of such plants is unnecessary to accomplish the purposes of the order and might place such plants at a competitive disadvantage with respect to unregulated markets with which they are more closely associated.

In line with these general principles, any plant which uses 50 percent of its milk receipts for fluid distribution should be considered as primarily engaged in the fluid milk business. In making such a percentage determination, the receipts to be included should be all receipts of milk qualified under some health authority for use for fluid distribution, whether received directly from producers' farms or from a cooperative association of producers in its capacity as a handler. With respect to the percentage of a pool plant's fluid distribution in the marketing area, at least 10 percent of the business should be on routes in the marketing area. This is sufficient to establish a substantial association with the market.

A requirement of 20 percent of the fluid business in the marketing area, as proposed by the producer association, is unnecessary and could result in administrative problems in the case of any plant which had a large part of such required percentage of its business in the area but failed to meet the total requirement. Although plants now operating in the

marketing area generally have enough fluid sales in the area to more than exceed such a percentage, consideration must be given to the possibility of new handlers entering the marketing area and the fact that some of the existing handlers have a large portion of their sales outside the marketing area and may extend such operations. Any plant which distributes milk in the marketing area but fails to meet the requirements of the pool plant definition should be subject to certain obligations under the order regulation with respect to sales in the marketing area. The necessity for such requirements is explained in another part of the findings and conclusions.

The pool plant definition should also include a plant which has insufficient or no direct distribution in the marketing area but which ships 50 percent of its receipts from qualified dairy farmers and cooperative associations to pool plants which distribute milk in the marketing area. This percentage requirement should apply on a month-to-month basis, except that any plant which has so qualified as a pool plant for the months of August through March should be allowed to continue as a pool plant for the succeeding months of April through July. This provision for the months of April through July is in recognition of the seasonal nature of milk production, which for this market tends to be higher during these months than in other times of the year. Normally plants which supply a market through shipments to distributing plants are located at a greater distance from the marketing area than the location of farmers whose milk could be moved directly from their farms to the distributing plants. Consequently, it is normal that the distributing plants will have their requirements more fully met by the direct receipts from farmers during the April through July period, and receive a lesser quantity from the shipping plants upon which they nevertheless must depend during other months. The automatic pooling of a shipping plant during the April through July period would apply unless the plant operator notified the market administrator of his desire to withdraw the plant from the pool.

In the case of a plant operated by a cooperative association which is used to meet the day-to-day requirements of handlers, special provision should be made for pooling. Such a plant is now operated under the Appalachian order to serve both Appalachian and Bluefield handlers. Not enough milk is shipped from the plant to qualify it for pooling under the regular percentage standards, since handlers' changing needs are met largely by adjustments in routes and deliveries direct from producers' farms. In instances where the precise requirements of handlers cannot be met by such direct deliveries, milk received at the association plant is transferred from there to such handlers. Irregularities in handlers' bottling requirements and frequent requests for partial loads are principal reasons for such transfers. Thus, the plant serves as a normal part of the supply system for the market. Further,

intermittent deliveries to this plant from dairy farmers who otherwise regularly supply pool handlers is a regular part of the operation of balancing supplies among all handlers and assuring a readily available reserve.

Another part of the milk handling operation by this plant is the accumulation of loads for shipment to other fluid markets. This business has not interfered with its function in supplying the Appalachian and Bluefield markets. If the association plant were a pool plant under the consolidated order, it would follow that all utilization of producer milk at the plant, including transfers to other fluid markets, must be accounted for in the marketwide pool at class prices. This requirement may affect the ability of the association to compete for sales in unregulated markets. It is not possible, however, to separate the milk disposed of to outside markets from that disposed of to these two markets so that the former would be unregulated and the latter subject to the order. All of the milk handled in the plant is supplied by dairy farmers who are regular producers for the Appalachian-Bluefield markets and accordingly should be accounted for in the same manner as all other producer milk received by pool plants under the order.

It is necessary that the order definition of pool plant apply uniformly to all plants which may become associated with the market, regardless of ownership or location. Accordingly, specific standards should be provided for the determination of whether a plant operated by any cooperative association qualifies as a pool plant. The function of the existing association plant as part of the market supply system is definitely related to the fact that most of the milk of association members is needed by handlers in their pool plants, and most frequently moves directly from producers' farms to handlers' plants. The volume of such milk deliveries and the amount of milk shipped from the association plant to other handlers' plants should be used as a measurement of the relationship of the cooperative association plant to the market.

The association proposed that when member deliveries and shipments from its plant amount to 50 percent of the total milk deliveries of all members to all plants (regulated and unregulated), the association plant should qualify as a pool plant. Although the amount of member milk delivered to pool plants has usually been over the 70 percent requirement adopted in the recommended decision, producer exceptions claim that this requirement cannot be met in every month. The exceptions also point out that this kind of requirement might inhibit efficient utilization of the milk supply by encouraging delivery of more milk than needed to pool plants and limiting association business in other markets. A different method of establishing a substantial association of this plant with the market will meet these objections. The plant should be pooled if the milk received by pool plants from member producers and from the association plant equals 70 percent or more

of the Class I disposition of such pool plants.

In order to facilitate the application of the definition of pool plant, the order should contain a definition of the term "route". A "route" should be defined as any delivery to retail or wholesale outlets (including delivery by a vendor or sale from a plant or plant store) of any milk or milk products classified as Class I milk other than a delivery to a plant. This definition will cover the normal Class I disposition of distributing plants to customers such as stores, homes, restaurants, and hotels, and will exclude transfers of milk whether in bulk or packaged form to other plants. Contract sales to military installations or Government institutions which are Class I milk business would, of course, be considered "route" disposition.

The term "producer" should apply to any person who produces milk which meets the requirements of a duly constituted health authority for distribution in the marketing area and which is received at a pool plant.

The definitions of "producer" and "producer milk" also should provide for diversion of producer milk to a nonpool plant. If the handler who is an operator of the pool plant diverts the milk for his account, such milk should be deemed to have been received by such handler at the pool plant from which it is diverted. If a cooperative association diverts producer milk from a pool plant which the cooperative association does not operate, the milk should be deemed to have been received by the cooperative association at the location of the pool plant from which diverted.

Because of the limited nature of the manufacturing operations in handlers' plants, it is often necessary that milk in excess of handlers' immediate needs be moved to some unregulated manufacturing plant. It often would be inefficient for such milk to be moved first through a handler's plant, or through the plant operated by the cooperative association, and thence to the manufacturing plant. Diversion of milk so that it moves directly from the producer's farm to the manufacturing plant is the most efficient method of handling, and should be provided for so as to allow the dairy farmer to retain producer status during temporary periods when his milk is not needed in handlers' plants. There should be some general requirement in the order, however, that producers whose milk is diverted have a substantial association with the market, so that the marketwide pool would not at any time become burdened with surplus supplies of milk accumulated by handlers and accounted for continuously under a diversion provision. Although no specific recommendation was made on the record, it is reasonable that producer milk should not be diverted for a greater period during the months of August through February than the period during which the milk is received at pool plants. These are months when producer receipts are just adequate for Class I fluid milk requirements plus the necessary reserve; therefore, diversions of milk should be limited to few occasions. Producers

would lose status for the month once diversions exceeded 15 days during any one of the above months. It is so provided in the attached order language.

The term "producer" should also include dairy farmers whose milk is received by a cooperative association in its capacity as a handler for milk it assembles from farms in tank trucks and delivers to pool plants.

The definition of "producer milk" should provide that all milk which a handler receives at his pool plant directly from producers shall be producer milk. In the case of bulk tank milk for which a cooperative association is a handler, the milk shall be producer milk considered to have been received by the cooperative association at the location of the pool plant to which it is delivered.

The term "handler" should include the operator of a pool plant, and the operator of a nonpool plant from which milk is disposed of on routes in the marketing area. With respect to producer milk diverted from a pool plant, if it is diverted by the plant operator, he would be the handler who must account for such milk. If the milk is diverted by a cooperative association, then the association should be the handler to account for such milk.

A cooperative association requested that it be allowed to be the handler with respect to milk picked up at farms in tank trucks which it subsequently delivers to handlers' plants if such collection of milk from the farms is performed under the control of the cooperative association. The principal cooperative association in these markets is already performing such collection function as explained in detail in the previous findings. The measurement of the amount of milk collected at each farm, the taking of samples for butterfat tests, and decisions as to the destination of such milk are under the close supervision of the cooperative association. So that the order may be effective in identifying milk which is producer milk, and establishing responsibility for receipt of milk and its accurate measurement and testing, it is desirable in this market that the cooperative association be the responsible handler for bulk tank milk. This will facilitate record keeping and accounting for deliveries of milk from producers whose milk goes to different handlers on different days during the month, and in cases where a tank truckload is split between two or more pool plants. Under this arrangement the cooperative association, as a handler, will be responsible to the marketwide pool for such milk at class prices.

The payment provisions of the order should require the pool plant operator to pay the cooperative association for milk so delivered at not less than the class prices. These provisions will implement the requirement of the Act that cooperative associations receive for their member milk at least the minimum class prices which all handlers must pay.

The definition of a "producer-handler" should be modified from that now contained in both the Appalachian and Bluefield orders which specifies that a producer-handler is a person who oper-

ates a dairy farm and an approved plant from which Class I milk is disposed of in the marketing area, and who receives no milk from other dairy farmers. It is intended that the term "producer-handler" apply to a person dependent primarily upon his own farm production as a supply for a fluid milk business. Such a person from time to time may obtain supplemental supplies from pool plants. Since it is the nature of the producer-handler's business that he would normally need such supplemental milk for Class I use, the classification provisions of the order should provide for the transfer of Class I milk from pool plants to producer-handlers. A producer-handler might also look to unregulated sources for supplemental milk for his fluid milk requirements. To allow producer-handlers to obtain unpriced milk for fluid milk requirements, would be inequitable to pool handlers who must account for milk at class prices. The term "producer-handler" therefore should not include operators who receive other source milk for utilization as Class I milk.

(c) *Classification and allocation of milk.* The definitions of Class I and Class II milk under the Appalachian and Bluefield orders are identical and may be adopted in the consolidated order with only slight modification.

Handlers proposed that fluid milk products used as animal feed should be classified as Class II milk. The orders now provide that the skim milk portion of any product disposed of for livestock feed may be so classified. In support of their proposal, handlers testified that such packaged products as homogenized milk and chocolate milk, when returned from stores, are ordinarily disposed of for animal feed. Handlers have found it impossible to separate and salvage the butterfat from such route returns.

Both the skim milk and butterfat portions of homogenized milk and milk drinks (plain and flavored) disposed of for animal feed should be classified as Class II milk. Such classification should be based upon specific records showing the amounts of skim milk and butterfat so disposed of, which are made available to the market administrator for verification of such disposition.

The provision for allowance of shrinkage in Class II now in the Bluefield order should be adopted in the same form in the consolidated order. This provision differs slightly from that in the Appalachian order in that proration of shrinkage to Class I and Class II is not affected by use of diverted milk in nonpool plants. Milk received at a pool plant from a cooperative association in its capacity as a handler on bulk tank milk would be included along with producer milk receipts at the pool plant for the purposes of computing the shrinkage allowance.

The classification provisions now in the orders with respect to transfers of milk from pool plants to other pool plants or nonpool plants may be adopted largely in the same form in the consolidated order. The mileage limitation of 200 miles, which was originally adopted in the Bluefield order as the distance

within which transfers to unregulated plants would be classified on the basis of actual use, should apply under the consolidated order. The greater distance of 300 miles adopted in the amendment to the Bluefield order April 1, 1959, is no longer applicable to the present market situation. The places of reference from which distance is measured should be the City Hall of Bluefield, West Virginia, and the city limits of Kingsport, Tennessee.

Provision should be made for the classification in Class I of Class I milk products transferred from a pool handler to a producer-handler.

In the case of concentrated milk products which result from the removal of any of the water contained in the original milk or skim milk from which the product has been prepared, the handler should account for the receipt and utilization of such product on the basis of the quantity of skim milk contained in the original milk used to produce such product. The pounds of skim milk to be accounted for as received and utilized in the case of such concentrated products should, therefore, be the weight of the nonfat milk solids contained in the product plus all of the water originally associated with such solids.

A more refined allocation procedure should be adopted than presently provided for in the two orders. The new procedure would maintain the general principles that producer milk receipts should be given priority in assignment to Class I use. Accordingly, other types of milk receipts, except packaged receipts as explained hereinafter, should be subtracted first from the gross Class II utilization of the pool plant, or the class agreed upon under the applicable rules in the case of transfers between pool plants. In the subtraction of other source milk, distinction should be made between processed forms of milk products specified in the definition of Class II milk as compared with fluid forms specified in the definition of Class I milk. This distinction is needed to recognize that the former type of milk product may originate within the plant and enters into the accounting only because it is reprocessed or converted to another product during the month. It follows that if such products are used in Class I disposition, there would be no basis for application of the Class I location allowance thereon. A further distinction should be made between other source milk which originates at plants regulated under another Federal order and other source milk which originates at plants not regulated by any Federal order. This should be done so as to give limited priority in Class I assignment to milk which has been priced under another order. Such a priority is now acknowledged between the Appalachian and Bluefield orders.

Exceptions received from handlers asked that the allocation provisions include an assignment to Class I milk of milk or milk products in consumer-type packages received from a plant other than a pool plant under this order. Under the proposed provision submitted by handlers, the amount so assigned would be limited to the amount of milk classi-

fied as Class I milk and transferred to such nonpool plant or its distribution stations by the Appalachian order plant. While such provision is similar to a provision now in the Appalachian order, handlers' exceptions make clear that the specific intent is to accommodate packaged milk received from a Knoxville order pool plant.

Milk received in consumer packages from a Knoxville order (Order No. 88) plant where it has been classified and priced as Class I milk, and disposed of from the Appalachian order pool plant as Class I milk in the same packages, should be subtracted from the total Class I disposition of the Appalachian pool plant prior to assignment of other types of receipts. The suggestion by handlers to apply such allocation to packaged products received from any plant (regulated or unregulated) not under the Appalachian order has not been justified by any relevant circumstances. The proposed limitation of such allocation dependent on transfer of an equivalent quantity of Class I milk from the Appalachian order plant to the Knoxville handler is not pertinent to the proper allocation of packaged receipts originating under another Federal order.

Handlers also requested that producer milk should not have complete priority for Class I assignment with respect to other receipts from a plant regulated under another Federal order. It was requested that an amount of Class II utilization equal to 5 percent of the receipts of producer milk at the plant be set aside prior to the assignment of such other Federal order milk. Such a provision is adopted in a modified form so as to allow handlers sufficient flexibility in obtaining needed supplies for their fluid business during periods when the market supply of producer milk is relatively close to the volume of Class I sales. The special assignment should apply only when receipts of producer milk for the current or preceding month are less than 105 percent of the net Class I disposition of pool plants. (The term "net" is used to indicate that in the case of milk transferred between handlers the same milk would not be accounted for twice in arriving at the amount of Class I disposition of pool plants.) When the producer milk supply has equalled or exceeded 105 percent of the Class I disposition, it has not been necessary to procure other source milk for fluid needs. Whenever this special allocation provision applies, the amount of Class II utilization which had been set aside would be re-entered in the total amount of utilization being accounted for after the subtraction of other Federal order milk. Provision should be made in the allocation procedure to assure clearance of inventories each month. This may be accomplished by providing that opening inventory shall be allocated to Class II only to the extent that remaining Class II utilization exceeds closing inventory. This procedure will simplify the determination of the appropriate amount of any reclassification payment due on opening inventory assigned to Class I in the current month and assure that no such payment is assessed on

other Federal order milk in inventory which was originally classified and priced in Class I in the originating market. Inventories of Class I milk products on hand at a plant which is first pooled during the month should be allocated as other source milk received at the plant during the month.

(d) *Class prices—Class I price.* The Class I price should be the basic formula price plus differentials of \$2.10 for the months of August through February, and \$1.66 for the months of March through July.

The basic formula prices under the two orders are similar and are continued under the consolidated order in essentially the same form. The basic formula price is the highest of (1) the average price paid by certain Midwest condenseries adjusted to a four percent butterfat test, (2) a price resulting from a formula based on market prices for butter and nonfat dry milk, and (3) the Class II price. The only difference in the basic formula price under the two orders is that in the computation of the Class II price a different list of manufacturing plant pay prices is used. The list to be used under the consolidated order is discussed under the findings on the Class II price. It is not expected that any of the changes in the list of plants would have any immediate effect on the level of Class I price. Since January 1958 the average pay price of all such plants has been considerably lower than the other alternatives for computing the basic formula price. The list of Midwest condensery plants used should omit the plant at Mount Pleasant, Michigan, which has ceased operations.

The proposed revision in the butter-nonfat dry milk basic price formula presented by producers should not be adopted. This revision would have increased the average monthly Class I price approximately 9 cents in 1958 and 8 cents in 1959. Since the purpose of the basic formula price is to arrive at a proper Class I price, the propriety of any such increase in the basic formula price depends entirely on the level at which the Class I price should be established. The level of Class I prices is discussed below.

Since the Appalachian order was made effective October 1, 1954, the Class I price differentials have been \$2.10 for the months of August through February and \$1.70 for all other months. The Class I price differentials under the Bluefield order, which were made effective October 1, 1956, have been the same as those under the Appalachian order except that in the months of April, May and June, they have been 25 cents less. This has resulted in an annual average of Class I differentials under the Bluefield order of \$1.871 as compared with \$1.933 under the Appalachian order.

The schedule of Class I differential adopted herein would result in an annual average differential of \$1.917 per hundredweight. It is expected that this would return approximately the same total money to producers under the consolidated order as is now received under the two orders. Since the largest pro-

ducer association, which represents about 85 percent of the producers delivering to plants in the two markets, has established the practice of payment to producer members at a blended average price based on payments made by handlers in the two areas, the prices adopted herein should result in little change, if any, in the blended returns to producers.

Consolidated statistics of the two markets show a reasonable relationship of producer milk supplies to Class I milk for the years 1957, 1958, and 1959. Substantial quantities of producer milk have been available for shipment during the past two years to other southern markets, primarily for fluid use. In addition, it has been necessary on other occasions to divert producer milk to local manufacturing plants. In view of current supplies, which may be characterized as ample but not burdensome to the market, the proposal of the cooperative association to use the present higher Appalachian Class I price differential for the consolidated Appalachian order, should not be adopted.

A handler proposal which would have established two pricing districts, one for the present Appalachian marketing area and another for Bluefield under the consolidated order was abandoned by proponents at the hearing. Nevertheless, such a pricing arrangement should be reviewed because of the lower Class I price during April, May and June which has applied under the Bluefield order as compared to the Appalachian Class I price for the same months.

The separate price district for the Bluefield area is not established under the consolidated order largely because the location of supply areas and the movement of milk within the consolidated marketing area are more in agreement with the plan for a single price level for the entire area. A large part of the supply for the Bluefield handlers comes from producers with farms located on the side of the Bluefield area nearest to the present Appalachian marketing area. Milk of many of these farmers is shifted between the markets from time to time. Also, there are regular movements of milk from the plant of one Appalachian handler to his plant in the Bluefield area. The common conditions of supply for the present Bluefield and Appalachian marketing areas support a common price under the consolidated order.

Class II price. The list of manufacturing plants specified in the Bluefield order plus the Franklin Milk Company, Jonesboro, Tennessee, should be used for the purposes of establishing the Class II price during the months of March through August and as an alternative to the butter-powder formula price in the months of September through February under the consolidated order. These Class II formula prices are also used as an alternative basic formula price.

The Class II price under each of the Appalachian and Bluefield orders is an average of selected manufacturing plant prices during March through August and the higher of this price or a butter-powder formula price during September

through February. The butter-powder formula price is identical in both orders, and no change is herein recommended for the consolidated order. The list of manufacturing plants for the Class II pricing formula under the Bluefield order contains nine plants, two of which are Kraft Foods Company plants located at Independence, Virginia and Greeneville, Tennessee. The list of nine manufacturing plants in the Class II pricing formula under the Appalachian order contains seven of the same plants as under the Bluefield order, and two Pet Milk Company plants at Mayfield and Bowling Green, Kentucky instead of the two Kraft Food Company plants.

Proponents of the consolidated Appalachian order proposed the addition of the prices reported by the Franklin Milk Company plant located at Jonesboro, Tennessee, to the prices reported by the nine manufacturing plants under the Bluefield order. This series was proposed as a more representative value of manufacturing milk in this area. Handlers supported the use of the ten listed manufacturing plants.

During 1959, the proposed annual average Class II price would have exceeded the Appalachian order Class II price by approximately 2 cents and the Bluefield order Class II price by 1 cent. During the period November 1958 to February 1960, manufacturing plant prices were the effective Class II price in 12 months. The butter-powder formula portion of the Class II price exceeded the manufacturing plant prices in September, October, November and December 1959.

Premiums are paid in excess of reported pay prices of manufacturing plants for ungraded milk. The cooperative association has received prices in excess of these prices for surplus milk. The plant at Jonesboro, Tennessee added to the list of manufacturing plants under the order is within the marketing area and serves as an outlet for surplus milk. In view of these considerations, it is concluded that the ten plants being more representative of the price level for manufacturing milk in the consolidated area should be used for Class II pricing purposes.

Location differentials. The City Hall, Harlan, Kentucky, should be included along with the City Limits, Kingsport, Tennessee (under the present Appalachian order); City Halls of Bluefield and Welch, West Virginia, and the County Courthouse, Princeton, West Virginia (under the Bluefield order) as points for determining producer and handler location differentials.

This system of multiple basing points should provide equitable pricing of milk throughout this marketing area consisting of a number of widely scattered communities. The addition of the City Hall, Harlan, Kentucky to those presently under the two orders provides points throughout the consolidated marketing area. The present rate of differentials, which are the same under both orders, should be continued for the consolidated order.

(e) *Payments on other source milk.* The consolidated order should provide

for payments on other source milk allocated to Class I milk in pool plant(s), and on Class I milk distributed on routes in the marketing area through a nonpool plant, which is in excess of such plant's receipts of milk from Federal order plants, classified and priced as Class I milk.

Compensatory payment provisions are necessary in orders with marketwide pooling to protect the integrity of regulation and to deter the displacement of regular producer milk by unpriced milk. Regulation of all milk disposed of in the marketing area or the drawing of marketing area boundaries to include the total distribution areas of all handlers doing business in a particular marketing area, is neither practical nor possible.

Full regulation applies only to milk received at pool plants under this order. Special provision is made for plants which distribute minor volumes of milk in this marketing area. Nonpool fluid milk plants distributing fluid milk products on routes in the marketing area in amounts which do not exceed 10 percent of their total fluid milk sales are not required to equalize. These plants, with only a small proportion of their route distribution in the regulated market, should be considered as primarily associated with outside markets. Such plants could be at a serious disadvantage in competition with other nonpool plants in their normal market if they were required to pay order prices for all of their fluid milk. On the other hand, the requirement that Class I milk sales in the marketing area by nonregulated handlers be accounted for at the Class I price by payments to the pool as herein recommended will negate any pricing advantage on such milk.

This provision offers protection from the use of seasonal surplus milk at less than class prices. If handlers were permitted to use surplus milk at a cost less than that provided under the order, such milk would tend to displace producer milk. If other markets could dispose of their seasonal surplus in this market for Class I use, without an equalization payment, regular producer milk would be displaced in Class I use. The supply of milk for this market would be jeopardized, unstable market prices would prevail, and adequate production of milk for the market would be in doubt. These marketing conditions would be contrary to the purposes of the Agricultural Marketing Agreement Act. Therefore, an essential provision of this order is one that neutralizes the advantage created for unpriced other source milk, in order to insure the effectiveness of the classified pricing program and to promote orderly marketing of milk.

The Class II price under the recommended order represents the prevailing price for milk for manufacturing purposes. Similarly, the Class II price reflects the value of surplus milk in adjacent fluid milk markets which is disposed of through manufacturing plants. Thus, payment which reflects the difference between Class I and Class II prices will assure producers and fully regulated handlers that Class I milk disposed of in the marketing area will be priced the

same to all handlers as required by the Act.

A proposal was made at the hearing that handlers operating pool plants make payments into the producer-settlement fund on any amount of other source milk which, under the allocation procedure, was allocated to Class I disposition.

Payments would not apply to other source milk which originated under another order where such milk had been classified and priced as Class I milk. The standards used by the Secretary to establish Class I prices under other orders are those used to determine Class I prices under this order. Alignment of Class I prices under the orders can be achieved through adjustment of the prices as recommended herein rather than by assignment of equalization payments on such milk.

Payments should be made on other source milk received at a pool plant in the form of Class II milk products and allocated to Class I milk, such payments to be at the rate of the difference between the applicable Class I price and Class II price for the location of the pool plant. Similarly, payments should be made on other source milk not classified and priced as Class I milk under another Federal order which is received at a pool plant in the form of products specified in the Class I milk definition and which is allocated under this order to Class I milk. The rate of payment should be at the difference between the Class I and Class II price, subject to the location differential applicable at the nearest nonpool plants from which such other source milk is received.

Handlers asked in their exceptions that they be relieved of any compensatory payments on other source milk described in the immediately preceding paragraph when receipts of producer milk for the current month are less than 110 percent of the net Class I utilization of pool plants. They contend that a supply of producer milk less than 10 percent over the Class I needs of the market does not provide adequate reserves for meeting fluctuating Class I requirements. A provision in this form is adopted such that the exemption would apply when the ratio of producer receipts to Class I utilization is less than 105 percent. As previously mentioned, when the producer milk supply has equalled or exceeded 105 percent of the Class I disposition, it has not been necessary to procure other source milk for fluid needs.

The foregoing exemption does not apply to the payments required to be made by handlers operating nonpool plants on milk they distribute as Class I milk in the marketing area. The rate of payment on such milk would be the difference between the Class I price and Class II price at the location of the nonpool plant.

Exceptions in behalf of certain handlers who distribute milk in the proposed combined marketing area, but which do not have sales of sufficient volume in the area to qualify as pool plants, asked that exemption from all regulation under the order apply to any plant selling less than a thousand pounds daily or less

than 2 percent of the plant's approved milk as Class I milk in the marketing area.

Under the proposed order any plant from which the Class I milk disposition on routes in the marketing area is less than 10 percent of its total Class I milk route disposition would be exempted from the marketwide pool, unless, of course, it otherwise qualified as a shipping plant. The handler operating such nonpool plant would be required to make payments into the producer-settlement fund, however, with respect to his sales in the marketing area to the extent that such sales exceed his receipts of milk classified and priced as Class I milk under this or any other Federal order. Such payments would be at the rate per hundredweight which is the difference between the Class I price adjusted for location of the plant and the Class II price. These provisions are designed to achieve a substantially equitable situation between pool and nonpool handlers. Accordingly, there is no justification for the exemption requested.

(f) *Producer-settlement fund.* Provision for the establishment of the producer-settlement fund is necessary under the marketwide pooling arrangement adopted in the consolidated order. The producer-settlement fund, administered by the market administrator, is the repository for payments from handlers of the difference that the value of their milk according to utilization is greater than the amount required to be paid to producers or cooperative associations at the uniform price, payments on unpriced milk made by operators of nonpool plants, and adjustments of errors in previous payments. Payments are made to handlers from the producer-settlement fund, for distribution to producers through the uniform price, when the handlers' total value of milk according to utilization is less than the amount required to be paid to producers or cooperative associations, and for adjustments due to errors in payments.

Money should be retained in the producer-settlement fund to maintain a reserve to compensate for late payments, moneys due a handler on the basis of audit, and the fraction remaining from the computation of the uniform price to the nearest full cent. The maintenance of a reserve will facilitate the orderly operation of the pool. This reserve should be accumulated by deducting between 4 and 5 cents from the uniform price, after adding an amount equal to one-half of the unobligated balance to the pool from which the uniform price is computed.

Payments by handlers operating pool or nonpool plants should be made to the producer-settlement fund on or before the 12th day after the end of each month. Payments out of the producer-settlement fund to handlers operating pool plants should be made before the 13th day after the end of the month.

(g) *Base and excess plan.* The base and excess provisions presently in the two orders are the same as herein adopted with one exception. Base rules should be revised to provide for the establishment of bases for producers who deliver milk to a plant which first be-

comes regulated either during or after the base-forming months (September through February). Establishment of bases under this provision would depend on the operator of the new plant furnishing to the market administrator the necessary records for each producer.

Producers' representatives proposed that provision be made for bases for producers delivering to a plant operated by a cooperative association which obtained pooling status after the start of the base-forming period.

The purpose of a base-excess plan is to encourage more even production throughout the year in line with the seasonal requirements of Class I milk. This purpose will nevertheless be implemented by providing opportunity for the operator of a newly regulated plant to establish the seasonality of receipts and hence bases for each of his producers. However, the operator should be required to furnish the market administrator the necessary records to verify his receipts from each producer during the base-forming months. Without such a provision, as was pointed out by representatives of the cooperative association, producers delivering to newly regulated plants would receive excess prices for their milk during the months of April through July. The base rules have been so revised.

(h) *Administrative provisions.* The consolidated order is redrafted to incorporate new or revised language consistent with the order revisions, conforming and clarifying changes, and to facilitate application of various provisions.

The milk on which the expense of administration is charged should be revised to exclude milk under another order on which administrative assessment has been paid under another Federal order. Handlers regulated under the Knoxville Federal order proposed elimination of assessment under both orders for milk distributed in parts of the consolidated marketing area. The functions of the market administrator, for which the administrative assessment provides the necessary funds, are sufficiently performed under one Federal order and the resulting information can be made available to additional Federal orders if there is a need for such information regarding milk distributed in the various Federal order marketing areas. Therefore, milk distributed in this marketing area from another Federal order market and subject to the administrative assessment in the market where the milk is under full regulation is excluded from such assessment under this order.

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

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

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

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

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

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

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

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

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the

Appalachian marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of December 1960 is hereby determined to be the representative period for the conduct of such referendum.

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

Issued at Washington, D.C., this 9th day of February 1961.

ORVILLE L. FREEMAN,
Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Appalachian Marketing Area

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

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§ 923.0 Findings and determinations.

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

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

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

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

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

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe as follows:

(a) Each handler in his capacity as operator of a pool plant with respect to (1) all receipts of producer milk and receipts of milk from a cooperative association in its capacity as a handler pursuant to § 923.10(d), and (2) receipts of other source milk which are classified as Class I milk and not subject to administrative assessment under another Federal order: *Provided*, That if such handler elects two accounting periods within the month, the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period.

(b) Each handler operating a non-pool plant with respect to Class I milk disposed of during the month on routes in the marketing area from a nonpool plant except from a plant pursuant to § 923.61.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the Appalachian and Bluefield orders (Parts 923 and 1012) shall be merged under one order and the handling of milk in the consolidated marketing area, which shall be named "Appalachian Marketing Area", shall be in conformity to and in compliance with the terms and conditions of Order No. 23 as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 923.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Mar-

keting Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 923.2 Secretary.

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

§ 923.3 Department.

"Department" means the United States Department of Agriculture.

§ 923.4 Person.

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

§ 923.5 Cooperative association.

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

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

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

§ 923.6 Appalachian marketing area.

"Appalachian marketing area" herein-after called the marketing area, means all of the territory geographically located within the perimeters of the counties of Greene, Sullivan, and Washington in Tennessee; Tazewell, Washington, and Wise in Virginia; McDowell and Mercer in West Virginia; and Harlan in Kentucky.

§ 923.7 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or sale from a plant or plant store) of any milk or milk products classified as Class I milk pursuant to § 923.41(a) other than a delivery to a plant.

§ 923.8 Plant.

"Plant" means the land, buildings, surroundings, facilities and equipment whether owned and operated by one or more persons constituting a single operating unit or establishment at which milk or milk products are received and processed or packaged; *Provided*, That this definition shall not be deemed to include any separate building, premises or facilities the primary function of which is to hold or store packaged milk or milk products in finished form in transit on routes.

§ 923.9 Pool plant.

"Pool plant" means any plant except the plant of a producer-handler or a plant described in § 923.61:

(a) From which during the month:

(1) Total disposition of Class I milk is equal to not less than 50 percent of the milk approved or recognized by a duly constituted health authority for distribution within the marketing area which is received from dairy farmers

and from cooperative associations who deliver such milk to such plant in the manner described in § 923.10(d); and

(2) Disposition of Class I milk on routes in the marketing area is equal to not less than 10 percent of its total Class I milk disposition on routes both inside and outside the marketing area;

(b) From which milk or milk products approved or recognized by a duly constituted health authority for distribution within the marketing area in an amount equal to not less than 50 percent of its receipts of such milk or milk products from dairy farmers and from cooperative associations who deliver such milk to such plant in the manner described in § 923.10(d) are shipped as milk, skim milk or cream in fluid form to plants specified in paragraph (a) of this section: *Provided*, That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through March shall be a pool plant for the following months of April through July unless the operator of such plant files with the market administrator prior to the first day of any month of April through July a written request for nonpool status for such month; or

(c) Which is operated by a cooperative association, if the total pounds of milk, skim milk or cream approved or recognized by a duly constituted health authority for distribution within the marketing area which are transferred from such plant to pool plants qualified pursuant to paragraph (a) or (b) of this section and which are received at similarly qualified pool plants from producers who are members of the association are equal to not less than 70 percent of the pounds of Class I utilization at such other pool plants.

§ 923.10 Handler.

"Handler" means (a) any person in his capacity as the operator of a pool plant; (b) any person in his capacity as the operator of a nonpool plant from which Class I milk is disposed of on routes in the marketing area or from which milk, skim milk or cream in fluid form is shipped to a plant which disposes of Class I milk on routes in the marketing area; (c) any cooperative association of producers with respect to producer milk diverted by it from a pool plant to a nonpool plant; and (d) any cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, under contract to, or under control of such cooperative association, if the cooperative association, *prior to delivery*, furnished written notice to the market administrator and to the handler to whose plant the milk is delivered that it will be the handler for the milk. The milk so delivered shall be considered to have been received by such cooperative association at the location of the pool plant to which it is delivered.

§ 923.11 Producer.

"Producer" means any person except a producer-handler, who produces milk in compliance with the requirements of a duly constituted health authority for

distribution within the marketing area, which milk is (a) received at a pool plant, or (b) received by a cooperative association in its capacity as a handler pursuant to § 923.10(d), or (c) diverted from a pool plant to a nonpool plant other than a plant of a producer-handler; (1) Any day during the months of March through July, and (2) on not more than 15 days during any of the months of August through February: *Provided*, That the milk so diverted shall be deemed to have been received at the pool plant from which diverted if diverted for the account of the operator of such plant, or at the location of the pool plant from which diverted if diverted for the account of a cooperative association.

§ 923.12 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in (a) milk received at a pool plant directly from producers, (b) milk from producers diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 923.11(c), or (c) milk received by a cooperative association pursuant to § 923.10(d).

§ 923.13 Other source milk.

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

(a) Receipts during the month in the form of products designated as Class I milk pursuant to § 923.41(a) except (1) such products which are received from pool plants, (2) milk received from a cooperative association for which it is the handler pursuant to § 923.10(d), or (3) producer milk; and

(b) Products designated as Class II milk pursuant to § 923.41(b) (1) from any source (including those from a pool plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 923.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a plant from which Class I milk is disposed of on routes in the marketing area whose only source of supply for Class I milk is milk of his own production and products designated as Class I milk pursuant to § 923.41(a) from pool plants.

§ 923.15 Chicago butter price.

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

§ 923.16 Base milk.

"Base milk" means producer milk received from a producer during any of the months of April through July which is not in excess of such producer's base for the month computed pursuant to § 923.81.

§ 923.17 Excess milk.

"Excess milk" means either (a) producer milk received from a producer during the months of April through July which is in excess of base milk re-

ceived from such producer during the month, or (b) milk received during the month from a producer for whom no base can be computed pursuant to § 923.80.

MARKET ADMINISTRATOR

§ 923.20 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.

§ 923.21 Powers.

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

(a) Administer 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.

§ 923.22 Duties.

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

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

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer terms and provisions of this 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 § 923.98, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 923.97, that are necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

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

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

(g) Submit his books and records to examination by the Secretary and

furnish such information and reports as the Secretary may request;

(h) Prepare and disseminate to producers, handlers, and the public, information as he deems necessary;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so request in writing, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

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

(k) On or before the date specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following: (1) The 6th day of each month, the Class I milk price, and the Class I butterfat differential, both for the current month; and the Class II milk price, and the Class II butterfat differential; both for the preceding month; and (2) the 10th day of each month, the uniform price, or the uniform prices for base milk and excess milk and the producer butterfat differential, all for the preceding month.

REPORTS, RECORDS, AND FACILITIES

§ 923.30 Reports of receipts and utilization.

(a) On or before the 6th day after the end of each month, each handler shall report to the market administrator, for each of his pool plants and for each accounting period elected in such month, in the detail and on forms prescribed by the market administrator, as follows:

(1) The quantities of skim milk and butterfat contained in receipts of producer milk and the aggregate quantities of base milk and excess milk;

(2) The quantities of skim milk and butterfat contained in products designated as Class I milk pursuant to § 923.41(a)(1) received from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 923.10(d);

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

(4) The inventories of skim milk and butterfat in products designated as Class I milk pursuant to § 923.41(a) on hand at the beginning and end of the month;

(5) The utilization of all skim milk and butterfat required to be reported by this part, including a separate statement of the disposition of Class I milk outside the marketing area; and

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

(b) On or before the 6th day after the end of each month, each cooperative association, with respect to milk for which it is a handler pursuant to

§ 923.10 (c) or (d), shall report to the market administrator for such month, and for each accounting period elected in such month, in the detail and on forms prescribed by the market administrator, as follows:

(1) The quantities of skim milk and butterfat contained in receipts of producer milk; and

(2) The quantities of skim milk and butterfat contained in milk delivered to each pool plant and in the milk diverted to each nonpool plant.

(c) Each handler who submits reports on the basis of an accounting period of less than a month, as described in § 923.35, shall submit a summary report of the same information for the entire month.

§ 923.31 Other reports.

(a) Each producer-handler and each handler operating a nonpool plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler operating a pool plant shall report to the market administrator on or before the first day other source milk is received in the form of milk, fluid skim milk or cream at his pool plant, his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product.

§ 923.32 Payroll reports.

On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of milk for the preceding month for each of his pool plants which shall show: (a) The name and address of each producer, (b) the total pounds and the average butterfat test of milk received from such producer, including, for the months of April through July, the total pounds of base and excess milk, (c) the days on which milk was received from such producer if less than a full month, (d) the rate and net amount of payment to each producer, and (e) the amount and nature of any deductions or charges involved in such payments.

§ 923.33 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 data 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 milk, skim milk, cream, and other milk products handled;

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

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 923.34 Retention of records.

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

§ 923.35 Accounting periods.

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

CLASSIFICATION

§ 923.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to §§ 923.30 and 923.31 shall be classified each month by the market administrator, pursuant to the provisions of §§ 923.41 through 923.46.

§ 923.41 Classes of utilization.

Subject to the condition set forth in §§ 923.42, 923.43 and 923.44, the classes of utilization shall be as follows:

(a) *Class I milk*. Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream) and any mixture in fluid form of skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix, and eggnog); (2) not accounted for as Class II milk;

(b) *Class II milk*. Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in homogenized and chocolate milk disposed of for animal feed; (3) contained in (skim milk only) products disposed of for animal feed, other than those in (2) of this paragraph; (4) dumped (skim milk only) during the months of April, May, June or July; *Provided*, That the handler shall give the market administrator such advance notice of intention to dump as the market administrator may require; (5) con-

tained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (6) in shrinkage assigned to Class II pursuant to § 923.42.

§ 923.42 Shrinkage.

The market administrator shall determine for the pool plants of a handler the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk;

(b) Multiply the pounds of skim milk and butterfat in producer milk (except milk diverted pursuant to § 923.11(c)), milk received from a cooperative association pursuant to § 923.10(d), and other source milk by 0.02;

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk, respectively, classified pursuant to § 923.41(a) (1) and (2), and (b) (1), (2), (3) and (4) (excluding that in milk diverted pursuant to § 923.11(c) and shrinkage determined pursuant to paragraph (a) of this section) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to (1) producer milk, (2) milk received from a cooperative association pursuant to § 923.10(d), and (3) other source milk.

§ 923.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handlers who first received such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise; and

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

§ 923.44 Transfers.

Skim milk or butterfat shall be classified:

(a) As Class I milk if transferred from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 923.10(d) in the form of products designated as Class I milk in § 923.41(a) (1) to a pool plant of another handler unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 923.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of milk pursuant to § 923.46 (a) (1) through (8) and (b), and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I

utilization to the producer milk of both handlers;

(b) As Class I milk if transferred from a pool plant in the form of products as designated in § 923.41(a) to a producer-handler;

(c) As Class I milk if transferred or diverted in bulk form as milk or skim milk from a pool plant to a nonpool plant unless:

(1) Such nonpool plant is located not more than 200 miles from the City Hall in Bluefield, West Virginia, or from the city limits of Kingsport, Tennessee, such mileage to be the shortest highway distance as determined by the market administrator;

(2) The handler claims classification in Class II in his report;

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

(4) Not less than an equivalent amount of skim milk and butterfat, respectively, was actually used as Class II milk in such transferee plant: *Provided*, That the same Class II utilization of butterfat and skim milk, respectively, shall not be claimed for receipts from other pool plants under this or any other Federal order; and

(d) As Class I milk if transferred from a pool plant in bulk form as cream to a nonpool plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims classification in Class II in his report;

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

(4) Not less than an equivalent amount of skim milk and butterfat, respectively, was actually used as Class II milk in such transferee plant: *Provided*, That the same Class II utilization of butterfat and skim milk, respectively, shall not be claimed for receipts from other plants fully regulated under this or any other Federal order.

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

For each month, the market administrator shall correct for mathematical and for other obvious errors, the reports of receipts and utilization of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made has been removed before the product is received, utilized or disposed of by a handler, the pounds of skim milk to be accounted for as received, utilized or disposed of shall be the weight of the nonfat milk solids contained in the product, plus all of the water originally associated with such solids.

§ 923.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 923.45, the market administrator shall determine the classification of each handler's producer milk received at his pool plants as follows:

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

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 923.42(d);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in products classified and priced as Class I milk under the Knoxville, Tennessee, Federal milk order (Order No. 88) which were received in consumer packages and disposed of in the same packages as Class I milk;

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk pursuant to § 923.13(b): *Provided*, That if the receipts of skim milk in such other source milk are greater than the remaining pounds of skim milk in Class II milk, the amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk pursuant to § 923.13(a) received from nonpool plants and not subject to the classification and pricing provisions of another Federal order: *Provided*, That if the receipts of skim milk in such other source milk are greater than the remaining pounds of skim milk in Class II milk, the amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(5) Subtract from the remaining pounds of skim milk in Class II milk an amount equal to such remainder, or the product obtained by multiplying the the pounds of skim milk in producer milk and milk received from a cooperative association pursuant to § 923.10(d) by 0.05, whichever is less, whenever total producer receipts in the month, or preceding month, are less than 105 percent of net Class I milk utilization of all pool plants (including diverted milk) during the corresponding month.

(6) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk subject to the classification and pricing provisions of another Federal order and not subtracted pursuant to subparagraph (2) of this paragraph: *Provided*, That if the receipts of skim milk in such other source milk are greater than the remaining pounds of skim milk in Class II milk, the amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

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

(8) Subtract from the pounds of skim milk remaining in Class II milk, in excess of the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 923.41(a) (1) on hand at the end of the month, the pounds of skim milk in inventory of

such products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk utilization the difference shall be subtracted from the pounds of skim milk in Class I milk;

(9) Subtract from the remaining pounds of skim milk in each class the skim milk received from the pool plants of other handlers or from a cooperative association in its capacity as a handler pursuant to § 923.10(d) in the form of products designated as Class I milk in § 923.41(a)(1), according to its classification as determined pursuant to § 923.44(a);

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

(11) 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 series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

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

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 923.50 Basic formula price.

The highest of the prices computed pursuant to paragraph (a) or (b) of this section and § 923.51(b), rounded to the nearest whole cent, shall be the basic formula price.

(a) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department on or before the 5th day after the end of the month:

Present Operator and Location

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

add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price per hundredweight computed as follows: Multiply the Chicago butter price by 4.8 and add to such sum 3¾ cents for each full ½ cent that the average of carlot prices per pound of nonfat dry milk, spray and roller process, for human consumption, f.o.b. Chicago area manufacturing plants, as reported by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month, is above 5 cents.

§ 923.51 Class prices.

Subject to the provisions of §§ 923.52 and 923.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus \$1.66 during the months of March through July; and \$2.10 during all other months.

(b) *Class II milk price.* For the months of March through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph, and for all other months the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the month.

Company and Location

- Borden Co., Lewisburg, Tenn.
- Borden Co., Chester, S.C.
- Carnation Co., Galax, Va.
- Carnation Co., Murfreesboro, Tenn.
- Carnation Co., Statesville, N.C.
- Franklin Milk Co., Jonesboro, Tenn.
- Kraft Foods Co., Independence, Va.
- Kraft Foods Co., Greeneville, Tenn.
- Pet Milk Co., Greeneville, Tenn.
- Pet Milk Co., Abingdon, Va.

(2) Add the amounts obtained pursuant to subdivisions (i) and (ii) of this subparagraph, and subtract 75 cents therefrom.

(i) Multiply the Chicago butter price by 4.8;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk, 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.

§ 923.52 Butterfat differential to handlers.

For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 923.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the previous month by 0.12, and round to the nearest one-tenth cent.

(b) *Class II price.* Multiply the Chicago butter price for the previous month by 0.11, and round to the nearest one-tenth cent.

§ 923.53 Location differentials to handlers.

For that milk which is received from producers at a pool plant located 50 miles or more from the nearest of the following listed places, by shortest hard surfaced highway distance as determined by the market administrator and is

assigned to Class I milk the price specified in § 923.51(a) shall be reduced at the rate of 10 cents per hundredweight for a distance of not less than 50 miles but less than 60 miles, plus 1.5 cents per hundredweight additional for each 10 miles, or fraction thereof, beyond 60 miles, according to the location of the pool plant where such milk is received from producers;

- County Courthouse, Princeton, W. Va.
- City Hall, Bluefield, W. Va.
- City Hall, Welch, W. Va.
- City Limits, Kingsport, Tenn.
- City Hall, Harlan, Ky.

Provided, That for the purpose of calculating such location differentials, products so designated as Class I milk which are transferred between pool plants shall first be allotted to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 923.46(a) (1) through (8) and the comparable steps in § 923.46(b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat, respectively, contained in producer milk and milk from a cooperative association pursuant to § 923.10(d) received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 923.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 923.60 Producer-handlers.

Sections 923.50 through 923.54, 923.62, 923.70 through 923.73, 923.80 through 923.83, and 923.90 through 923.99 shall not apply to a producer-handler.

§ 923.61 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall be exempt from regulation under this order except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 923.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 923.9(a) which would be fully regulated under the provisions of another order issued pursuant to the Act unless the Secretary determines that a greater volume of Class I milk is disposed of from such plant on routes in the Appalachian marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 923.9 (b) or (c) which would be fully

regulated under the provisions of another order issued pursuant to the Act unless such plant was a pool plant pursuant to § 923.9 (b) or (c) for each month during the preceding August through March period.

§ 923.62 Payments on other source milk.

Each handler shall make payments on other source milk in the manner described in paragraphs (a) through (d): *Provided*, That such payments shall not apply pursuant to paragraphs (a), (b), and (c) if the receipts of producer milk for the current month are less than 105 percent of the net Class I utilization of pool plants for that month.

(a) Each handler operating a pool plant who received other source milk which is allocated to Class I pursuant to § 923.46 (a) (3) and (b), shall make payment on the quantity so allocated at the difference between the Class I price and the Class II price adjusted for butterfat content and location of his pool plant qualified pursuant to § 923.9(a);

(b) Each handler operating a pool plant who received other source milk which is allocated to Class I pursuant to § 923.46 (a) (4) and (b), shall make payment on the quantity so allocated at the difference between the Class I price, and the Class II price applicable at the nearest nonpool plant(s) from which an equivalent amount of such other source milk is received;

(c) Each handler operating a pool plant who received other source milk which is allocated to Class I milk pursuant to § 923.46 (a) (6) and (b) shall make payment on the amount so allocated which exceeds the milk so received and classified and priced as Class I milk under another Federal order, at the difference between the Class I price and the Class II price applicable at the location of the nearest Federal order plants (as determined by the applicable location differential rate) from which an equivalent amount of such other source milk was received; and

(d) Each handler operating a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the Act, shall, on or before the 12th day after the end of the month, make payment to the market administrator for deposit into the producer-settlement fund, on the quantity of skim milk and butterfat disposed of as Class I milk pursuant to § 923.41(a) from such nonpool plant on routes in the marketing area during the month, which is in excess of his receipts of skim milk and butterfat, respectively, classified and priced as Class I milk under this or any other Federal order, at the difference between the Class I price and the Class II price applicable at the location of such plant.

DETERMINATION OF UNIFORM PRICE

§ 923.70 Computation of the value of milk for each handler.

The net obligation of each handler for milk received at his pool plants and of any cooperative association with respect to milk for which it is a handler pursuant to § 923.10 (c) or (d) each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of producer milk in each class by the applicable class price and total the resulting amounts;

(b) Add any plus amounts computed by multiplying the pounds of average deducted from each class pursuant to § 923.46 (a) (11) and (b) by the applicable class price;

(c) Add the amount of any payment due from such handler pursuant to § 923.62 (a), (b), and (c);

(d) Add any plus amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month less allowable shrinkage allocated pursuant to § 923.46(a) (1) in such month, or the hundredweight of milk subtracted from Class I milk pursuant to § 923.46 (a) (8) and (b) for the current month, whichever is less;

(e) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of milk allocated to Class I pursuant to § 923.46 (a) (8) and (b) for the current month which is in excess of (1) the hundredweight of milk for which an adjustment was made pursuant to paragraph (d) of this section and (2) the hundredweight of milk assigned to Class II pursuant to § 923.46 (a) (6) and (b) for the previous month and which was classified and priced as Class I under another Federal order.

§ 923.71 Computation of the uniform price.

For each of the months of August through March, the market administrator shall compute the uniform price per hundredweight of producer milk of 4.0 percent butterfat content, f.o.b. basing points, as follows:

(a) Combine into one total the values computed pursuant to § 923.70 for the milk of all handlers who submit reports prescribed in § 923.30 and who are not in default of payments pursuant to § 923.90 or § 923.94;

(b) Add the total of the location differential deductions to be made pursuant to § 923.92;

(c) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 923.91, and multiply the result by the total hundredweight of such milk;

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

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

(f) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors

in reports and payments or delinquencies in payments by handlers.

§ 923.72 Computation of the uniform prices for base milk and for excess milk.

For each of the months of April through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, f.o.b. basing points, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 923.30, and who are not in default of payments pursuant to § 923.90 or § 923.94 as follows: (1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the price for Class II milk of 4.0 percent butterfat content, (2) multiply the remaining hundredweight quantity of excess milk by the price for Class I milk of 4.0 percent butterfat content, (3) add together the resulting amounts, and (4) add any amount indicated pursuant to the proviso of paragraph (d) of this section;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content, f.o.b. basing points;

(c) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section times the hundredweight of excess milk from the total value of producer milk for the month as determined by the procedure set forth in § 923.71 (a) through (d);

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations: *Provided*, That if such resulting value is greater than an amount computed by multiplying the pounds of such base milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (a) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated to the respective volume of base and excess milk; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content, f.o.b. basing points.

§ 923.73 Notification of handlers.

On or before the 10th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 923.30, at his last known address, a statement showing:

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

(b) For the months of April through July the amounts and value of his base and excess milk respectively, and the totals thereof;

(c) The uniform price(s) computed pursuant to §§ 923.71 and 923.72 and the butterfat differential computed pursuant to § 923.91; and

(d) The amounts to be paid by such handler pursuant to §§ 923.62, 923.94, 923.97, and 923.98 and the amount due such handler pursuant to § 923.95.

BASE RATING

§ 923.80 Determination of daily base.

The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received from such producer at all pool plants during the months beginning with September of the previous year through February of the current year by the number of days from the first day milk is received from such producer during said months to the last day of February, inclusive, but not less than 120 days.

§ 923.81 Computation of base.

The base of each producer to be applied during the months of April through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days such producer's milk was received by such handler during the month: *Provided*, That if the producer's milk was not received on a daily basis, the daily base shall be multiplied by the number of days during the month for which the milk production of such producer was received by such handler.

§ 923.82 Base rules.

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

(a) A base shall be assigned to each producer for whose account milk is received at a pool plant during the months beginning with September of the preceding year through February of the current year.

(b) A base may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be removed from one handler to another handler regulated under this part.

(c) The daily base of any producer whose milk was received at a plant which becomes first qualified as a pool plant after September 1, of the previous year shall be computed under § 923.80 on the

basis of such producer's deliveries to such plant during the months beginning with the September preceding the current year through February of the current year, if such records are made available to the market administrator.

§ 923.83 Announcement of established bases.

On or before April 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 923.90 Time and method of payment for producer milk.

(a) Except as provided in paragraph (b) and (c) of this section, each handler shall make payment to each producer for milk received during the month as follows: On or before the 15th day after the end of the month, an amount equal to not less than the applicable uniform price(s) adjusted by the butterfat and location differentials to producers, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(1) Less marketing service deductions made pursuant to § 923.97, and

(2) Less proper deductions authorized in writing by such producer;

(b) In the case of a cooperative association which has so requested the handler in writing, such handler shall, on or before the second day prior to the date payments are due to individual producers pursuant to paragraph (a) of this section, pay the association for milk received during the month from the producer-members of such association an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the second day prior to the date payments are due individual producers, each handler shall pay a cooperative association for milk received at his pool plant from such association for which the association is the handler not less than the value of such milk computed at the applicable minimum class prices for the location of the pool plant of the buying handler; and

(d) In making the payments to producers pursuant to paragraph (a) or (b) of this section, each handler shall furnish each producer from whom he had received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer, including, for the months in which base and ex-

cess prices apply, the pounds of base and excess milk;

(3) The minimum rate or rates at which payment to the producer or cooperative association is required pursuant to this part;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount payment to the producer or cooperative association.

§ 923.91 Butterfat differential to producers.

The applicable uniform prices to be paid each producer pursuant to § 923.90 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 923.46(b) by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 923.92 Location differential to producers.

In making payment to producers pursuant to § 923.90, the applicable uniform prices to be paid for producer milk received at a pool plant located 50 miles or more from the nearest of the following listed places by the shortest hard surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the following rate: County Courthouse, Princeton, West Virginia; City Hall, Bluefield, West Virginia; City Hall, Welch, West Virginia; City Limits of Kingsport, Tennessee; City Hall of Harlan, Kentucky:

<i>Distance in miles</i>	<i>Rate per hundredweight (cents)</i>
50 but less than 60.....	10
For each additional 10 miles (or fraction thereof) an additional.....	1.5

§ 923.93 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 923.62(d), 923.94, and 923.96 and out of which he shall make all payments pursuant to §§ 923.95 and 923.96: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 923.94 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which his obligation as computed pursuant to § 923.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 923.95 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which his obligation computed pursuant to § 923.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 923.96 Adjustment of errors in payment.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 923.94, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 923.95, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 923.90, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 923.97 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 923.90, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments, to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions computed for each producer.

§ 923.98 Expense of administration.

As his pro rata share of the expense of administration of this part each handler shall pay to the market administrator, on or before the 15th day after the end of the month, for such month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe as follows:

(a) Each handler in his capacity as operator of a pool plant with respect to (1) all receipts of producer milk and receipts of milk from a cooperative association in its capacity as a handler pursuant to § 923.10(d), and (2) receipts of other source milk which are classified as Class I milk and not subject to administrative assessment under another Federal order: *Provided*, That if such handler elects two accounting periods within the month, the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period.

(b) Each handler operating a non-pool plant with respect to Class I milk disposed of during the month on routes in the marketing area from a nonpool plant except from a plant pursuant to § 923.61.

§ 923.99 Termination of obligations.

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

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

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

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

the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful 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.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 923.100 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 § 923.101.

§ 923.101 Suspension or termination.

The Secretary may suspend or terminate this part or any provisions 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.

§ 923.102 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.

§ 923.103 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.

MISCELLANEOUS PROVISIONS

§ 923.110 Agents.

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

§ 923.111 Separability of provisions.

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

[F.R. Doc. 61-1335; Filed, Feb. 14, 1961; 8:53 a.m.]

[7 CFR Parts 949, 952, 998]

[Docket Nos. AO-232-A9; AO-256-A5; AO-259-A4]

MILK IN SAN ANTONIO, AUSTIN-WACO, AND CORPUS CHRISTI, TEXAS, MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure 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 agreements, and orders regulating the handling of milk in the San Antonio, Austin-Waco, and Corpus Christi, Texas, marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 3d 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 agreements and to the orders, were formulated, was conducted at San Antonio, Texas, on January 16, 1961, pursuant to notice thereof which was issued January 9, 1961 (26 F.R. 225).

The material issue on the record of the hearing relates to the Class II pricing provisions of the three orders.

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

Class II prices under the Austin-Waco and San Antonio, Texas, orders during the months of April, May and June

should be the higher of the present Class II butter-powder formula price, less 14 cents or a Cheddar cheese formula price (identical to that used to price Class II-A milk under the San Antonio order) and for all other months, the higher of the butter-powder formula price or the Cheddar cheese formula price. Class II prices under the Corpus Christi, Texas, order for the months of March, April, May and June should be the higher of the present order butter-powder formula price, less 12 cents or the Class II-A price (Cheddar cheese formula price) and for all the other months, the higher of the butter-powder formula price or the Class II-A price.

The Class II price under each of the three orders presently reflects prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butter-fat content received from dairy farmers at plants operated by the Carnation Company, Sulphur Springs, Texas, the Borden Company, Mount Pleasant, Texas, and Lamar Creamery Company, Paris, Texas. The average of these manufacturing plant pay prices is the Class II price for the months of March, April, May, and June under the Corpus Christi, Texas, order, and for the months of April, May, and June under the Austin-Waco and San Antonio, Texas, orders. During other months of the year the Class II price is the higher of the butter-powder formula price or the specified manufacturing plant prices.

Changes in the operation of these plants reporting prices paid dairy farmers for ungraded milk seriously impair their usefulness in the Class II pricing provisions of these orders. The Borden Company plant at Mount Pleasant, Texas, has ceased operation. The Lamar Creamery Company at Paris, Texas, no longer receives ungraded milk from dairy farmers. The volume of ungraded milk handled at the three manufacturing plants dropped from an average of 2.7 million pounds per month in 1957 to about 1.4 million pounds per month in 1959. While no volume figures were reported on the record for 1960 it is likely that the quantity of ungraded milk receipts decreased still further during the year, and with only one plant now operating such receipts will be still less in 1961.

Producer proponents contend that while they do not at this time question the appropriateness of the Class II prices provided by the respective orders in 1960, they are unwilling, and believe it inappropriate, to continue to have their Class II milk priced on the basis of a single plant's reported pay prices. They proposed therefore that the Class II price, during the specified flush months of production, be computed on the basis of the alternative butter-powder formula presently provided for pricing such milk in other months of the year less 14 cents in the case of the San Antonio and Austin-Waco orders and 12 cents in the case of the Corpus Christi order. They further proposed that a cheese formula price identical to that presently provided for pricing milk disposed of for Cheddar cheese (Class II-A) under the San Antonio and Corpus Christi orders be

the effective Class II price in each of the markets in any month in which such price exceeds the butter-powder formula price.

Producers' proposals would have provided the same Class II price level (\$3.266 under the Austin-Waco order and \$3.26 under the Corpus Christi and San Antonio orders) during 1960 as was in effect under each of the respective orders. In addition, they would also have provided Class II prices virtually identical with the actual Class II prices in effect in the years 1958 and 1959. Since they meet the objectives of providing a more representative basis for pricing Class II milk their adoption is appropriate.

The inclusion of the alternative cheese pricing formula (presently used in pricing Class II-A milk under the San Antonio and Corpus Christi orders) provides assurance to producers that the Class II price adequately reflects the supply-demand situation for milk for manufacturing uses on a national basis. While the Cheddar cheese pricing formula would not have established the Class II price in any month during the period 1956-1960 the price for milk processed into Cheddar cheese has strengthened significantly in the latter part of 1960. It is possible therefore, that in some future period such price may exceed a price computed on the basis of a butter-powder formula. Cheddar cheese is generally recognized as one of the residual use values for fluid milk and substantial volumes of producer milk in each of these markets from time to time have been disposed of for Cheddar cheese. Since facilities are available to each of the three respective markets for disposition of the surplus or reserve milk for Cheddar cheese there is no reason why the price for such milk should at any time be less than the price of milk utilized in Cheddar cheese.

Rulings on proposed findings and conclusions. No briefs were filed on behalf of interested parties.

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 orders 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 agreements and the orders, 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 areas, and the minimum prices specified in the proposed marketing agreements and the orders, 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 agreements and the orders, 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, marketing agreements upon which hearings have been held.

Recommended marketing agreements and orders amending the orders. The following orders amending the orders regulating the handling of milk in the San Antonio, Austin-Waco and Corpus Christi, Texas, marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended:

San Antonio, Texas, Order:

§ 949.52 [Amendment]

1. Delete paragraph (a) and substitute therefor the following:

(a) *Class II milk.* During April, May, and June, the price per hundredweight for Class II milk shall be the price computed pursuant to subparagraph (1) of this paragraph, less 14 cents or the price computed pursuant to paragraph (b) of this section, whichever is higher. During all other months, the Class II price shall be the price computed pursuant to subparagraph (1) of this paragraph or paragraph (b) of this section, whichever is higher.

(1) The sum of the amounts computed pursuant to subdivisions (i) and (ii) of this subparagraph, rounded to the nearest cent:

(i) Multiply by 4.4, 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 A (92-score) bulk creamery butter per pound at Chicago as reported by the United States Department of Agriculture during the month;

(ii) From the average of the carlot prices per pound of nonfat dry milk for human consumption spray process, f.o.b. manufacturing plants in the Chicago area as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the current month, subtract 5 cents and multiply by 8.16.

Austin-Waco Order:

1. Delete § 952.51 and substitute therefor the following:

§ 952.51 Class II milk.

Subject to provisions of § 952.52 the minimum price per hundredweight to be paid by each handler for producer milk received at his fluid milk plant and classified as Class II milk shall be the price computed pursuant to paragraph (a)

of this section, less 14 cents or the price computed pursuant to paragraph (b) of this section, whichever is higher, during April, May, and June; and for each of the other months, the price computed pursuant to paragraph (a) or paragraph (b) of this section, whichever is higher:

(a) The sum of the plus values computed as follows:

(1) Subtract 3 cents from the Chicago butter price, add 20 percent thereof, and multiply by 4.0.

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

(b) The price per hundredweight computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Chedders" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month and rounding to the nearest cent.

Corpus Christi, Texas, Order:

§ 998.50 [Amendment]

1. Delete paragraph (b) and substitute therefor the following:

(b) *Class II milk price.* The minimum price per hundredweight to be paid by each handler for producer milk received at his fluid milk plant and classified as Class II milk shall be the price computed pursuant to subparagraph (1) of this paragraph, less 12 cents or the price computed pursuant to paragraph (c) of this section, whichever is higher, for the months of March, April, May, and June; and for each of the other months, the price computed pursuant to subparagraph (1) of this paragraph or paragraph (c) of this section, whichever is higher:

(1) The sum of the plus values computed as follows:

(i) Subtract 3 cents from the Chicago butter price, add 20 percent thereof, and multiply by 4.0; and

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

Issued at Washington, D.C., this 10th day of February 1961.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 61-1337; Filed, Feb. 14, 1961; 8:53 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by the Upjohn Company, Kalamazoo, Michigan, proposing the issuance of a regulation to provide for the safe use of a combination of procaine penicillin, novobiocin, neomycin, dihydrostreptomycin, prednisolone, and chlorobutanol, suspended in 2 percent peanut oil with aluminum monostearate, intended for intramammary, intrauterine, otic, and dermal use in animals.

Dated: February 8, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 61-1303; Filed, Feb. 14, 1961; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-AN-22]

FEDERAL AIRWAYS, CONTROL AREAS AND REPORTING POINTS

Modification and Designation of Federal Airways, Associated Control Areas and Reporting Points

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601; §§ 600.6436, 600.6438, 600.6456, 601.6436, 601.6438, 601.6456, and 601.7001 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering the following actions:

1. VOR Federal airway No. 436 extends from the Kenai, Alaska, VOR via the Anchorage, Alaska, VOR to the intersection of the Anchorage VOR 347° True radial with the northeast course of the Skwentna, Alaska, radio range. It is proposed to modify this airway and its associated control areas by extending it southward from the Kenai VOR via the intersection of the Kenai VOR 217° and the Homer, Alaska, VOR 269° True radials; intersection of the Homer VOR 269° True radial and the direct radial between the Anchorage VOR and a VOR to be installed approximately June 15, 1961, in the vicinity of King Salmon, Alaska, at latitude 58°43'31" N, longitude 156°45'00" W., to the King Salmon VOR, including an east alternate from the Kenai VOR to the intersection of the

Kenai VOR 217° and the Homer VOR 269° True radials via the Homer VOR, including the area within 16 miles either side of the centerline at and above 24,000 feet MSL. The portion of this airway which would coincide with the Anchorage, Alaska, (Elmendorf AFB) Restricted Area/Military Climb Corridor (R-2201) would be used only after obtaining prior approval from the controlling agency.

2. VOR Federal airway No. 438 extends from the intersection of the southeast course of the Kenai, Alaska, radio range with the Anchorage, Alaska, VOR 199° True radial (Skilak Intersection) via the Anchorage VOR, to the Talkeetna, Alaska, radio beacon. It is proposed to modify this airway and its associated control areas by redesignating and extending it from the Anchorage VOR via the intersection of the Anchorage VOR 198° and the Homer, Alaska, VOR 027° True radials to the Homer VOR; thence direct to the Shuyak, Alaska, radio beacon, including the area within 16 miles either side of the centerline at and above 24,000 feet MSL. The portion of this airway which would coincide with the Eagle River, Alaska, Restricted Area (R-2203) would be excluded. The portion of this airway which would coincide with the Anchorage, Alaska (Elmendorf AFB) Restricted Area/Military Climb Corridor (R-2201) would be used only after obtaining prior approval from the controlling agency.

3. VOR Federal airway No. 456 extends from the intersection of the west course of the Kenai, Alaska, radio range with the Anchorage, Alaska, VOR 241° True radial to the Anchorage VOR. It is proposed to modify this airway and its associated control areas by redesignating it direct from the King Salmon, Alaska, VOR to the Anchorage VOR, including the area within 16 miles either side of the centerline at and above 24,000 feet MSL. The portion of this airway which would coincide with the Anchorage, Alaska (Elmendorf AFB), Restricted Area/Military Climb Corridor (R-2201) would be used only after obtaining prior approval from the controlling agency.

4. It is proposed to designate VOR Federal airway No. 506, and its associated control areas, from a VOR to be installed approximately May 15, 1961, in the vicinity of Bethel, Alaska, at latitude 60°-47'08" N., longitude 161°49'20" W., direct to the King Salmon, Alaska, VOR, including the area within 16 miles either side of the centerline at and above 24,000 feet MSL.

5. It is proposed to designate VOR Federal airway No. 508, and its associated control areas, from the Kenai, Alaska, VOR direct to the Middleton Island, Alaska, VOR, including the area within 16 miles either side of the centerline at and above 24,000 feet MSL, excluding the portion which would coincide with the Middleton Island, Alaska, Warning Area (W-533).

6. It is also proposed to amend § 601.7001, Domestic VOR Reporting Points, as follows:

Add:

"Bethel, Alaska, VOR."

"Chinitna Intersection: The intersection of the Kenai, Alaska, VOR 217° and the Homer, Alaska, VOR 269° True radials."

"Copper Intersection: The intersection of the Homer, Alaska, VOR 269° True radial and the King Salmon, Alaska, VOR to the Anchorage, Alaska, VOR direct radial."

"Harriet Intersection: The intersection of the Homer, Alaska, VOR 330° True radial and the King Salmon, Alaska, VOR to the Anchorage, Alaska, VOR direct radial."

"Homer, Alaska, VOR."

"Inlet Intersection: The intersection of the Kenai, Alaska, VOR 345° True radial and the King Salmon, Alaska, VOR to the Anchorage, Alaska, VOR direct radial."

"Kenai, Alaska, VOR."

"King Salmon, Alaska, VOR."

"Ninlichik Intersection: The intersection of the Kenai, Alaska, VOR 217° and the Homer, Alaska, VOR 330° True radials."

"Seward Intersection: The intersection of the Anchorage, Alaska, VOR 163° True radial and the Kenai, Alaska, VOR to the Middleton Island, Alaska, VOR direct radial."

"Shoal Intersection: The intersection of the Kenai, Alaska, VOR 026° True radial and the King Salmon, Alaska, VOR to the Anchorage, Alaska, VOR direct radial."

Amend to read:

Skilak Intersection: "The intersection of the Anchorage, Alaska, VOR 198°, the Homer, Alaska, VOR 027° True radials and the Kenai, Alaska, VOR to the Middleton Island, Alaska, VOR direct radial."

Delete: Redoubt Bay Intersection.

The VOR airways as proposed, with the exception of a segment of Victor 456 and Victor 436 east alternate, would coincide with or closely parallel portions of the present L/MF airway structure. The proposed airways would provide navigational guidance for VOR equipped aircraft operating along these airways. Civil turbojet aircarrier flights operate above 24,000 feet MSL, and while within control areas, are provided an additional traffic service which consists in part of radar vectors around other observed traffic. Because of operating characteristics at high altitudes, these high-speed flights cannot be contained within 10-mile wide airways and therefore cannot take full advantage of the additional traffic service. Extension of the airway width to 16 miles either side of the centerline at and above 24,000 feet MSL would provide control area protection for civil turbojet aircarrier operations on these airways. The caption of §§ 600.6436 and 601.6436 would be modified by the substitution of Peters, Alaska, for Talkeetna, Alaska, to more accurately describe the northern terminus of Victor 436.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five 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 Air Traffic Management Field Division Chief, 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 Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 8, 1961.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 61-1287; Filed, Feb. 14, 1961; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-NY-152]

FEDERAL AIRWAYS, CONTROL AREAS
AND REPORTING POINTS

Revocation

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

Blue Federal airway No. 23 extends from Norfolk, Va., to Chincoteague, Va. The Federal Aviation Agency is considering revoking Blue 23. It is the policy of this agency to revoke L/MF airways whenever adequate VOR airways are available, and it appears that the route from Norfolk to Chincoteague is adequately served by VOR Federal airways No. 139 and No. 1. In addition, the Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1959, through June 30, 1960, shows a maximum of five aircraft movements on Blue 23. Therefore, it appears that the retention of this airway is unjustified as an assignment of airspace. Accordingly, the Federal Aviation Agency proposes to revoke Blue 23 and its associated control areas from Norfolk to Chincoteague. Adoption of this proposal would not necessarily result in discontinuance of the low frequency navigation aids associated with Blue 23. Any proposals to discontinue one or more of these aids would be processed in accordance with current Agency procedures. In addition, § 601.4623, relating to reporting points on Blue 23, would be revoked.

Interested persons may submit such written data, views or arguments as they

may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five 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 Air Traffic Management Division Chief, 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 Air Traffic Management Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 8, 1961.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 61-1288; Filed, Feb. 14, 1961;
8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-NY-153]

FEDERAL AIRWAYS, CONTROL AREAS AND REPORTING POINTS

Revocation

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

Blue Federal airway No. 45 extends from Montpelier, Vt., to Newport, Vt. The Federal Aviation Agency is considering revoking Blue 45. It is the policy of the Agency to revoke L/MF airways wherever adequate VOR airways are available, and it appears that the route from Montpelier to Newport would be adequately served by VOR Federal airway No. 447. In addition, the Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1959, through June 30, 1960, shows no aircraft movements on this airway. Therefore, it appears that the retention of this airway is unjustified as an assignment of airspace. Accordingly, the Federal Aviation Agency proposes to revoke Blue 45 and its associated control areas. Adoption of this proposal would not necessarily result in discontinuance of the

low frequency navigational aids associated with Blue 45. Any proposals to discontinue one or more of these aids would be processed in accordance with current Agency procedures. In addition § 601.4645 relating to reporting points on Blue 45 would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five 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 Air Traffic Management Division Chief, 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 Air Traffic Management Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 8, 1961.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 61-1289; Filed, Feb. 14, 1961;
8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-HO-5]

FEDERAL AIRWAY AND REPORTING POINTS

Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 600.287 and 601.4287 of the regulations of the Administrator, the substance of which is stated below.

Red Federal airway No. 87 (Hawaiian Islands) presently extends from the intersection of the northwest course of the Port Allen, Hawaii, radio range and a point 100 miles northwest of the Port Allen radio range station via the Port Allen radio range station; the intersection of the southeast course of the Port Allen radio range and the west course of

the Honolulu, Hawaii, radio range; Honolulu radio range station; Maui, Hawaii, radio range station; the intersection of the southeast course of the Maui radio range and the north course of the Hilo, radio range; Hilo radio range station to the intersection of the east course of the Hilo radio range and the southeast course of the Maui radio range. The portion of this airway at 5,000 feet MSL and below which lies within the Bonham, T.H., restricted area and warning area (R-509 and W-510) are excluded.

The Federal Aviation Agency has under consideration the alteration of Red Federal airway No. 87 (Hawaii) as follows:

1. Realign Red 87 from the intersection of the 288° True bearing from the Port Allen, Hawaii, radio beacon with longitude 161°15'00" W., via the Port Allen radio beacon; intersection of the 130° True bearing from the Port Allen radio beacon and the 261° True bearing from the Honolulu, Hawaii, radio range; the Honolulu radio range station; Maui, Hawaii, radio range station; intersection of the southeast course of the Maui radio range and the north course of the Hilo, Hawaii, radio range, to the Hilo radio range station.

2. Revoke the segment of R-87 from the Hilo radio range to the intersection of the east course of the Hilo radio range and the southeast course of the Maui radio range. Concurrently with this action, revoke the reporting point designated at the intersection of the east course of the Hilo radio range and the southeast course of the Maui radio range.

3. Redesignate the reporting points associated with Red 87 as follows:

The intersection of the 288° True bearing from the Port Allen, Hawaii, radio beacon with longitude 161°15'00" W.; Port Allen radio beacon; intersection of the 130° True bearing from the Port Allen radio beacon and the 261° True bearing from the Honolulu, Hawaii, radio range; Honolulu radio range station; Maui radio range station; intersection of the southeast course of the Maui radio range and the north course of the Hilo, Hawaii, radio range; Hilo radio range station.

These alterations would facilitate air traffic management by providing a realigned route which would more closely coincide with the Hawaiian VOR airway structure. The control areas associated with Red 87 are so designated that they would automatically conform with the modified airway. Therefore, no amendment relating to the associated control areas would be necessary.

A Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1959, through June 30, 1960, shows that there were no aircraft movements on the segment of Red 87 from the Hilo radio range station to the intersection of the east course of the Hilo radio range and the southeast course of the Maui radio range. On the basis of the survey, it appears that the retention of this segment of Red 87 is unjustified as an assignment of airspace and the revocation thereof would be in the public interest.

If these actions are taken, Red Federal airway No. 87 (Hawaii) would be modified by realigning it from the intersection of the 288° True bearing from the Port Allen radio beacon with longitude 161°15'00" W., via the Port Allen radio beacon; intersection of the 130° True bearing from the Port Allen radio beacon and the 261° True bearing from the Honolulu, Hawaii, radio range; Honolulu radio range station; Maui, Hawaii, radio range station; intersection of the southeast course of the Maui radio range and the north course of the Hilo, Hawaii, radio range, to the Hilo radio range station. The portions of this airway at 5,000 feet MSL and below which coincide with Bonham One, Hawaii, Restricted Area (R-509) and Bonham Two, Hawaii, Warning Area (W-510) are excluded.

The segment of Red 87 from the Hilo radio range station, to the intersection of the east course of the Hilo radio range and the southeast course of the Maui radio range, would be revoked. Also, the reporting point designated at the intersection of the east course of the Hilo radio range and the southeast course of the Maui radio range would be revoked.

In addition, the reporting points associated with Red 87 would be redesignated as follows:

The intersection of the 288° True bearing from the Port Allen, Hawaii, radio beacon and longitude 161°15'00" W.; Port Allen radio beacon; the intersection from the Port Allen 130° True bearing and the 261° True bearing from the Honolulu, Hawaii, radio range; Honolulu, Hawaii, radio range station; Maui radio range station; the intersection of the southeast course of the Maui radio range and the north course of the Hilo, Hawaii, radio range; the Hilo radio range station.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 4009, Honolulu 12, Hawaii. All communications received within forty-five 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 Air Traffic Management Field Division Chief, 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 Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 8, 1961.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 61-1290; Filed, Feb. 14, 1961; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-WA-185]

FEDERAL AIRWAYS AND REPORTING POINTS

Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 600.19, 600.113, and 601.4019 of the regulations of the Administrator, the substance of which is stated below.

Green Federal airway No. 9 (Hawaiian Islands) presently extends from the intersection of the west course of the Honolulu, Hawaii, radio range and the south course of the Port Allen, Hawaii, radio range, via the Honolulu radio range station to the intersection of the northeast course of the Honolulu radio range with longitude 155°46'00" W.

Amber Federal airway No. 13 (Hawaiian Islands) presently extends from the intersection of south course of the Port Allen radio range and a line bearing 246° True from the Honolulu, Hawaii, radio range to the Port Allen, Hawaii, radio range station.

The Federal Aviation Agency has under consideration the alteration of these airways as follows:

1. Realign Green 9 from the intersection of the 180° True bearing from the Port Allen, Hawaii, radio beacon and the 261° True bearing from the Honolulu, Hawaii, radio range; via the Honolulu radio range station; to the intersection of 058° True bearing from the Honolulu radio range and the 011° True bearing from the Maui, Hawaii, radio range. In addition, redesignate the following reporting points associated with Green 9: the intersection of the 180° True bearing from the Port Allen, Hawaii, radio beacon and the 261° True bearing from the Honolulu, Hawaii, radio range; intersection of the 261° True bearing from the Honolulu radio range and the 222° True bearing from the Kahuku Point, Hawaii, radio beacon; Honolulu radio range station; the intersection of the 058° True bearing from the Honolulu radio range and the 011° True bearing from the Maui, Hawaii, radio range.

2. Realign Amber 13 from the Port Allen, Hawaii, radio beacon via the intersection of the 145° True bearing from

the Port Allen radio beacon and the 253° True bearing from the Makapuu Point, Hawaii, radio beacon, to the Makapuu Point radio beacon.

The control areas associated with Green 9 and Amber 13 are so designated that they would automatically conform to the modified airways. Therefore, no amendments relating to these control areas would be necessary. These alterations would facilitate air traffic management by providing realigned routes which would more closely coincide with the Hawaiian VOR airway structure.

If these actions are taken, the following modifications would be accomplished:

1. Green Federal airway No. 9 (Hawaii) would be realigned from the intersection of the 180° True bearing from the Port Allen, Hawaii, radio beacon and the 261° True bearing from the Honolulu, Hawaii, radio range, via the Honolulu radio range station, to the intersection of the 058° True bearing from the Honolulu radio range and the 011° True bearing from the Maui, Hawaii, radio range.

2. The reporting points associated with Green 9 would be redesignated as follows:

The intersection of the 180° True bearing from the Port Allen radio beacon and the 261° True bearing from the Honolulu radio range; intersection of the 261° True bearing from the Honolulu radio range and the 222° True bearing from the Kahuku Point, Hawaii, radio beacon; Honolulu radio range station; the intersection of the 058° True bearing from the Honolulu radio range and the 011° True bearing from the Maui, Hawaii, radio range.

3. Amber Federal airway No. 13 (Hawaii) would be realigned from the Port Allen, Hawaii, radio beacon, via the intersection of the 145° True bearing from the Port Allen radio beacon and the 253° True bearing from the Makapuu Point, Hawaii, radio beacon; to the Makapuu Point radio beacon.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 4009, Honolulu 12, Hawaii. All communications received within forty-five 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 Air Traffic Management Field Division Chief, 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.

PROPOSED RULE MAKING

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 Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on February 8, 1961.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 61-1291; Filed, Feb. 14, 1961;
8:46 a.m.]

Notices

DEPARTMENT OF STATE

[Public Notice 182]

[Delegation of Authority No. 85-10]

DELEGATION OF FUNCTIONS UNDER MUTUAL SECURITY ACT OF 1954 AND CERTAIN RELATED ACTS

By virtue of the authority vested in me by the Mutual Security Act of 1954 (68 Stat. 832), Executive Order No. 10893 (25 F.R. 220), Executive Order No. 10900 (26 F.R. 143), and section 4 of the Act of May 26, 1949 (63 Stat. 111), it is ordered as follows:

SECTION 1. Functions relating to the Mutual Security Act of 1954. (a) The Under Secretary of State for Economic Affairs shall, on behalf of the Secretary of State, carry out the following functions:

(1) The function vested in the Secretary of State by section 523(c) of the Mutual Security Act of 1954 of providing continuous supervision and general direction of the assistance programs authorized by that Act, including but not limited to determining whether there shall be a military assistance program for a country and the value thereof.

(2) The function vested in the Secretary of State by section 301 of Executive Order No. 10893 of directing and controlling certain functions and entities, including the International Cooperation Administration, and the function of coordinating the functions of that agency with the other affairs of the Department of State.

(3) So much of the functions vested in the Secretary of State by section 101(a) of Executive Order No. 10893 and section 205(a) of the Mutual Security Act of 1954 as relate to directing and supervising the Development Loan Fund and to furnishing foreign policy guidance to the Board of Directors thereof, respectively.

(4) So much of the functions vested in the Secretary of State by sections 101(a) and 301(2) of Executive Order No. 10893 as relate to the Mutual Defense Assistance Control Act of 1951, including the functions vested by that Act in the Administrator created by that Act.

(5) The function vested in the Secretary of State by section 527(d) of the Mutual Security Act of 1954 with regard to the appointment of alien clerks and employees.

(6) All other functions vested in the Secretary of State and the Department of State by sections 101, 102(b), 106, 107, 109(b), 301(2), and 302(b) of Executive Order No. 10893.

(b) The Under Secretary of State for Economic Affairs or, in his absence, disability, or if he is on leave, such person as he shall designate, is designated Chairman and Member of the Board of Directors of the Development Loan Fund, under section 205(a) of the Mutual Security

Act of 1954, and shall carry out the functions related thereto.

(c) The Under Secretary of State for Economic Affairs is designated the officer to whom the Inspector General and Comptroller shall be responsible under section 533A(a) of the Mutual Security Act of 1954, and who may vest other duties in the Inspector General and Comptroller under section 533A(c) (10) of that Act.

(d) The Under Secretary of State for Economic Affairs shall carry out the functions vested in the Department of State by section 107 of Executive Order No. 10893 with respect to the conduct of certain studies.

(e) Under the direction and supervision of the Under Secretary of State for Economic Affairs, the bureaus and offices concerned within the Department of State, other than the International Cooperation Administration, shall, except as may be inconsistent with this Delegation of Authority or unless otherwise directed by appropriate authority, continue to exercise those functions under the Mutual Security Act of 1954 which they were authorized to exercise as of November 7, 1960, by the applicable provisions of the Organization Manual of the Department of State.

SEC. 2. Functions relating to the Agricultural Trade Development and Assistance Act of 1954. The Under Secretary of State for Economic Affairs shall, on behalf of the Secretary of State, carry out the following functions:

(1) The function vested in the Secretary of State by section 3(b) of Executive Order No. 10900 of insuring that all functions under the Agricultural Trade Development and Assistance Act of 1954 are carried out consistent with the foreign policy of the United States.

(2) The functions vested in the Secretary of State by section 2 of Executive Order No. 10900 with respect to title II of the Agricultural Trade Development and Assistance Act of 1954.

(3) The function which the Department of State is authorized to carry out by section 4(a)(1) of Executive Order No. 10900 of allocating or transferring foreign currencies to the Development Loan Fund.

(4) The function vested in the Department of State by section 4(d)(3) of Executive Order No. 10900 relating to foreign currencies generated to carry out the purposes of section 104(c) of the Agricultural Trade Development and Assistance Act of 1954.

(5) The function vested in the Department of State by section 4(d)(4) of Executive Order No. 10900 of carrying out the purposes of sections 104(d) and 104(e) of the Agricultural Trade Development and Assistance Act of 1954 except to the extent that section 104(e) pertains to the loans referred to in section 4(d)(5) of Executive Order No. 10900.

(6) The functions conferred upon the Department of State and the Secretary of State by sections 4(d)(7)(i) and 4(d)(7)(ii), respectively, of Executive Order No. 10900 relating to foreign currencies available to carry out the purposes of section 164(g) of the Agricultural Trade Development and Assistance Act of 1954.

(7) The function conferred upon the Secretary of State by section 4(d)(7)(iii) of Executive Order No. 10900 of supervising and directing the Development Loan Fund with respect to that order.

Sec. 3. Reallocation of funds. Subject to the authorities of the Under Secretary of State for Economic Affairs provided for in this Delegation of Authority, there are hereby reallocated to the Director of the International Cooperation Administration the funds allocated to the Secretary of State by section 109(a)(1) of Executive Order No. 10893.

Sec. 4. Redelgation of functions. (a) The Under Secretary of State for Economic Affairs may, to the extent consistent with law, delegate or assign any of the functions delegated or assigned to him by this Delegation of Authority to subordinate officers of the Department of State, including the Director of the International Cooperation Administration, and may authorize such officers to whom functions are so delegated or assigned successively to redelegate or reassign any of such functions.

(b) The Under Secretary of State for Economic Affairs may authorize the Director of the International Cooperation Administration or his designees to promulgate from time to time, to the extent consistent with law, such rules and regulations as may be necessary and proper to carry out any functions of the International Cooperation Administration or the Director or agencies, officers, or employees thereof.

Sec. 5. Successorship. Except as may be otherwise provided from time to time by the Under Secretary of State for Economic Affairs and consistent with law, the International Cooperation Administration and the Director thereof shall be deemed to be the successors of the Foreign Operations Administration and the Director thereof, respectively, with respect to all functions delegated to the International Cooperation Administration or the Director thereof by the Under Secretary of State for Economic Affairs.

SEC. 6. Reservation of functions. There are hereby excluded from the functions delegated by the foregoing provisions of this Delegation of Authority the functions of negotiating, entering into, and terminating international agreements under the Mutual Security Act of 1954, the Mutual Defense Assistance Control Act of 1951, and the

Agricultural Trade Development and Assistance Act of 1954.

SEC. 7. *General provisions.* (a) This Delegation of Authority shall become effective immediately upon the date of signature.

(b) Any reference in this Delegation of Authority to any Act or order shall be deemed to be a reference to such Act or order as amended from time to time.

(c) This Delegation of Authority supersedes Delegation of Authority No. 85 of June 30, 1955, as amended by Delegations of Authority No. 85-1 through 85-8, and the Interim Authorization of January 7, 1961: *Provided*, That, except as may be expressly provided to the contrary in this Delegation of Authority, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this Delegation of Authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this Delegation of Authority shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

DEAN RUSK,
Secretary of State.

FEBRUARY 2, 1961.

[F.R. Doc. 61-1310; Filed, Feb. 14, 1961;
8:49 a.m.]

[Public Notice 183]

[Redelegation of Authority No. 85-10A]

REDELEGATION OF FUNCTIONS UNDER MUTUAL SECURITY ACT OF 1954 AND CERTAIN RELATED ACTS

By virtue of the authority vested in me by Delegation of Authority No. 85-10, entitled "Delegation of Functions under Mutual Security Act of 1954 and Certain Related Acts", it is ordered as follows:

SECTION 1. *International Cooperation Administration.* (a) Exclusive of functions otherwise redelegated, or excluded from redelegation, by this Redelegation of Authority, there are hereby redelegated to the Director of the International Cooperation Administration all functions conferred upon the Under Secretary of State for Economic Affairs by Delegation of Authority No. 85-10.

(b) The Director of the International Cooperation Administration is authorized to promulgate from time to time, to the extent consistent with law, such rules and regulations as may be necessary and proper to carry out any functions of the International Cooperation Administration or the Director or agencies, officers, or employees thereof.

(c) The Office of Small Business and the functions vested in it by law shall be in the International Cooperation Administration.

SEC. 2. *Assistant Secretary of State for Economic Affairs.* In the absence or the disability of the Under Secretary of State for Economic Affairs, or if he is on leave, the Assistant Secretary of State for Economic Affairs, or in the event of

his absence, disability, or being on leave, the individual acting as such, is designated Chairman and Member of the Board of Directors of the Development Loan Fund, and shall carry out the functions related thereto.

SEC. 3. *Employment of personnel.* The Director of the International Cooperation Administration and the Secretary of Defense are authorized to perform any of the functions specified in section 527(c) (1) of the Mutual Security Act of 1954 to the extent that they relate to other functions under that Act administered by the International Cooperation Administration and the Department of Defense, respectively.

SEC. 4. *Consultation.* The Director of the International Cooperation Administration and the Managing Director of the Development Loan Fund shall each consult with the National Advisory Council on International Monetary and Financial Problems in respect of policies relating to assistance to be furnished on terms of repayment by the International Cooperation Administration and the Development Loan Fund, respectively.

SEC. 5. *Allocation of funds.* The Director of the International Cooperation Administration and the officers concerned within the Department of State are authorized to allocate or transfer, as appropriate, their respective funds to any agency, or part thereof, for obligation or expenditure thereby consistent with applicable law, subject, however, to the provisions of section 110(2) of Executive Order No. 10893.

SEC. 6. *Reservation of functions.* (a) There are hereby excluded from the functions redelegated by the foregoing provisions of this Redelegation of Authority:

(1) The function of providing continuous supervision and general direction of the assistance programs authorized by the Mutual Security Act of 1954, including but not limited to determining whether there shall be a military assistance program for a country and the value thereof.

(2) The functions of directing and controlling the International Cooperation Administration and of coordinating the functions of that agency with the other affairs of the Department of State.

(3) The functions of directing and supervising the Development Loan Fund and of furnishing foreign policy guidance of the Board of Directors thereof.

(4) The functions vested by the Mutual Defense Assistance Control Act of 1951 in the Administrator created by that Act and the functions vested in the President by the second proviso in section 103(b) of that Act.

(5) The function of insuring that all functions, however vested, delegated, or assigned, under the Mutual Security Act of 1954, relevant provisions of Acts appropriating funds under that Act, the Mutual Defense Assistance Control Act of 1951, the United States Information and Educational Exchange Act of 1948, and the Agricultural Trade Development and Assistance Act of 1954 are carried out consistent with the foreign policy of the United States.

(6) The function of supervising and directing the Development Loan Fund with respect to Executive Order No. 10900.

(7) The function of directing and supervising the bureaus and offices concerned within the Department of State, other than the International Cooperation Administration.

(8) The functions of making determinations under sections 2(f), 105(b)(4), 143, 202(c), 407, and 510 of the Mutual Security Act of 1954 and under section 108 of the Mutual Security and Related Agencies Appropriation Act, 1961.

(9) The function of making and transmitting reports under sections 2(f) and 513 of the Mutual Security Act of 1954 and under sections 101(a) and 101(b) of the Mutual Security and Related Agencies Appropriation Act, 1961.

(10) The function of approving the maintenance of special missions or staffs abroad and related matters provided for by section 101(d) of Executive Order No. 10893.

(11) The function of consulting with the National Advisory Council on International Monetary and Financial Problems in respect of policies relating to assistance to be furnished on terms of repayment by the offices and bureaus concerned within the Department of State, other than the International Cooperation Administration, and by the Department of Defense.

(12) The function of authorizing any agency to perform functions under section 527(c)(1) of the Mutual Security Act of 1954.

(13) The function provided for by section 407 of the Mutual Security Act of 1954 relating to a report concerning Palestine refugees in the Near East.

(14) The functions provided for by section 107 of Executive Order No. 10893 relating to the conduct of certain studies.

(15) The function provided for by section 502(c) of the Mutual Security Act of 1954 relating to a program to preserve the cultural monuments of the Upper Nile.

(16) The function of determining the personnel necessary in the Department of State, other than the International Cooperation Administration, provided for by section 527(a) of the Mutual Security Act of 1954.

(b) The Under Secretary of State for Economic Affairs shall:

(1) Determine the number of personnel in the operating agencies to be compensated at the rates authorized by section 527(b) of the Mutual Security Act of 1954.

(2) Allocate among the offices and bureaus concerned within the Department of State, including the International Cooperation Administration, the offices established by section 101(d) of Reorganization Plan No. 7 of 1953.

(3) Approve the amount of funds to be used by the operating agencies for the purposes authorized by sections 537(a)(6) and 537(a)(8) of the Mutual Security Act of 1954.

(4) Approve any agreement, or resolve and disagreement, between the International Cooperation Administration and the Development Loan Fund with regard to their respective use of foreign curren-

cies under section 104(g) of the Agricultural Trade Development and Assistance Act of 1954.

SEC. 7. Successive delegation of functions. Any officer to whom functions are delegated or assigned by this Redelegation of Authority may, to the extent consistent with law, delegate or assign any such functions to his subordinates and authorize any of his subordinates to whom functions are so delegated or assigned successively to redelegate or reassign any of such functions.

SEC. 8. General provisions. (a) This Redelegation of Authority shall become effective immediately upon the date of signature.

(b) Any reference in this Redelegation of Authority to any Act or order shall be deemed to be a reference to such Act or order as amended from time to time.

(c) This Redelegation of Authority supersedes Redelegation of Authority No. 85-9 of April 12, 1960: *Provided*, That, except as may be expressly provided to the contrary in this Redelegation of Authority, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this Redelegation of Authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this Redelegation of Authority shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

GEORGE W. BALL,
*Under Secretary of State
for Economic Affairs.*

FEBRUARY 2, 1961.

[F.R. Doc. 61-1311; Filed, Feb. 14, 1961;
8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document No. 238]

[Classification No. 74]

ARIZONA

Small Tract Classification

FEBRUARY 3, 1961.

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (10 F.R. 2473), I hereby classify the following described public lands, totaling 280 acres, in Pinal County, Arizona, as suitable for disposal in tracts of 2½ acres under the provisions of the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682A), as amended:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 8 E.,
Sec. 36: NW¼, NE¼SW¼, N½SE¼.

Containing 280 acres subdivided into 112 tracts of which 56 are covered by applications from persons entitled to preference under 43 CFR 257.5.

2. Classification of the above-described lands by this order segregates

No. 30—8

them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to disposal under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to bid under public auction procedures.

4. All valid applications filed prior to September 24, 1959, will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5.

Dated: February 3, 1961.

E. I. ROWLAND,
State Supervisor.

[F.R. Doc. 61-1322; Filed, Feb. 14, 1961;
8:51 a.m.]

[Classification No. 126]

NEVADA

Small Tract Classification: Amendment

Effective February 6, 1961, paragraph 1 of Federal Register Document 57-3346 appearing on page 2921 of the issue for April 25, 1957, is amended to exclude the following described land:

MOUNT DIABLO PRINCIPAL MERIDIAN

T. 22 S., R. 63 E.,
Sec. 20, W½SW¼SW¼.

Containing 20 acres.

The above land has been examined and found suitable for disposal to the Clark County School District under the Recreation or Public Purposes Act for school purposes.

E. J. PALMER,
State Supervisor.

FEBRUARY 6, 1961.

[F.R. Doc. 61-1295; Filed, Feb. 14, 1961;
8:47 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[643.3-0]

MOLASSES FROM CUBA

Notice That There Is Reason To Believe or Suspect Purchase Price Is Less or Likely To Be Less Than Foreign Market Value or Constructed Value

FEBRUARY 13, 1961.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of molasses imported from Cuba is less or likely to be less than the foreign market value or constructed value, whichever is applicable, as defined by sections 203, 205, and 206, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 164, and 165).

Customs officers are being authorized to withhold appraisement of entries of

molasses from Cuba pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F.R. Doc. 61-1420; Filed, Feb. 14, 1961;
9:57 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

WILSON AND JACKSON COM- MISSION CO. ET AL.

Stockyards; Deposting and Change of Name

I. Deposting of stockyards. It has been ascertained, and notice is hereby given, that the stockyards named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said act for the reason that they are no longer being conducted or operated as public markets, and are, therefore, no longer subject to the provisions of the act.

Name and Location of Stockyard; Date of Posting

Wilson and Jackson Commission Co., Pontotoc, Miss., February 9, 1959.
Crockett Livestock Auction, Crockett, Tex., January 16, 1957.
Brooks Sales Stables, Bellows Falls, Vt., November 16, 1959.
Chickering Livestock Corp., Westminster, Vt., November 16, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days, after publication in the FEDERAL REGISTER.

II. Change in name of posted stockyard. It has been ascertained, and notice is hereby given, that the name of the livestock market posted on February 10, 1959, as the Pontotoc Sales Company, Pontotoc, Mississippi, as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), was changed to Wilson and Jackson Commission Company, Pontotoc, Mississippi, on January 4, 1961. As set forth above, the facilities formerly known as the Wilson and Jackson Commission Company, Pontotoc, Mississippi, are being deposted.

The foregoing notices shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 9th day of February 1961.

H. L. JONES,
Acting Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-1307; Filed, Feb. 14, 1961; 8:48 a.m.]

Agricultural Research Service
IDENTIFICATION OF CARCASSES OF CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

Supplemental List of Humane Slaughterers

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904) and the statement of policy thereunder in 9 CFR 181.1 (25 F.R. 5863) the following table lists additional establishments operated under Federal inspection under the Meat Inspection Act (21 U.S.C. 71 et seq.)

which have been officially reported as humanely slaughtering and handling the species of livestock respectively designated for such establishments in the table. This list supplements the list previously published under the act (26 F.R. 957) for January and represents those establishments and species which were reported too late to be included in the earlier list or which have come into compliance with respect to species indicated since the completion of the reports on which the earlier list was based. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods:

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Swift and Co.....	3T.....	(*)	(*)				
Volz Packing Co.....	938.....	(*)	(*)				
G. Erhardt's Sons, Inc.....	810.....	(*)	(*)				

Done at Washington, D.C., this 9th day of February 1961.

C. H. PALS,
Director, Meat Inspection Division,
Agricultural Research Service.

[F.R. Doc. 61-1309; Filed, Feb. 14, 1961; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board
STOCKHOLMS REDERIAKTIEBOLAG SVEA

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. 7918-3, between Stockholms Rederiaktiebolag Svea, Rederiaktiebolaget Fredrika and Eckert Steamship Corp., modifies the approved joint service Agreement No. 7918, as amended, under which said parties operate as the "Fresco Line" in the trade between Canadian and U.S. Atlantic and U.S. Gulf ports, on the one hand, and ports of Spain, Portugal, the Azores, North Africa and the Mediterranean, on the other hand. The purpose of this modification is to provide for (1) the elimination of Eckert Steamship Corp. as a party to the joint service, and Thor. Eckert & Company, Inc., as the general agents thereof; and (2) amendment of certain other provisions of the agreement to set forth the understanding of the two remaining parties with respect to continuing the joint service operation under terms and conditions set forth in such modification.

Interested parties may inspect this agreement and obtain copies thereof at

the Office of Regulations, 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 this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 10, 1961.

By order of the Federal Maritime Board.

THOMAS LIST,
Secretary.

[F.R. Doc. 61-1320; Filed, Feb. 14, 1961; 8:51 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 61-FW-9]

CONSTRUCTION OF MICROWAVE ANTENNA TOWER

No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to the aviation industry for comment and has conducted an aeronautical study to determine its effect upon the utilization of airspace: The University of Texas proposes to erect a microwave antenna tower to be located near Austin, Texas, at latitude 30°16'52" north, longitude 97°44'08" west. The over-all height of the structure would be 1,049 feet above mean sea level (519 feet above ground).

No substantial aeronautical objections were received as a result of the circularization. The aeronautical study disclosed that the proposed structure would have no effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, I find that this proposed structure at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes and conclude that no objection thereto from an airspace utilization standpoint be interposed by the Agency, provided that the structure will be obstruction marked and lighted in accordance with applicable rules and standards.

This finding will be effective upon the date of its publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on February 9, 1961.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 61-1283; Filed, Feb. 14, 1961; 8:45 a.m.]

[OE Docket No. 61-FW-7]

CONSTRUCTION OF RADIO ANTENNA STRUCTURE

No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to the aviation industry for comment and has conducted an aeronautical study to consider its effect upon the utilization of airspace: The Communications Engineering Company (Radio Baroid) proposes to erect a radio antenna structure to be located near Estelle, Louisiana, at latitude 29°49'56" north, longitude 90°06'23" west. The over-all height of the antenna structure would be 454.4 feet above mean sea level (449 feet above ground level).

No substantial aeronautical objections were received as a result of the circularization. The aeronautical study by the Agency revealed that the proposed structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, I find that this proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes and conclude that no objection thereto from an airspace utilization standpoint be interposed by the Agency, provided that the structure will be obstruction marked and lighted in accordance with presently applicable standards.

This finding will be effective upon the date of its publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on February 9, 1961.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 61-1284; Filed, Feb. 14, 1961; 8:45 a.m.]

[OE Docket No. 61-FW-6]

CONSTRUCTION OF TELEVISION ANTENNA STRUCTURE

No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to the aviation industry for comment and has conducted an aeronautical study to determine its effect upon the utilization of airspace: The Midland Telecasting Company proposes to erect a television antenna structure to be located on top of an existing building in Midland, Texas, at latitude 31°59'54" north, longitude 102°04'30" west. The overall height of the antenna structure would be 3,245 feet above mean sea level (the antenna structure would extend 100 feet above an existing building having an overall height of 345 feet above ground level).

No substantial aeronautical objections were received as a result of the circularization. The aeronautical study by the Agency revealed that the proposed structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, I find that this proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes and conclude that no objection from an airspace utilization standpoint be interposed by the Agency.

This finding will be effective upon the date of its publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on February 9, 1961.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 61-1285; Filed, Feb. 14, 1961; 8:45 a.m.]

[OE Docket No. 61-NY-2]

INCREASE IN HEIGHT OF TELEVISION ANTENNA STRUCTURE

No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to the aviation industry for comment and has conducted an aeronautical study to determine its effect upon the utilization of airspace: The Capital Cities Broadcasting Corporation, operator of television Station WPRO-TV, proposes to increase the height of its television antenna structure near Providence, Rhode Island, at latitude 41°48'18" north, longitude 71°28'24" west. The over-all height of the existing structure would be increased from 849 feet above mean sea level (557 feet above ground) to 1,049 feet above mean sea level (757 feet above ground).

No substantial aeronautical objections were received as a result of the circularization. The aeronautical study by the Agency revealed that the proposed increase in height of the WPRO-TV antenna structure would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, I find that this proposed increase in height of the WPRO-TV an-

tenna structure at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes and conclude that no objection thereto from an airspace utilization standpoint be interposed by the Agency provided that the structure will be obstruction marked and lighted in accordance with applicable rules and standards.

This finding will be effective upon the date of its publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on February 9, 1961.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 61-1286; Filed, Feb. 14, 1961; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13771; FCC 61M-146]

COLUMBIA RIVER BROADCASTERS, INC.

Order Deleting Portion of Previous Order

In re application of Columbia River Broadcasters, Inc., Mount Vernon, Washington, Docket No. 13771, File No. BP-11933; for construction permits.

It is ordered, this 2d day of February 1961, that, in the Hearing Examiner's order of January 27, 1961 (FCC 61M-146; 99812) the titles of all the applications and their docket and file numbers, except that of Columbia River Broadcasters, Inc., be and they hereby are deleted.

Released: February 6, 1961.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-1326; Filed, Feb. 14, 1961; 8:52 a.m.]

[Docket Nos. 13874-13876; MCC 61M-202]

FRANKLIN BROADCASTING CO., INC. (KMAR) ET AL.

Order Continuing Hearing

In re applications of Franklin Broadcasting Co., Inc. (KMAR), Winnsboro, Louisiana, Docket No. 13874, File No. BP-12937; John Anthony Lazarone and Irving Ward-Steinman, d/b as Leesville Broadcasting Company (KLLA), Leesville, Louisiana, Docket No. 13875, File No. BP-13165; Yam Broadcasting Company, Incorporated, Opelousas, Louisiana, Docket No. 13876, File No. BP-13864; for construction permits.

Pursuant to the agreements reached at the prehearing conference held February 7, 1961, the evidentiary hearing now scheduled to begin on Monday, February 13, 1961, is continued to Tuesday, April 4, 1961.

It is so ordered, This the 7th day of February 1961.

Released: February 9, 1961.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-1327; Filed, Feb. 4, 1961; 8:52 a.m.]

[Docket No. 13900; FCC 61M-198]

GENERAL TELEPHONE COMPANY OF CALIFORNIA

Order Continuing Hearing

In re application of General Telephone Company of California, Docket No. 13900, File No. 557-02-P-61; for a construction permit to establish a new two-way common carrier station in the Domestic Public Land Mobile Radio Service at Santa Barbara, California (Station KME 440).

Pursuant to a prehearing conference in this proceeding as of this date, It is ordered, This 7th day of February 1961, that:

1. The exchange of the written affirmative cases of both the applicant and protestant shall be accomplished on or before February 28, 1961.

2. Each party shall notify the other parties of the witnesses that are desired for cross-examination on or before March 7, 1961.

3. The exchange of the written rebuttal testimony shall be accomplished on or before March 13, 1961.

It is further ordered, That the hearing now scheduled for February 23, 1961, be, and the same is hereby rescheduled for March 23, 1961, 2:00 p.m., in the Offices of the Commission, Washington, D.C.

Released: February 8, 1961.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-1328; Filed, Feb. 14, 1961; 8:52 a.m.]

[Docket No. 13947]

ALFRED J. HENDERSON

Order To Show Cause

In the matter of Alfred J. Henderson, 745 Thayer Avenue, Silver Spring, Maryland, Docket No. 13947; order to show cause why there should not be revoked the license for radio station 24WO587 in the Citizens Radio Service.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

On August 29, 1960, an Official Notice of Violation was mailed to the above-named licensee, charging that his radio

station 24WO587 was observed on August 23, 1960, transmitting a carrier frequency which was not maintained within the frequency tolerances specified in § 19.33 of the Commission's rules.

It further appearing that, the above-named licensee, received said Official Notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated October 20, 1960, and sent by Certified Mail, Return Receipt Requested (No. 7922753), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee, Alfred J. Henderson, on October 24, 1960, to a Post Office Department return receipt; and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 7th day of February 1961, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail, Return Receipt Requested to the said licensee.

Released: February 9, 1961.

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

[F.R. Doc. 61-1329; Filed, Feb. 14, 1961;
8:52 a.m.]

[Docket No. 13946]

LLOYD M. McMULLEN

Order To Show Cause

In the matter of Lloyd M. McMullen, dba Lloyd's TV, 621 North State Road 7, Margate, Florida, Docket No. 13946; order to show cause why there should not be revoked the license for radio station 7W0423 in the Citizens Radio Service.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice

of violation of the Commission's rules was served upon the above-named licensee as follows:

On August 12, 1960, an Official Notice of Violation was mailed to the above-named licensee charging that (1) the current station authorization was not posted as required by § 19.72(a) of the Commission's rules; (2) the mobile and fixed transmitters were not within frequency tolerances specified in § 19.33 of such rules; and (3) there were no tags or plates affixed to the mobile transmitter containing the information required by § 19.72(b) of these rules.

It further appearing that, the above-named licensee, received said official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated September 19, 1960, and sent by Certified Mail, Return Receipt Requested (No. 877936), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, James L. Corcoran on September 20, 1960, to a Post Office Department return receipt; and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 7th day of February 1961, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail, Return Receipt Requested to the said licensee.

Released: February 9, 1961.

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

[F.R. Doc. 61-1330; Filed, Feb. 14, 1961;
8:52 a.m.]

[Docket No. 13855; FCC 61M-204]

MANDAN RADIO ASSOCIATION

Order Continuing Hearing

In the matter of Revocation of License of Mandan Radio Association, for Standard Broadcast Station KBOM, Bis-

marck-Mandan, North Dakota, Docket No. 13855.

It is ordered, This 8th day of February 1961, that hearing in the above-entitled matter heretofore scheduled to commence in Bismarck, North Dakota, on February 15, 1961, is hereby rescheduled to commence in the same city at 10:00 a.m., April 5, 1961, at a place to be later designated.

Released: February 9, 1961.

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

[F.R. Doc. 61-1331; Filed, Feb. 14, 1961;
8:52 a.m.]

[Docket Nos. 13941-13943; FCC 61-149]

SOUTH TEXAS TELECASTING CO., INC. (KVDO-TV) ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: South Texas Telecasting Company, Inc. (KVDO-TV), Corpus Christi, Texas, Docket No. 13941, File No. BPCT-2793, for construction permit to change existing facilities; Tropical Telecasting Corporation, Corpus Christi, Texas, Docket No. 13942, File No. BPCT-2797, Nueces Telecasting Company, Corpus Christi, Texas, Docket No. 13943, File No. BPCT-2798, 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 February, 1961;

The Commission having under consideration the above-captioned application of South Texas Telecasting Company, Inc. for a construction permit to change existing facilities of Station KVDO-TV from Channel 22 to Channel 3 and the above-captioned applications of Tropical Telecasting Corporation and Nueces Telecasting Company requesting construction permits for new television broadcast stations to operate on Channel 3, assigned to Corpus Christi, Texas; and

It appearing that the applications of South Texas Telecasting Company, Inc., Tropical Telecasting Corporation, and Nueces Telecasting Company, are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference; and

It further appearing that South Texas Telecasting Company, Inc., has requested waiver of § 3.613(a) of the Commission's rules to locate its main studio outside Corpus Christi, and has shown good cause for the requested waiver; and

It further appearing that the applicants fail to provide a signal of city grade intensity, as required by § 3.685(a) of the rules, to all of Corpus Christi, but that the area which does not receive such a signal lies over the water of Nueces Bay and Corpus Christi Bay, so that § 3.685(a) of the rules is effectively satisfied; and

It further appearing that, upon due consideration of the above-captioned applications and the amendments

thereto, the Commission finds that pursuant to section 309(e) of the Communications Act of 1934, as amended, a hearing is necessary; that South Texas Telecasting Company, Inc., Tropical Telecasting Corporation and Nueces Telecasting Company are legally, financially, technically and otherwise qualified to construct, own and operate the proposed television broadcast stations;

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of South Texas Telecasting Company, Inc., Tropical Telecasting Corporation and Nueces Telecasting Company are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, on the following issues:

1. To determine on a comparative basis which of the operations proposed in the above-captioned applications would best serve the public interest, convenience and necessity in the light of the significant differences between the applicants as to:

(a) The background and experience of each 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 stations.

(c) The programming services proposed in each of the above-captioned applications.

2. 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 the 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 South Texas Telecasting Company, Inc., Tropical Telecasting Corporation, and Nueces Telecasting Company, 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 set for the hearing and present evidence on the issues specified in this order.

Released: February 10, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-1332; Filed, Feb. 14, 1961;
8:52 a.m.]

¹ Dissenting statement of Commissioner Cross filed as part of original document.

[Docket No. 13944; FCC 61-150]

**UNITED TELEVISION COMPANY OF
NEW HAMPSHIRE (WMUR-TV)**

**Order Designating Application for
Hearing on Stated Issues**

In re application of: United Television Company of New Hampshire (WMUR-TV), Manchester, New Hampshire, Docket No. 13944, File No. BPCT-2770; for construction permit to change existing facilities.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 2d day of February 1961;

The Commission having under consideration (1) the above-captioned application of United Television Co. of New Hampshire for modification of construction permit to change transmitter location, make changes in antenna system, and reduce antenna height; (2) a "Petition of The Outlet Company to Designate Application for Hearing" filed on July 26, 1960, by The Outlet Company (petitioner), licensee of Television Broadcast Station WJAR-TV, Channel 10, Providence, Rhode Island, directed against a grant of the subject application; (3) a "Statement of United Television Co. of New Hampshire with Respect to Petition of The Outlet Company to Designate Application for Hearing" filed on October 4, 1960, by the applicant; and (4) a "Response of The Outlet Company to 'Statement of United Television Co. of New Hampshire with Respect to Petition of The Outlet Company to Designate Application for Hearing'" filed on October 31, 1960, by petitioner; and

It appearing that, as a result of the proposed move, Station WMUR-TV would no longer serve substantial areas and populations to the north and west of its principal city; and

It further appearing that the applicant justifies its proposed move on the basis that it is necessary in order to correct an antenna orientation problem which arises due to the fact that receiving antennas in Manchester are oriented toward Boston so that reception of Station WMUR-TV is degraded because of the lack of gain off the end of the receiving antennas and further complicated by ghosts caused from reflections entering the front of the antennas and that the only known solution is to move the transmitter so that its signals will enter from the same direction as Boston; and

It further appearing that, upon due consideration of the above-captioned application and the reasons adduced in support of its grant, the Commission finds that, pursuant to section 309(e) of the Communications Act of 1934, as amended, a hearing is necessary; that United Television Co. of New Hampshire is legally, technically, financially and otherwise qualified to construct, own and operate Station WMUR-TV as proposed except with respect to issue "1" below;

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of United Television Co. of New Hampshire is designated for hear-

ing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine the extent and nature of the areas and populations which will gain or lose television service and the other television services available within the area which will gain service and lose service as a consequence of a grant of the above-captioned application.

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 Outlet Company is hereby made a party to the proceeding.

It is further ordered, That, to avail itself of the opportunity to be heard, United Television Co. of New Hampshire and The Outlet Company, 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: February 9, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-1333; Filed, Feb. 14, 1961;
8:52 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP61-188]

OHIO FUEL GAS CO.

**Notice of Application and date of
Hearing**

FEBRUARY 8, 1961.

Take notice that Ohio Fuel Gas Company (Applicant), 99 North Front Street, Columbus 15, Ohio, filed an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas facilities as hereinafter described, subject to the jurisdiction of the Commission, all as more fully described in the application in Docket No. CP61-188, which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon its White Compressor Station located on its system in Belmont County, Ohio. The application states that through merger effective January 1, 1957, Applicant acquired certain property and facilities in eastern Ohio (including White Station), formerly owned and operated by its affiliate, Natural Gas Company of West Virginia (Natural). The 480 horsepower White Compressor Station was constructed by Natural in 1920 to compress gas produced and purchased in the local area for transportation to markets north of White Station. The application further states that gas from local sources has dropped to approximately 100 Mcf per day and it is

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no longer necessary to operate the said White Compressor Station. The available gas is absorbed by local nearby markets; the more distant markets that formerly used this gas can be supplied from other sources.

The estimated cost of removing the facilities is \$3,000 and the salvage value is estimated to be \$4,800. The engines and auxiliary equipment are obsolete and will be sold as junk. The buildings and land will also be sold.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 16, 1961 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests of petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 28, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-1292; Filed, Feb. 14, 1961;
8:46 a.m.]

[Docket No. G-9446 etc.]

SHELL OIL CO. ET AL.

Order Granting Continuance

FEBRUARY 8, 1961.

On January 27, 1961, the presiding examiner in this proceeding certified to the Commission a motion requesting that the hearing resume on March 21, 1961, for the purpose of cross-examination of Shell Oil Company's direct case. The primary reason for the requested extended recess is the conflicting engagements of counsel. Although it is appropriate to grant the requested continuance, no further continuances will be granted because of other conflicting engagements of counsel.

The Commission orders: The hearing in Docket No. G-9446 etc., shall reconvene at 10:00 a.m., e.s.t., March 21, 1961, at 441 G Street NW., Washington, D.C., and shall go forward to the completion of cross-examination of Shell Oil Company's direct presentation.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-1293; Filed, Feb. 14, 1961;
8:46 a.m.]

[Docket Nos. CI60-582, CI60-583]

TARPON OIL CORP. ET AL.

Notice of Postponement of Hearing

FEBRUARY 7, 1961.

The Tarpon Oil Corporation, Docket No. CI60-582; the Shallow Oil Company, Inc., Operator, et al., Docket No. CI60-583.

Upon consideration of the motion filed February 2, 1961, by Counsel for The Tarpon Oil Corporation and The Shallow Oil Company, Inc., Operator, et al. for postponement of the hearing now scheduled for February 27, 1961, in the above-designated matters;

The hearing now scheduled for February 27, 1961, is hereby postponed to March 29, 1961, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-1294; Filed, Feb. 14, 1961;
8:46 a.m.]

[Docket Nos. CP60-72 etc.]

EL PASO NATURAL GAS CO. ET AL.

Notice of Postponement of Hearing

FEBRUARY 13, 1961.

El Paso Natural Gas Co., Docket No. CP60-72; Pan American Petroleum Corp., Docket No. G-19277; Humble Oil & Refining Co., Docket Nos. CI60-65, CI60-66; Belco Petroleum Corp., Docket No. CI60-475; Beneficial Oil Co., Docket No. CI61-729.

Notice is hereby given that the hearing in the above-entitled proceeding, which was scheduled to commence on February 20, 1961, pursuant to a notice of the Secretary issued January 26, 1961, and duly published in the FEDERAL REGISTER on February 2, 1961 (26 F.R. 1041), is postponed to be held on March 21, 1961, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-1419; Filed, Feb. 14, 1961;
9:19 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-778]

BANGOR AND AROOSTOOK RAIL- ROAD CO.; COMMON STOCK

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

FEBRUARY 9, 1961.

New York Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following: There are only 158 holders of 22,473 shares, exclusive of the holdings by Bangor & Aroostook Corporation.

Upon receipt of a request, on or before February 24, 1961 from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-1297; Filed, Feb. 14, 1961;
8:47 a.m.]

[File No. 24A-1340]

DIVERSIFIED COLLATERAL CORP.

Order Temporarily Suspending Ex- emption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

FEBRUARY 9, 1961.

I. Diversified Collateral Corporation (issuer), a Florida corporation, 420 Lincoln Road, Miami Beach, Florida, filed with the Commission on February 24, 1960, a notification on Form 1-A and an offering circular relating to a pro-

posed public offering of 75,000 shares of 10 cents par value common stock at \$4.00 per share for an aggregate amount of \$300,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of Section 3(b) and Regulation A promulgated thereunder. The offering was originally commenced on April 25, 1960, without an underwriter, but the filing was subsequently amended to name The Tager Company of New York City as principal underwriter and the offering was re-commenced on August 24, 1960.

II. The Commission has reasonable cause to believe that:

A. Regulation A is unavailable to the issuer in that Neil James & Co., Inc., 44 Beaver Street, New York, New York, and Banner Securities, Inc., 26 Broadway, New York 4, New York, became and in fact were underwriters of this issue while subject to orders issued by the United States District Court for the Southern District of New York temporarily restraining or permanently enjoining such firms from further violations of certain provisions of the Securities Exchange Act of 1934 or from engaging in or continuing business as a broker-dealer while in violation of such requirements.

B. The terms and conditions of Regulation A have not been complied with in that the issuer failed to amend Items 4, 6, 7, and 11 (b) and (c) of its notification on Form 1-A and paragraph 5 of Schedule I to disclose the required information with respect to the two additional underwriters.

C. The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made in the light of the circumstances under which they are made not misleading, particularly with respect to the issuer's failure to disclose the names and addresses of additional underwriters, the terms and conditions of any agreements between the issuer and the additional underwriters, and any material relationship between the issuer and such underwriters.

D. The issuer, through one of the underwriters of this issue of securities, in the distribution of such securities, has engaged in transactions, practices and a course of business which would operate and did operate as a fraud and deceit upon the purchasers of such securities, in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place

to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-1298; Filed, Feb. 14, 1961; 8:47 a.m.]

[File No. 1-3372]

LA CONSOLIDADA, S.A.

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

FEBRUARY 9, 1961.

In the matter of La Consolidada, S.A., American preferred shares representing 6 percent cumulative preferred stock and the underlying shares, File No. 1-3372.

New York Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following: The Deposit Agreement has terminated and transfer facilities in New York City are no longer available.

Upon receipt of a request, on or before February 24, 1961, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-1299; Filed, Feb. 14, 1961; 8:47 a.m.]

[Files Nos. 7-2133, 7-2134]

LUKENS STEEL CO. AND NATIONAL CAN CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

FEBRUARY 9, 1961.

In the matter of applications of the Philadelphia-Baltimore Stock Exchange, for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

Lukens Steel Co., File 7-2133.
National Can Corp., File 7-2134.

Upon receipt of a request, on or before February 24, 1961, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such requests should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-1300; Filed, Feb. 14, 1961; 8:47 a.m.]

REINSURANCE INVESTMENT CORP.

Notice of Filing of Application for Order Exempting Company From All Provisions of the Act

FEBRUARY 8, 1961.

Notice is hereby given that Reinsurance Investment Corporation ("Applicant"), a Delaware corporation, has filed an application for an Order under section 6(c) of the Investment Company Act of 1940 ("Act") exempting it from all the provisions of the Act on the grounds that it is primarily engaged, through subsidiary companies, in the insurance business. The application contains the following representations:

As of September 30, 1960, applicant's total assets were valued at \$5,596,722,

and consisted of 1,152,000 shares of Loyal American Life Insurance Co., Inc. ("Loyal American") valued at \$3,312,000 and 189,495 shares of American Income Life Insurance Co. ("American") valued at \$1,184,950, with the balance of its assets consisting in the main of government securities and cash.

In November 1957, Applicant acquired approximately 51 percent of the outstanding stock of Pan-Coastal Life Insurance Company ("Pan-Coastal"), took control of the management, and began a program of financial rehabilitation. On May 1, 1958, Pan-Coastal merged with Loyal American, with the latter the surviving corporation, and in connection therewith applicant acquired 1,152,000 of the then outstanding 2,267,478 shares of Loyal American, constituting slightly over 50 percent.

Until September 1960, applicant continued to own more than 50 percent of Loyal American. Subsequently Loyal American exchanged additional shares of its common stock for shares of another insurance company and for the shares of an insurance sales company. As a result of the issuance of approximately 420,000 additional shares by Loyal American, as of November 21, 1960, applicant's holdings had been reduced to 42.81 percent of the shares outstanding. Within one year applicant intends to acquire a sufficient number of additional shares of Loyal American so as to constitute Loyal American as a majority-owned subsidiary.

Consistent with its policy of active participation in operations of subsidiaries, applicant became directly involved in Loyal American's management. At present six of applicant's directors are members of Loyal American's Board of 13; applicant's president is president of Loyal American, and two of applicant's officers are vice-presidents of Loyal American. Loyal American also recently organized in New York State a wholly-owned life insurance subsidiary and applicant has been active in the organization, planning and management of this company.

On May 12, 1960, applicant purchased 39.4 percent of the outstanding common stock of American. Contemporaneously, eight of the directors of applicant and/or Loyal American were elected to American's fifteen-man board. Applicant subsequently acquired additional shares of American and now owns, including directors' shares which it has the right to acquire, 42.62 percent of American's stock. Through a proxy arrangement with the president of American, applicant controls the voting of an additional 13.03 percent of American's shares, giving it voting control of 55.65 percent of such shares. Applicant also intends, its funds permitting, to increase its holdings in American to over 50 percent by purchases in the open market.

Applicant falls within the definition of an investment company contained in section 3(a)(3) of the Act which defines an investment company as one which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities,

and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of the company's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. For the purposes of this section, "investment securities" are defined as including all securities except, among others, securities issued by majority-owned subsidiaries which are not investment companies.

Section 3(c)(7) of the Act, so far as here relevant, excepts from the definition of an investment company any company primarily engaged, through majority-owned subsidiaries, in the insurance business.

Generally speaking, section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that even though its subsidiaries are not presently majority-owned this is only a temporary condition, and that it is primarily engaged in the insurance business. Applicant also points out that in the event that it acquires sufficient additional shares of Loyal American to constitute that company a majority-owned subsidiary, which it intends to do within one year, it will no longer own investment securities in an amount large enough to fall within the definition of an investment company contained in section 3(a)(3) of the Act. It requests that, in the event its application for full exemption is denied, it be granted a conditional exemption for a period of one year in order to achieve majority control of Loyal American.

Notice is further given that any interested person may, not later than February 24, 1961, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 61-1301; Filed, Feb. 14, 1961;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 152]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 10, 1961.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at no intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 1124 (Deviation No. 5), HER-RIN TRANSPORTATION COMPANY, 2301 McKinney Avenue, Houston, Tex., filed January 23, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Highway 45 and U.S. Highway 75 near Dallas, Tex., over Interstate Highway 45 to junction U.S. Highway 75 north of Fairfield, Tex., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between the same points over U.S. Highway 75.

No. MC 29250 (Deviation No. 4), NEW ENGLAND TRANSPORTATION COMPANY, 54 Meadow Street, New Haven 6, Conn., filed January 23, 1961, Attorney George E. Gill, 54 Meadow Street, New Haven 6, Conn. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Hartford, Conn., over the Hartford-Springfield Expressway to Springfield, Mass., and return over the same route, for operating convenience only, serving no intermediate point. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Boston, Mass., over Massachusetts Highway 9 to Worcester, Mass., thence over Massachusetts Highway 12 to junction U.S. Highway 20 at Auburn, Mass., thence over U.S. Highway 20 via Sturbridge and

Palmer, Mass., to Springfield, thence over U.S. Highway 5 via Hartford, Conn., to New Haven, Conn., thence over U.S. Highway 1 via Milford and Port Chester, N.Y., to New York, and return over the same route.

No. MC 32474 (Deviation No. 2), KEESHIN TRANSPORT SYSTEM, INC., 321 Wabash Street, Toledo 2, Ohio, filed January 19, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Ypsilanti, Mich., over Interstate Highway 94 to junction Michigan Highway 60, approximately one mile west of Jackson, Mich., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Jackson over U.S. Highway 12 to junction Michigan Highway 17, and thence over Michigan Highway 17 to Ypsilanti; and from Jackson over Michigan Highway 60 to junction U.S. Highway 131, thence over U.S. Highway 131 to junction U.S. Highway 112, and return over the same routes.

No. MC 35628 (Deviation No. 11), INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue Southwest, Grand Rapids 2, Mich., filed January 23, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Edens Expressway and Interstate Highway 294 over Interstate Highway 294 to junction Interstate Highway 94 thence over Interstate Highway 94 to junction U.S. Highway 41 south of the Illinois-Wisconsin State line, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago over U.S. Highway 41 to Milwaukee, Wis., and return over the same route.

No. MC 44592 (Sub-1) (Deviation No. 7), MIDDLE ATLANTIC TRANSPORTATION CO., INC., 976 West Main Street, New Britain, Conn., filed January 23, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Hartford, Conn., over Interstate Highway 91 to Springfield, Mass., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Hartford and Springfield over U.S. Highways 5 and 5A.

No. MC 106904 (Deviation No. 2), TOPEKA MOTOR FREIGHT, INC., 705 East Highway 24, Topeka, Kans., filed January 24, 1961. Attorney Jeff A. Robertson, Suite 610, First National Building, Topeka, Kans. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation

route as follows: From Topeka, Kans., over U.S. Highway 24 to Lawrence, Kans., thence over the Kansas Turnpike to Kansas City, Mo., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Topeka and Kansas City over U.S. Highway 40.

No. MC 108587 (Deviation No. 3), SCHUSTER'S EXPRESS INC., 48 Norwich Avenue, Colchester, Conn., filed January 26, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Hartford, Conn., over Interstate Highway 91 to Springfield, Mass., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Hartford over Connecticut Boulevard to East Hartford, Conn., and thence over U.S. Highway 5 to Springfield, and return over the same route.

No. MC 110683 (Deviation No. 1), SMITH'S TRANSFER CORPORATION OF STAUNTON, VA., P.O. Box 1000 Staunton, Va., filed January 25, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Hartford, Conn., over the Hartford-Springfield Expressway to Springfield, Mass., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Hartford over U.S. Highway 44 (formerly U.S. Highway 5) to junction U.S. Highway 5, thence over U.S. Highway 5 to junction unnumbered Highway (formerly U.S. Highway 5) thence over unnumbered highway via South Windsor, Conn., to the junction U.S. Highway 5, thence over U.S. Highway 5 to Springfield, Mass., thence over U.S. Highway 20 to junction unnumbered highway (formerly U.S. Highway 20), thence over unnumbered highway to Sturbridge, Mass., and return over the same route.

MOTOR CARRIERS OF PASSENGERS

No. MC-1501 (Deviation No. 60) THE GREYHOUND CORPORATION, 1740 Main Street, Kansas City 8, Mo., filed January 23, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage*, over a deviation route as follows: From St. Louis, Mo., over U.S. Highway 40 to junction U.S. Highway 61 near Frontenac, Mo., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over a pertinent service route as follows: From St. Louis over Missouri Highway 100 to junction U.S. Highway 61, thence

over U.S. Highway 61 to junction U.S. Highway 40, and return over the same route.

No. MC 39211 (Deviation No. 1), THE OHIO BUS LINE COMPANY, 2435 Reading Road, Cincinnati 2, Ohio, filed January 26, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage*, over a deviation route as follows: From Cincinnati, Ohio, over Interstate Highway 75 to Dayton, Ohio, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is authorized to transport passengers, over pertinent service routes, as follows: From Dayton over U.S. Highway 25 to junction Ohio Highway 73, thence over Ohio Highway 73 to Middletown, Ohio, thence over Ohio Highway 4 to Cincinnati, and from Cincinnati over U.S. Highway 25 to Franklin, Ohio, and return over the same routes.

No. MC 45626 (Deviation No. 3), VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, Vt., filed January 23, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage*, over pertinent deviation routes as follows: (A) From Hopkinton, N.H., over Interstate Highway 89 to Warner, N.H.; and (B) from Brattleboro, Vt., over Interstate Highway 91 to Greenfield, Vt., and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over pertinent service routes as follows: From Hopkinton over New Hampshire Highway 103 to Warner; and from the junction of U.S. Highway 5 and Vermont Highway 9 over U.S. Highway 5 to Greenfield, and return over the same routes.

No. MC 45626 (Deviation No. 4), VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, Vt., filed January 23, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage*, over a pertinent service route as follows: From Montpelier, Vt., over Interstate Highway 91 to Waterbury, Vt., and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Montpelier and Waterbury over U.S. Highway 2.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-1314; Filed, Feb. 14, 1961; 8:50 a.m.]

[Notice 363]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 10, 1961.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passen-

gers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and pre-hearing conferences will be called at 9:30 o'clock a.m., United States standard time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING
OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 4405 (Sub No. 373), filed December 30, 1960. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago 33, Ill. Applicant's attorney: James W. Wrape, Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, semi-trailers and trailer chassis*, except those designed to be drawn by passenger automobiles, in initial movements, by truckaway and driveaway service; from Modesto, Calif., to points in Alaska, California, Washington, Oregon, Wyoming, Idaho, Kansas, Montana, Utah, Colorado, Nevada, Nebraska, North Dakota, Arizona, Texas, Oklahoma, South Dakota, and New Mexico, and (2) *tractors*, in secondary driveaway movements, only when drawing trailers or trailer chassis moving in initial driveaway movements, over irregular routes; from Modesto, Calif., to points in Alaska, Arizona, Nevada, and Oregon.

HEARING: April 5, 1961, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 5709 (Sub No. 8), filed January 19, 1961. Applicant: PEHLER AND SONS, INC., Arcadia, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fermented malt beverages*, from St. Louis, Mo., to Arcadia, Wis., and *empty containers or other such incidental facilities*, used in transporting the above-described commodities on return.

HEARING: March 21, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Examiner Dallas B. Russell.

No. MC 8973 (Sub No. 5), filed January 26, 1961. Applicant: METROPOLITAN TRUCKING, INC., 468 Oak Street, Ridgefield, N.J. Applicant's attorney: August W. Heckman, 880 Bergen Avenue, Jersey City, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Edgewater and Irvington, N.J., to points in Pennsylvania, Delaware, Maryland, Virginia, Rhode Island, Massachusetts, Ohio, and that part of New York outside of a 150 mile radius of Columbus Circle, New York, N.Y., and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

HEARING: March 23, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Charles B. Heineman.

No. MC 11723 (Sub No. 3), filed January 13, 1961. Applicant: ARVLE J.

BOWERS, doing business as BOWERS TRUCK COMPANY, 146 West Elm, Alton, Ill. Applicant's attorney: Mack Stephenson, 208 East Adams Street, Springfield, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds*, from St. Louis, Mo., to points in Marion, Clay, Richland, Lawrence, Effingham, Jasper, and Crawford Counties, Ill., and those in Gibson County, Ind.; (2) *Animal and poultry sanitation supplies and medicines*, shipped in mixed loads only with animal and poultry feeds, from St. Louis, Mo., to points in Wabash, Edwards, Wayne, Jefferson, Marion, Clay, Richland, Lawrence, Effingham, Jasper, and Crawford Counties, Ill., and those in Gibson County, Ind.; and (3) *Exempt commodities*, from the above-specified destination points to the respective origin points.

NOTE: Applicant indicates the instant application will be supported by Ralston Purina Mills, Inc., of St. Louis, Mo., with whom applicant will enter into a contract for the proposed service.

HEARING: April 28, 1961, at the U.S. Court Rooms and Federal Building, Springfield, Ill., before Joint Board No. 160.

No. MC 14297 (Sub No. 17), filed January 23, 1961. Applicant: GIACOMAZZI BROS. TRANSPORTATION CO., a corporation, P.O. Box 729, San Jose, Calif. Applicant's attorney: Daniel W. Baker, 625 Market Street, San Francisco, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Final sugar beet molasses residuum*, in bulk, in tank vehicles, from San Jose, Calif.; (2) *molasses*, in bulk, in tank vehicles, from Richmond and Stockton, Calif., and (3) *mixed shipments of the described commodities*, in bulk, in tank vehicles, from San Jose, Richmond, and Stockton, Calif., to points in Nevada, and *contaminated or returned shipments of final sugar beet molasses residuum and molasses, and mixed shipments of such commodities*, on return.

HEARING: April 6, 1961, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Joint Board No. 78, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 31600 (Sub No. 490), filed January 18, 1961. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham 54, Mass. Applicant's attorney: Harry C. Ames, Jr., 216 Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles, from Bainbridge, N.Y., to the International Boundary Line between the United States and Canada at the Niagara and St. Lawrence Rivers for export to Canada. (2) *Resins*, in bulk, in tank vehicles, from Springfield, Mass., to Corinth, N.Y., and (3) *refused and rejected shipments* of (1) and (2) above, on return.

HEARING: March 20, 1961, at the Offices of the Interstate Commerce Com-

mission, Washington, D.C., before Examiner Gerald F. Colfer.

No. MC 31600 (Sub No. 491), filed February 1, 1961. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham 54, Mass. Applicant's attorney: H. C. Ames, Jr., Ames, Hill & Ames, Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand, feldspar and mica*, in bulk or in bags, from Middletown, Conn., to points in Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, Delaware, and Maryland, and *returned or rejected shipments*, on return.

HEARING: March 1, 1961, at the Governor Clinton Hotel, 31st and Seventh Avenue, New York, N.Y., before Examiner James O'D. Moran.

No. MC 39167 (Sub No. 2), filed January 19, 1961. Applicant: CHARLES J. ROGERS TRANSPORTATION COMPANY, a corporation, 2947 Greenfield Road, Melvindale, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, insulating materials, lime, and materials necessary for the installation or application of the previously described commodities*; from River Rouge, Mich., to points in that part of northeastern Indiana lying within the western boundaries of Elkhart, Kosciusko, Wabash, and Grant Counties and within the southern boundaries of Grant, Blackford, and Jay Counties; and to points in that part of northern Ohio lying within the southern boundaries of the Counties of Mercer, Auglaize, Shelby, Logan, Union, Delaware, Knox, Holmes, Stark, and Mahoning, and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return. RESTRICTION: The proposed service shall be restricted to flatbed equipment without sides or top.

HEARING: April 19, 1961, in Room 215, Federal Building, Lansing, Mich., before Joint Board No. 9.

No. MC 43654 (Sub No. 49), filed January 16, 1961. Applicant: DIXIE OHIO EXPRESS, INC., 237 Fountain Street, P.O. Box 750, Akron 9, Ohio. Applicant's attorney: R. J. Reynolds, Jr., 1424 C & S National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Melton Hill Dam, and points within five (5) miles thereof, located on the Clinch River approximately 4½ miles from the Loudon County junction of U.S. Highways 70 and 11, southwest of Knoxville, Tenn., as off-route points in connection with applicant's regular route operations (1) between Chattanooga, Tenn., and Knoxville, Tenn., and (2) be-

tween Chattanooga, Tenn., and Lexington, Ky.

NOTE: Applicant states that the above dam site can be reached from the above-specified highways via Tennessee Highway 95, from which the Tennessee Valley Authority is building an access road. Applicant further states that in the future the new Interstate Highway 40 will cross State Highway 95 near the Melton Hill Dam Site.

HEARING: March 22, 1961, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Joint Board No. 238, or, if the Joint Board waives its right to participate, before Examiner Maurice S. Bush.

No. MC 46737 (Sub No. 37), filed January 19, 1961. Applicant: GEO. F. ALGER COMPANY, a corporation, 3050 Lonyo Road, Detroit 9, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, insulating materials, lime, and materials necessary for the installation or application of the previously described commodities*; from Rouge River, Mich., to points in that part of northeastern Indiana lying within the western boundaries of Elkhart, Kosciusko, Wabash, and Grant Counties and within the southern boundaries of Grant, Blackford, and Jay Counties, and to points in that part of northern Ohio lying within the southern boundaries of the Counties of Mercer, Auglaize, Shelby, Logan, Union, Delaware, Knox, Holmes, Stark, and Mahoning, and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return. **RESTRICTION:** The proposed service shall be restricted to flatbed equipment without sides or top.

HEARING: April 19, 1961, at the Federal Building, Room 215, Lansing, Mich., before Joint Board No. 9.

No. MC 52862 (Sub No. 7), filed January 30, 1961. Applicant: EDWARD J. BOYLE, doing business as E. J. BOYLE, 622 Arlington Street, Tamaqua, Pa. Applicant's attorney: William J. Wilcox, 624 Commonwealth Building, Allentown, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, for monuments, tombstones and markers, from the site of the plant of M & W Polishing Company, Barre, Vt., to the site of the plant of Lansford Marble and Granite Company at Lansford, Pa., and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodity, on return.

HEARING: March 17, 1961, at the Penn Sherwood Hotel, 3900 Chestnut Street, Philadelphia, Pa., before Examiner David Waters.

No. MC 58954 (Sub No. 35), filed January 16, 1961. Applicant: McNAMARA MOTOR EXPRESS, INC., 433 East Parsons Street, Kalamazoo, Mich. Applicant's attorney: Floyd F. Shields, Suite 2900, 33 North La Salle Street, Chicago 2, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transport-

ing: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; serving the site of the Archer-Daniels-Midland Company plant at Mapleton, Ill., located approximately 7.3 miles from Peoria, Ill., and 3.3 miles from Pekin, Ill., as an off-route point in connection with applicant's regular route operations to and from Peoria, Ill.

HEARING: April 26, 1961, at the Midland Hotel, Chicago, Ill., before Joint Board No. 149.

No. MC 78042 (Sub No. 13), filed February 1, 1961. Applicant: BEAROFF BROTHERS, INC., Swedeland Road, P.O. Box 21, Bridgeport, Pa. Applicant's representative: Jacob Polin, 426 Barclay Building, City Line at Belmont Avenue, Bala-Cynwyd, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke and sulphate of ammonia*, from Philadelphia, Pa., to points in Virginia, and *returned or rejected shipments*, of the above-specified commodities, on return.

HEARING: March 17, 1961, at the Penn Sherwood Hotel, 3900 Chestnut Street, Philadelphia, Pa., before Examiner David Waters.

No. MC 78632 (Sub No. 113), filed January 17, 1961. Applicant: HOOVER MOTOR EXPRESS COMPANY, INC., P.O. Box 450, Nashville, Tenn. Applicant's attorney: Walter Harwood, Nashville Trust Building, Nashville 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment; serving the site of Melton Hill Dam of the Tennessee Valley Authority, located southwest of Knoxville, Tenn., on the Clinch River (about 4½ miles from the Loudon County junction of U.S. Highways 70 and 11) and points within five miles thereof, as off-route points in connection with applicant's presently authorized regular route operations between Knoxville, Tenn., and Nashville, Tenn.

HEARING: March 24, 1961, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Joint Board No. 107, or, if the Joint Board waives its right to participate, before Examiner Maurice S. Bush.

No. MC 78786 (Sub No. 229), filed January 3, 1961. Applicant: PACIFIC MOTOR TRUCKING COMPANY, a corporation, 65 Market Street, San Francisco 5, Calif. Applicant's attorney: John MacDonald Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except Classes A and B explosives and household goods as defined by the Commission, but subject to the conditions set forth in applicant's certificate in MC 78786 Sub 218 (see restriction below),

between San Rafael, Calif., and Eureka, Calif.; from San Rafael over U.S. Highway 101 to Eureka, and return over the same route, serving all intermediate and off-route points which are stations on the line of Northwestern Pacific Railroad Company between said termini. **RESTRICTION:** The service to be performed by carrier shall be limited to that which is auxiliary to, or supplemental of, rail or railway express service. Carrier shall not serve any point not a station on the lines of Northwestern Pacific Railroad. Such further specific conditions as the Commission in the future may find necessary to impose in order to restrict carrier's operations to service which is auxiliary to, or supplemental of, rail or railway express service. The authority sought herein to the extent that it duplicates any heretofore granted to carrier shall not be construed as conferring more than one operating right and shall not be deemed severable by sale or otherwise.

NOTE: (1) Applicant states it is wholly owned and controlled subsidiary of Southern Pacific Company, a carrier by railroad. (2) Applicant presently holds contract carrier authority in MC-78787 and Subs thereunder.

HEARING: April 5, 1961, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Joint Board No. 75, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 83539 (Sub No. 66) (CORRECTION), filed May 2, 1960, published July 7, 1960, and republished February 8, 1961. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, P.O. Box 5976, Dallas, Tex. Applicant's attorney: W. T. Brunson, 508 Leonhardt Building, Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products. (2) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipelines; and, (3) *Commodities*, other than those described above, the transportation of which, because of their size or weight, require the use of special equipment or handling, and *parts thereof*, when moving in connection with such commodities, between points in Kansas and Oklahoma on the one hand, and, on the other, points in Oregon and Washington.

NOTE: The purpose of this republication is to correctly designate the commodity in Item (1) as *materials*, previously referred to as *machinery* in error.

HEARING: Remains as assigned March 20, 1961, at the Federal Building, Oklahoma City, Okla., before Examiner Francis A. Welch.

No. MC 89723 (Sub No. 22) (REPUBLICATION), filed September 26, 1960,

published in the FEDERAL REGISTER, issue of October 19, 1960. Applicant: MISSOURI PACIFIC FREIGHT TRANSPORT COMPANY, 1218 Olive Street, St. Louis 3, Mo. Applicant's attorney: Toll R. Ware, Missouri Pacific Building, St. Louis 2, Mo. Notice of the filing of the subject application as originally published in the FEDERAL REGISTER indicated that authority was sought as a common carrier, by motor vehicle, of general commodities, between Potosi, Mo., and Pea Ridge, Mo., from Potosi over Missouri Highway 155 to junction unnumbered county road, thence over unnumbered county road to the plant site of Meracec Mining Company, Pea Ridge (approximately 25 miles), and return over the same route, serving all intermediate points which are on the new line of the Missouri Pacific Railroad Company. A Report and Order of Joint Board No. 179 composed of the Honorable H. Burks Davis of Missouri, served January 17, 1961, which became effective by operation of law February 7, 1961, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, of *general commodities*, except livestock, commodities in bulk, and household goods as defined by the Commission, between Potosi, Mo., and Pea Ridge, Mo., from Potosi over Missouri Highway 155 to junction unnumbered county road, thence over unnumbered county road through the plant site of Meramac Mining Company, to Pea Ridge, and return over the same route, serving intermediate points, subject to the restrictions set forth in applicant's Certificate No. MC-89723 Sub 15, except that the key point restrictions specified therein shall not be applicable to applicant's operations between St. Louis, Mo., and Pea Ridge, Mo. Accordingly, the notice of hearing, as originally published which, in effect, restricted the proposed transportation to shipments having a prior or subsequent movement by rail, was in error. The purpose of this republication is to advise that any person or persons who might have been prejudiced by the original erroneous notice as published in the FEDERAL REGISTER, may, within 30 days from the date of this republication, file an appropriate pleading.

No. MC 98749 (Sub No. 10) and (Sub No. 11), (REPUBLICATION), filed February 8, 1960, and May 19, 1960, respectively. Applicant: DURWARD L. BELL, doing business as BELL TRANSPORT COMPANY, 100 South Second, Longview, Tex. Applicant's attorney: Austin L. Hatchell, 1009 Perry-Brooks Building, Austin 1, Tex. As originally filed and noticed in the FEDERAL REGISTER, applicant sought authority in Sub No. 10, commoditywise, to transport: *Chemicals*, as defined in *The Maxwell Co.—Extension—Addyston*, 63 M.C.C. 677, (but not limited to liquids), in bulk, in specialized motor vehicle equipment, and in Sub No. 11, *Chemicals*, as defined in *The Maxwell Co.—Extension—Addyston*, 63 M.C.C. 677. A Report and Order of Division 1, decided January 24, 1961, modifies the commodity descriptions employed in the applications and authorizes the trans-

portation in MC 98749 (Sub No. 10) of operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes of *chemicals*, in bulk, from the plant site of the Texas Eastman Company near Longview, Tex., to points in Arizona, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming; and in No. MC 98749 (Sub No. 11) of operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *chemicals*, in bulk, from Kingsport, Tenn., to the plant site of the Texas Eastman Company near Longview, Tex., and provides for the issuance of appropriate certificates after the elapse of 30 days from the date of this republication in the FEDERAL REGISTER, provided, however, that any person or persons who might have been prejudiced by lack of proper notice of the authority actually sought, may, within 30 days from the date of this republication, file an appropriate pleading.

No. MC 103993 (Sub No. 143), filed January 23, 1961. Applicant: MORGAN DRIVE-AWAY, INC., 500 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from all points in Minnesota (except St. Paul, Red Lake Falls, and Park Rapids, Minn.), to all points in the United States, including Alaska, but excluding Hawaii.

HEARING: March 24, 1961, at the Metropolitan Building, Room 926, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Hugh M. Nicholson.

No. MC 103993 (Sub No. 144), filed January 23, 1961. Applicant: MORGAN DRIVE-AWAY, INC., 500 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesh, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from all points in Kansas (except Arkansas City, McPherson, Great Bend, Hutchinson, Coffeyville, Wichita, and Newton, Kans.) to all points in the United States, including Alaska but excluding Hawaii.

HEARING: March 22, 1961, at the Hotel Lassen, Wichita, Kans., before Examiner William N. Culbertson.

No. MC 107376 (Sub No. 9), filed December 30, 1960. Applicant: TELISCHAK TRUCKING, INC., 12300 Farmington Road, Livonia, Mich. Applicant's attorney: William B. Elmer, 1800 Buhl Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete slabs and beams* of such size and weight as to require *special equipment, and accessories and materials incidental to the installation thereof*, from Livonia, Mich., to points in Williams, Fulton, Lucas, Ottawa, Defiance, Henry, Wood, Sandusky,

Paulding, Putnam, Hancock, Seneca, Wyandot, Crawford, Van Wert, Allen, Erie, Huron Counties, Ohio, and *empty containers, returned and rejected shipments or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

HEARING: April 18, 1961, at 11:00 o'clock a.m., in Room 215, Federal Building, Lansing, Mich., before Joint Board No. 57.

No. MC 107500 (Sub No. 53), filed December 29, 1960. Applicant: BURLINGTON TRUCK LINES, INC., 547 West Jackson Boulevard, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Classes A and B explosives*, between the plant site of Iowa Ordnance Plant at or near Middletown, Iowa, on the one hand, and, on the other, Burlington, Iowa, from Middletown over U.S. Highway 34 to Burlington, and return over the same route, serving no intermediate points.

HEARING: May 1, 1961, at the Old Federal Office Building, Room 401, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 92.

No. MC 108449 (Sub No. 119), filed December 27, 1960. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul 13, Minn. Applicant's attorney: Mr. Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement*, in bulk (2) *cement*, in bags or in packages, *palletized or unpalletized*, (3) *mixed shipments of items in (1) and (2)*, and (4) *pallets used in connection with the outbound transportation in (2) and (3)*; (1) from Duluth, Minn. to points in South Dakota, North Dakota, Minnesota, Wisconsin, Iowa, and the Upper Peninsula of Michigan; (2) and (3) from Duluth, Minn., to points in Minnesota, North Dakota, South Dakota, Wisconsin, Iowa, and the Upper Peninsula of Michigan and (4) from the destinations named in (2) and (3) to Duluth, Minn., and *rejected or returned shipments* of commodities named in (1), (2) and (3) and *pallets* in (4) above, on return.

NOTE: Applicant has authority to transport cement, in bulk, in hopper type vehicles, from Duluth, Minn., to points in South Dakota, North Dakota, Minnesota, Wisconsin, and Iowa. Purpose of this part is to remove the hopper type vehicles restriction and add the destination area of the Upper Peninsula of Michigan.

HEARING: April 5, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Dallas B. Russell.

No. MC 108449 (Sub No. 120), filed December 27, 1960. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul 13, Minn. Applicant's attorney: Mr. Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass or plastic containers, bottles, jars, packing glasses, jelly tumblers, with or without their equipment of caps, covers,*

stoppers or tops; in straight or mixed truckloads; or in mixed truckloads with corrugated paper boxes or paper containers, knocked down, from Rosemount, Minn., to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, the Upper Peninsula of Michigan, Wisconsin, and Muskogee, Okla., and Lapel, Ind., and empty containers or other such incidental facilities (not specified) used in transporting the commodities specified above, on return.

HEARING: April 6, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Dallas B. Russell.

No. MC 109540 (Sub No. 14), filed June 9, 1958. Applicant: YEARY TRANSFER COMPANY, INC., Boonesboro Pike, Winchester, Ky. Applicant's attorney: William Hays, McEldowney Building, Winchester, Ky. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries and frozen vegetables*, between points in the District of Columbia, Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and West Virginia.

HEARING: March 29, 1961, at the Kentucky Hotel, Louisville, Ky., before Examiner Maurice S. Bush.

No. MC 109637 (Sub No. 172), filed December 8, 1960. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank, hopper and dump vehicles, from Louisville, Ky. to points in Alabama, Indiana, Louisiana, Mississippi, Tennessee, and West Virginia.

HEARING: March 27, 1961, at the Kentucky Hotel, Louisville, Ky., before Examiner Maurice S. Bush.

No. MC 109637 (Sub No. 176), filed February 3, 1961. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank, hopper, and dump vehicles; from Site of TVA Power Plant near Bridgeport, Ala., Site of TVA Power Plant near Pride, Ala., Site of TVA Power Plant near Grahamville, Ky., Site of TVA Power Plant near Paradise, Ky., Site of TVA Power Plant near Gallatin, Tenn., Site of TVA Power Plant near Johnsonville, Tenn., Site of TVA Power Plant near Kingston, Tenn., and Site of TVA Power Plant near Rogersville, Tenn., to points in Alabama, Kentucky, and Tennessee, and rejected shipments, on return.

HEARING: March 21, 1961, at the U.S. Court Rooms, Montgomery, Ala., before Joint Board No. 284.

No. MC 109708 (Sub No. 10), filed January 19, 1961. Applicant: ERVIN J. KRAMER, doing business as MARYLAND TANK TRANSPORTATION COMPANY, 4524 Reisterstown Road,

Baltimore, Md. Applicant's attorney: Harry C. Ames, Jr., 216 Transportation Building, Washington 6, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Orange juice*, in bulk, in tank vehicles, from Brooksville, Fla., to Boston, Mass., New York, N.Y., Detroit, Mich., Cleveland and Akron, Ohio, Plymouth, Ind., Chicago, Ill., and Glen Roy, Pa.

HEARING: March 21, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Abraham J. Essrick.

No. MC 112846 (Sub No. 29), filed January 27, 1961. Applicant: CLARE M. MARSHALL, INC., P.O. Box 611, Rouseville Road, Oil City, Pa. Applicant's attorney: Paul F. Barnes, Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Emlenton, Karns City, Petrolia, and Oil City, Pa., and points within fifteen (15) miles of Oil City, to points in Cook County, Ill.

HEARING: March 24, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner John B. Mealy.

No. MC 113336 (Sub No. 42) (AMENDMENT), filed January 10, 1961, published in the FEDERAL REGISTER issue of January 18, 1961. Applicant: PETROLEUM TRANSIT COMPANY, INC., Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW, Washington 4, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles; (a) from Terminals on the Trans Southern Pipe line in Alabama to points in Alabama and Georgia. (b) From Terminals on the Trans Southern Pipe line in Georgia to points in Alabama, Florida, Georgia, South Carolina, and Tennessee. (c) From Terminals on the Trans Southern Pipe line in South Carolina to points in Georgia, North Carolina, and South Carolina. (d) From Terminals on the Trans Southern Pipe line in North Carolina to points in Georgia, North Carolina, South Carolina, and Virginia.

NOTE: Common control may be involved. The purpose of this republication is to include Virginia as a destination State in (d) above.

CONTINUED HEARING: March 13, 1961, at 630 West Peachtree Street NW, Atlanta, Ga., before Examiner James I. Carr.

No. MC 113410 (Sub No. 28), filed December 22, 1960. Applicant: DAHLEN TRANSPORT, INC., 875 North Prior Avenue, St. Paul 4, Minn. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington 4, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles; between points in the Minneapolis-St. Paul, Minn., Commercial Zone and points within 10 miles thereof and Milwaukee, Wis., and points in Illinois and Indiana.

HEARING: April 4, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Dallas B. Russell.

No. MC 114107 (Sub No. 4), filed December 30, 1960. Applicant: CEMENT TRANSPORT, INC., Kosmosdale, Ky. Applicant's attorney: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville 2, Ky. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from Cincinnati, Ohio, to points in Indiana and Kentucky within 70 miles of Cincinnati, Ohio.

HEARING: March 28, 1961, at the Kentucky Hotel, Louisville, Ky., before Joint Board No. 208, or, if the Joint Board waives its right to participate, before Examiner Maurice S. Bush.

No. MC 115018 (Sub No. 4), filed January 23, 1961. Applicant: LEWIS W. OWEN, Lawrenceville, Va. Applicant's attorney: John C. Goddin, 10 South 10th Street, Richmond 19, Va. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Wooden pallets and skids*, from plant site of Brunswick Box Co., Inc., near Lawrenceville, Va., to Bound Brook, Camden, and Newark, N.J., and (2) *Wooden pallets and skids and wooden pallet and skid materials*, in mixed loads, from plant site of Brunswick Box Co., Inc., near Lawrenceville, Va., to Canfield, Ohio.

HEARING: March 22, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James H. Gaffney.

No. MC 115322 (Sub No. 17), filed January 31, 1961. Applicant: J. M. BLYTHE, doing business as BLYTHE MOTOR LINES, P.O. Box 489, Sanford, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, frozen or unfrozen; from points in Chautauqua County, N.Y., and Erie County, Pa., to points in Virginia.

HEARING: March 22, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James A. McKiel.

No. MC 116459 (Sub No. 22), filed January 18, 1961. Applicant: RUSS TRANSPORT, INC., P.O. Box 8292, Chattanooga, Tenn. Applicant's attorney: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fly ash*, in tank or hopper or specialized equipment; from sites of Tennessee Valley Authority plants in Tennessee, Alabama, and Kentucky, to points in Alabama, Kentucky, and Tennessee.

HEARING: March 22, 1961, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Joint Board No. 284, or, if the Joint Board waives its right to participate, before Examiner Maurice S. Bush.

No. MC 117966 (Sub No. 1), filed December 13, 1960. Applicant: PRODUCE FORWARDING, INC., 2980 Arkins

Court, Denver, Colo. Applicant's attorney: Herbert M. Boyle, 736 Majestic Building, Denver 2, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, and *exempt agricultural products*, between Galveston, Tex., and Mobile, Ala., and points within 10 miles of Denver, Colo., including Denver.

HEARING: March 16, 1961, at the New Customs House, Denver, Colo., before Examiner Warren C. White.

No. MC 118415 (Sub No. 3), filed January 19, 1961. Applicant: WILLIAM E. HUSBY, doing business as HUSBY TRUCKING SERVICE, Route No. 1, Box 124, Menomonie, Wis. Applicant's attorney: W. P. Knowles, Doar & Knowles, New Richmond, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, between the Plant site of Whitehall Packing Company, Whitehall, Wis., and points in New York, New Jersey, Pennsylvania, Michigan, and Illinois.

NOTE: Applicant states that it will transport *returned, rejected, and refused loads of meat and meat scraps* purchased by Whitehall Packing Company for use at points in Wisconsin, on return.

HEARING: March 22, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Examiner Dallas B. Russell.

No. MC 119317 (Sub No. 6), filed January 23, 1961. Applicant: GROSS AND SONS TRANSPORT COMPANY, a corporation, 1706 Arlington Street, Independence, Mo. Applicant's attorney: Frank W. Taylor, Jr., 1012 Baltimore Building, Kansas City 5, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, sherbet, ice milk and frozen confections*, in temperature controlled vehicles; from Kansas City, Mo., to Denver, Colo., Omaha, Nebr., Smith Center, Belleville, Topeka, Lawrence, Parsons, and Pittsburg, Kans., Des Moines, Waterloo, Cedar Rapids, and Davenport, Iowa, Rock Island, Moline, and Peoria, Ill., and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, and *rejected, outdated, and spoiled or damaged shipments*, on return.

HEARING: March 17, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner William N. Culbertson.

No. MC 119399 (Sub No. 7), filed December 27, 1960. Applicant: CONTRACT FREIGHTERS, INC., 3105 East Seventh Street, Joplin, Mo. Applicant's attorney: Thomas F. Kilroy, Suite 610, 1000 Connecticut Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass or plastic containers, bottles, jars, packing glasses, jelly tumblers*, with or without their equipment of *caps, covers, stoppers or tops*; in straight or mixed truckloads; or in mixed truckloads with *corrugated paper boxes or paper containers*, knocked down; from Rosemount, Minn., to points in Illinois, Iowa, Kansas, Upper

Peninsula of Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and Muskogee, Okla., and Lapel, Ind., and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return.

NOTE: Applicant presently holds authority to conduct temporary operations as a contract carrier in MC-16007 Sub 22, therefore dual operations may be involved.

HEARING: April 6, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Dallas B. Russell.

No. MC 119527 (Sub No. 1) (AMENDMENT), filed October 27, 1960, published in the FEDERAL REGISTER issue of December 14, 1960. Applicant: LEE GRAHAM, doing business as LOCK HAVEN TRANSFER, 380 Irvin Street, Lock Haven, Pa. Applicant's representative: John W. Frame, 603 North Front Street, Harrisburg, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, printing*, other than newsprint, not printed or imprinted in bales, boxes, bundles, (on skids or otherwise), crates or rolls. *Paper, scrap or waste* (not sensitized), in barrels, bags, boxes, crates or in bales, including *scrap or waste, fibreboard, pulpboard, strawboard, old directories, old magazines, old newspapers and old pamphlets*, folded flat, securely tied in bundles. *Woodpulp*, not powdered, in packages. *Cores, chocks and canvas covers*, loose or in packages. *Machinery and machinery parts. Paper mill rolls*, loose or in boxes. *Flour: Cassave, sago or tapioca*, in bulk, in bags, barrels or boxes. *Oil and greases*, in barrels, boxes, kits or steel pails or in metal cans in crates. *Chemicals, chemical products and constituents* used in the manufacture of woodpulp and paper or in the processing thereof, between the plant sites of the New York and Pennsylvania Co., Inc., in Lock Haven, Pa., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, and Michigan, except articles and commodities which, because of size, shape or weight, require the use of special equipment to load, unload, or transport; and except liquids in bulk, in tank vehicles, under a continuous or continuing contract with New York and Pennsylvania Co., Inc.

HEARING: March 20, 1961, at the Pennsylvania Public Utility Commission, Harrisburg, Pa., before Examiner Samuel Horwich.

No. MC 119863 (Sub No. 2), filed December 15, 1960. Applicant: MYRON RICHARD GRAHAM, doing business as LEMONI REFRIGERATED EXPRESS, Box 24, Davis City, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and commodities* used in packing houses, as described in Appendix I, descriptions in Motor Carrier Certificates 61 M.C.C. 209, from Lamoni, Iowa to Chicago, Ill., in truckload shipments only, and from Chicago, Ill., to Ames, Burlington, Cedar Falls, Cedar Rapids, Clinton, Davenport, Dubuque, Des Moines, Lamoni, Ottumwa,

and Waterloo, Iowa, in less than truckload shipments only.

HEARING: May 2, 1961, at the Old Federal Office Bldg., Room 401, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 53.

No. MC 120651 (Sub No. 1), filed January 16, 1961. Applicant: HIRES TRUCKING CO., INC., 726 North Collett, Danville, Ill. Applicant's attorney: Ray M. Foreman, 704-710 Baum Building, Danville, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except commodities in bulk, and household goods as defined by the Commission, between points in the Commercial Zone of Chicago, Ill., and points in Iroquois, Ford, Champaign, Vermilion, Douglas, Edgar, and Clark Counties, Ill. Applicant is presently operating under a second proviso registration pursuant to the provisions of section 206(a) (1) of Part II of the Interstate Commerce Act. The application is being filed primarily for the purpose of permitting applicant to provide direct service to those points in Indiana that are situated in the Chicago Commercial Zone.

HEARING: April 24, 1961, at the Midland Hotel, Chicago, Ill., before Joint Board No. 21.

No. MC 123067 (Sub No. 1), filed February 8, 1961. Applicant: M & M TANK LINE, INC., P.O. Box 4174, North Station, Winston-Salem, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, (a) from Terminals on the Trans Southern Pipe Line at or near Pineville and Sanford, N.C., to points in Georgia, North Carolina, South Carolina, and Virginia; and (b) from Terminals on the Trans Southern Pipe Line at or near Anderson, S.C., to points in Georgia, North Carolina, South Carolina, and Virginia.

NOTE: Common control may be involved.

HEARING: March 13, 1961, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner James I. Carr.

No. MC 123117 (CORRECTION), filed October 7, 1960, published in FEDERAL REGISTER, issue of January 25, 1961. Applicant: ANGELO DITELLO, doing business as NATIONAL TRANSIT CARTAGE CO., 2702 South Sixth Street, Milwaukee 15, Wis. Applicant's attorney: William C. Dineen, 746 Empire Building, 710 North Plankinton Avenue, Milwaukee, Wis. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Core oil, silicate, and foundry core compound liquid*, in bulk, in tank vehicles, from Milwaukee, Wis., to points in Illinois, Indiana, Michigan, Ohio, Iowa, and Minnesota, and *range oil, silicate, and foundry core compound liquid*, in bulk, in tank vehicles, from points in Illinois, Indiana, Michigan, Ohio, Iowa, and Minnesota, to Milwaukee, Wis.

NOTE: The purpose of this republication is to remove the "comma" from between the

words "core" and "oil" as shown in previous publication.

HEARING: Remains as assigned March 17, 1961, in the Hotel Schroeder, Milwaukee, Wis., before Examiner Hugh M. Nicholson.

No. MC 123131, filed October 13, 1960. Applicant: R. C. WILSON, doing business as WILSON TRUCK SERVICE, Gratiot, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, poultry feed, twine, building materials, drain tile and fertilizer*, between Gratiot, Wis., and points within seven miles thereof, on the one hand, and, on the other, points in Illinois, Dubuque and Clinton, Iowa, and Duluth, Minn., with only *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

HEARING: March 20, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Examiner Dallas B. Russell.

No. MC 123246 (Sub No. 1), filed December 15, 1960. Applicant: J. A. MORGAN, doing business as M & E TRUCKING COMPANY, 832 East Main Street, Danville, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and fertilizer*, except liquid fertilizer, in tank type vehicles, from Danville, Ill., to points in Indiana as follows: An area bounded on the South by U.S. Route 40, on the East by Indiana State Route 9, and on the North by the northern boundary of Indiana and on the West by the western boundary of Indiana.

HEARING: April 28, 1961, at the U.S. Court Rooms, and Federal Building, Springfield, Ill., before Joint Board No. 21.

No. MC 123260, filed December 5, 1960. Applicant: P. C. PARKER AND L. E. COX, a partnership, doing business as P. M. C. COMPANY, 227 West Depot Street, Greeneville, Tenn. Applicant's attorney: Walter A. Curtis, Jr., Maupin, Berry & Curtis, Greeneville, Tenn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Peppers*, in cans and barrels; from Limestone, Tenn., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, and *exempt commodities, mostly produce*, on return.

HEARING: March 23, 1961, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Examiner Maurice S. Bush.

No. MC 123263, filed December 7, 1960. Applicant: DEAN YOHO AND HOWARD ARNDT, doing business as BELGIUM TRUCKING CO., Belgium, Wis. Applicant's attorney: John T. Porter, 708 First National Bank Building, Madison 3, Wis. Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed specialties*, such as, but not restricted to, mice breeder chow, dog chow, mink chow, zoo feed, etc., in bulk and package, between Davenport, Iowa, on the one hand, and, on the other, points in Wisconsin and the upper peninsula of Michigan, and Wadsworth, Ill.

HEARING: March 21, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Examiner Dallas B. Russell.

No. MC 123322, filed December 23, 1960. Applicant: BEATTY MOTOR EXPRESS, INC., Jefferson Avenue Extension, Washington, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper products, and materials and supplies* used in the manufacture of paper products, from Pittsburgh and Washington, Pa., to Winchester and Harrisonburg, Va., points in Frederick, Clarke, Rockingham, and Shenandoah Counties, Va., and that part of West Virginia on and east of a line beginning at the West Virginia-Maryland State line and extending along U.S. Highway 219 to Thomas, W. Va., thence along West Virginia Highway 32 to Harman, W. Va., thence along U.S. Highway 33 to Mouth of Seneca, W. Va., and thence along West Virginia Highway 28 to the West Virginia-Virginia State line; (2) *Damaged, defective, rejected, or returned shipments* of the commodities specified above, from the above-designated destination points to Pittsburgh and Washington, Pa.; (3) *Paper products, and materials, supplies, and equipment* (except machinery), used or useful in the manufacture of paper products, between Pittsburgh and Washington, Pa., on the one hand, and, on the other, Clarksburg and Grafton, W. Va.; (4) *Corrugated fibre products*, from Pittsburgh, Pa., to points in that part of Ohio and West Virginia, within two (2) miles of the Ohio River beginning at the Ohio-Pennsylvania State line (near East Liverpool, Ohio), and extending to Moundsville, W. Va.; and (5) *Refused, rejected or damaged shipments* of corrugated fibre products, from the above-described destination territory to Pittsburgh, Pa.

NOTE: Applicant also has common carrier authority under MC 78062 and Subs thereunder. A proceeding has been instituted under section 212(c) in No. MC 78062 (Sub No. 30) to determine whether applicant's status is that of a common or contract carrier. Dual authority under section 210 may be involved.

HEARING: March 17, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Harold P. Boss.

No. MC 123353 (AMENDMENT), filed January 6, 1961, published FEDERAL REGISTER issue of February 1, 1961. Applicant: STELLA TRUCKING, INC., MD 25, and McCall, Newburgh, N.Y. Applicant's representative: Charles N. Trayford, 220 East 42d Street, New York 17, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh bakery products*, from the plant site of

Stella D'Oro Biscuit Co., Inc., New York, N.Y., to Schenectady, Buffalo, Elmira, Kingston, Rochester, Syracuse, and Utica, N.Y.; Darby, Easton, and Pittsburgh, Pa.; Laurel, Md.; Old Bridge and Franklinville, N.J.; North Cambridge, Mass.; East Hartford, Conn.; Kennebunk, Maine; Providence, R.I.; Cincinnati and Cleveland, Ohio, and Detroit, Mich., and *empty shipping cartons and returned or damaged bakery goods*, on return.

NOTE: Applicant states service is under a continuing contract with the Stella D'Oro Biscuit Co., Inc. This republication changes and redesignates four (4) destination points.

HEARING: Remains as assigned March 10, 1961, at the U.S. Army Reserve Building, 30 West 44th Street, New York, N.Y., before Examiner Gordon M. Callow.

No. MC 123372 (Sub No. 2), filed January 30, 1961. Applicant: CARTAGE SERVICES, INC., 26380 Van Born, Dearborn, Mich. Applicant's attorney: Rex Eames, 1800 Buhl Building, Detroit 26, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Baked goods*, from Lansing and Kalamazoo, Mich., to Watervliet, Mich., and points within three (3) miles thereof.

NOTE: Applicant states the proposed transportation service will be rendered under a continuing contract with Schafer's Lansing Bakery, Inc., and Schafer's Kalamazoo Bakery, Inc. Applicant also has common carrier authority under MC 118594 and subs thereunder, therefore dual operations may be involved.

HEARING: April 20, 1961, in Room 215, Federal Building, Lansing, Mich., before Joint Board No. 76.

No. MC 123388, filed January 23, 1961. Applicant: CENTRAL IOWA STORAGE CO., 11 East Church Street, Marshalltown, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Washers, dryers, ranges, ironers, freezers, and refrigerators, and parts thereof, and empty containers or other such incidental facilities* (not specified), used in transporting the commodities specified above, between Marshalltown, Iowa, and Newton, Iowa; from Marshalltown over U.S. Highway 14 to Newton, and return over the same route, serving no intermediate points.

HEARING: May 1, 1961, at the Old Federal Office Building, Room 401, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 92.

No. MC 123394, filed January 25, 1961. Applicant: RICHARD M. NEWMAN, doing business at 123 11th Street, Plainwell, Mich. Applicant's attorney: L. F. RICHARDSON, Michigan National Tower, Lansing, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities*, used by packing houses, as described in Appendix I, to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 61 M.C.C. 766, (1) from Plainwell, Mich. and points within two (2) miles thereof, to points in Illinois, Indiana, Maryland, Massachusetts, New Jersey, New York, Ohio,

Pennsylvania, and Wisconsin and in the District of Columbia, and (2) from Decatur, Mich., to points in the District of Columbia, and *empty containers, rejected and returned shipments or other such incidental facilities* (not specified), used in transporting the commodities specified above, on return.

HEARING: March 21, 1961, at the Federal Building, Room 215, Lansing, Mich., before Examiner Raymond V. Sar. No. MC 123398, filed January 30, 1961.

Applicant: WAYNE E. LONG, 2219 St. Francis Street, Joliet, Ill. Applicant's attorney: Ernst John Watts, Delavan, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and building materials*, as defined in Appendix VI to the Report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209, from the site of Wickes Lumber Company, located approximately two (2) miles Northwest of Plainfield on State Highway 30, in Plainfield, Will County, Ill., to points in Lake, Porter, LaPorte, Starke, Pulaski, Jasper, Newton, White, Tippecanoe, Benton and Warren Counties, Ind., and to the Wickes Lumber Yard located 2 miles Southwest of Elkhorn, Wis. in Delavan, Walworth County, Wis., and *rejected shipments*, on return.

HEARING: April 26, 1961, at the Midland Hotel, Chicago, Ill., before Joint Board No. 17.

No. MC 123401, filed January 30, 1961. Applicant: MORRIS ISENBERG, 21910 Sunset, Oak Park 37, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and dairy supplies*, from Detroit, Mich., to points in Ohio, and *empty milk containers or other such incidental facilities*, used in transporting the above commodities, on return.

NOTE: Applicant proposes to perform service exclusively for United Dairies, Inc., Detroit, Michigan.

HEARING: April 20, 1961, in Room 215, Federal Building, Lansing Mich., before Joint Board No. 57.

MOTOR CARRIER OF PASSENGERS

No. MC 61993 (Sub No. 1), filed January 5, 1961. Applicant: KEYSTONE TOURS, INC., Bath, Pa. Applicant's attorney: Raymond A. Thistle, Jr., Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, from points in Northampton and Lehigh Counties, Pa., to points in Wisconsin, Illinois, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Indiana, Michigan, Ohio, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia, and return.

NOTE: Applicant states that carrier presently has special operations authority from Bath and Easton, Pa., and points within 20 miles of Bath and Easton, to New York and

Niagara Falls, N.Y., Atlantic City and Cape May, N.J., and points in the District of Columbia and return. Carrier does not desire to create any duplicating authority and if the present application is granted, such duplicating authority should be cancelled.

HEARING: March 15, 1961, at the Penn Sherwood Hotel, 3900 Chestnut Street, Philadelphia, Pa., before Examiner David Waters.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 4027 (Sub No. 5), filed February 6, 1961. Applicant: RALPH ERNEST RIEMENSNIIDER, doing business as IBERIA TRANSFER CO., Iberia, Mo. Applicant's attorney: Turner White, 805 Woodruff Building, Springfield, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between Iberia and Springfield, Mo., on traffic originating at, or destined to points outside Missouri and with the privilege of interchanging traffic with other carriers at Springfield, but restricted that applicant may not tack such operations to, or combine them with those authorized in Certificate No. MC-4027, for the purpose of providing through transportation, between Springfield, Mo., and authorized points of service on carrier's Iberia, Mo.-East St. Louis, Ill., route as reflected in said certificate.

No. MC 65419 (Sub No. 6), filed February 6, 1961. Applicant: ARMORED CAR COMPANY, INC., 1031 South Sixth Street, Louisville, Ky. Applicant's attorney: Earl C. Frankenberger, Commonwealth Building, Louisville, Ky. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Money, bullion, securities, bonds, and other commodities and articles of unusual value*; between Louisville, Ky., on the one hand, and, on the other, points in Clark, Crawford, Dubois, Floyd, Harrison, Jackson, Jefferson, Lawrence, Martin, Orange, Perry, Scott, Switzerland, and Washington Counties, Ind.

No. MC 66562 (Sub No. 1776), filed January 13, 1961. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, PRIN. OFFICE: 219 East 42d Street, New York 17, N.Y., LOCAL OFFICE: 1004 Farnam Street, Omaha 2, Nebr. Applicant's attorneys: Slovacek and Galliani, Suite 2800, 188 Randolph Tower, Chicago 1, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, between Sioux Falls, S. Dak., and Alliance, Nebr., from Sioux Falls north over U.S. Highway 77 to Brookings, S. Dak., thence west over U.S. Highway 14 to junction U.S. Highway 281, thence north over U.S. Highway 281 to Redfield, S. Dak., thence west over U.S. Highway 212 to junction U.S. Highway 83, thence south over U.S. Highway

83 to junction U.S. Highway 14 (also from junction U.S. Highway 14 and 281 west over U.S. Highway 14 to junction U.S. Highway 83), thence west over U.S. Highway 14 to Rapid City, S. Dak., thence south over South Dakota Highway 79 to junction U.S. Highway 385, thence south over U.S. Highway 385 to Alliance, Nebr., and return over the same routes, serving the intermediate points of Brookings, Arlington, Lake Preston, De Smet, Iroquois, Huron, Redfield, Faulkton, Gettysburg, Onida, Wolsey, Miller, Highmore, Blunt, Pierre, Midland, Philip, Wall, Wasta, and Rapid City, S. Dak. **RESTRICTIONS:** (1) The service to be performed shall be limited to that which is auxiliary to, or supplemental of, express service; (2) Shipments transported shall be limited to those moving on through bills of lading or express receipts; and (3) Such further conditions as the Commission in the future may find necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, express service from and to the points as described above.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F 7772. (FURNITURE EXPRESS, INC.—PURCHASE—NORMAN L. LAWSON (ALFRED G. FORD TRUSTEE)), published in February 1, 1961, issue of the FEDERAL REGISTER on page 1009. Application filed February 3, 1961, for temporary authority under section 210a(b).

No. MC-F 7782. Authority sought for purchase by SIGNAL TRUCKING SERVICE, LTD., 4455 Fruitland Avenue, Los Angeles 58, Calif., of the operating rights and property of EDW. P. WHITE, RICHARD I. PROSSER, ANTHONY E. PERRY, MARIE C. BROWN, and WILLIAM N. COEY, co-partners, doing business as C. A. WORTH & CO., 350 Second Street, San Francisco 7, Calif., and for acquisition by JOHN E. CARROLL, 4455 Fruitland Avenue, Los Angeles 58, Calif., of control of such rights and property through the purchase. Applicants' attorney: Edward M. Berol, 100 Bush Street, San Francisco 4, Calif. Operating rights sought to be transferred: Operations under the Second Proviso of section 206(a) (1) of the Interstate Commerce Act, covering the transportation of *general commodities*, with certain exceptions, as a *common carrier* over irregular routes between points in the San Francisco-East Bay Cartage Zone. Vendee is authorized to operate as a *common carrier* in California, and is also authorized to operate in that state under the Second Proviso of section 206(a) (1) of the Interstate Commerce Act. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7783. Authority sought for purchase by SMITH TRANSIT, INC., 1528 Main Street, Dallas 1, Texas, of the operating rights of TRANSPORTERS, INC., 305 Simons Building, Dallas 1, Texas, and for acquisition by RAY SMITH, 3d Floor, Simons Building, Dallas, Texas, and W. D. WHITE, as trustee for Dorothy Smith, Nancy Smith and Sophie Smith, 1900 Mercantile Dallas Building, Dallas 1, Texas, of control of such rights through the purchase. Applicants' attorney: Rollo E. Kidwell, 2130 Fidelity Union Tower, Dallas 1, Texas. Operating rights sought to be transferred: *Barite ore* (barytes), in bulk, in tank or hopper-type vehicles, as a *common carrier* over irregular routes between points in Louisiana, on the one hand, and, on the other, points in Texas. Vendee is authorized to operate as a *common carrier* in Texas, Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Arizona, Colorado, Utah, Iowa, Nebraska, Oregon, Washington, California, Illinois, Kentucky, Indiana, Ohio, and Florida. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7784. Authority sought for purchase by L. D. EASTER, E. M. EASTER, M. E. EASTER, L. W. EASTER, L. B. EASTER and M. M. EASTER, a partnership, doing business as HIGHWAY TRANSPORT COMPANY, 4143 East 43d Street, Des Moines 17, Iowa, of a portion of the operating rights of DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend 21, Ind. Applicants' attorneys: William A. Landau, 1307 East Walnut, Des Moines 16, Iowa, and Charles Pieroni, 4000 West Sample Street, South Bend, Ind. Operating rights sought to be transferred: *New automobiles, new trucks and automobile and truck parts and accessories*, when moving with new automobiles and new trucks, in secondary movements, in truckaway and drive-away service, as a *common carrier* over irregular routes, from points in that part of Colorado on and south of U.S. Highway 50 and on and east of U.S. Highway 285, to points in New Mexico, Arizona, and California. Vendee is authorized to operate as a *common carrier* in Wisconsin, Colorado, Kansas, Nebraska, Iowa, Nevada, and Illinois. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7785. Authority sought for purchase by HOLMAN TRANSFER COMPANY, 49 Southeast Clay Street, Portland 14, Oregon, of a portion of the operating rights of SILVER EAGLE COMPANY NW, St. Helens Road and 57th Avenue, Portland 10, Oreg., and for acquisition by H. M. CLARK, SR., and H. M. CLARK, JR., both of 6106 Southeast 32d Avenue, Portland, Oreg., and L. P. CLARK, 5800 Southwest Arrow Wood Lane, Portland, Oreg., of control of such rights through the purchase. Applicants' attorney: James P. Cronan, Jr., 1026 Public Service Building, Portland 4, Oreg. Operating rights sought to be transferred: *Corn syrup and liquid sugar*, in bulk, in tank vehicles, as a *common carrier* over regular routes, from Port-

land, Oreg., to points in Oregon and Washington. Vendee is authorized to operate as a *common carrier* in Washington and Oregon. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7786. Authority sought for purchase by SECURITY VAN LINES, INC., 120 West Airline Highway, P.O. Box 825, Kenner, Louisiana, of the operating rights of CLARENCE C. CURTH, JR., doing business as L. CURTH & SONS, 13 Meryll Place, Bethpage, New York, and for acquisition by SECURITY STORAGE & VAN COMPANY, INC. (LA. CORP.), and, in turn by, HOWARD WOLCHANSKY, both of P.O. Box 825, Kenner, La., of control of such rights through the purchase. Applicants' attorneys: Kretsinger & Kretsinger, 1014-18 Temple Building, Kansas City 6, Missouri, and Robert W. Cauldwell, 165 Broadway, New York 6, New York. Operating rights sought to be transferred: *Household goods*, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, as a *common carrier* over irregular routes from New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., and those in New York, New Jersey, and Connecticut within 50 miles of New York, N.Y., to points in New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, Delaware, Maryland, Maine, New Hampshire, Vermont, Kentucky, Missouri, Iowa, Illinois, Ohio, Michigan, North Carolina, South Carolina, Georgia, Florida, Virginia, West Virginia, Indiana, and the District of Columbia, from points in the above-specified destination territory, to points in Connecticut, Massachusetts, Rhode Island, Delaware, and New Jersey, and those in New York, Pennsylvania, and Maryland within 225 miles of New York, N.Y. Vendee is authorized to operate as a *common carrier* in Florida, Georgia, Alabama, Mississippi, Texas, Oklahoma, Louisiana, Tennessee, Arizona, California, Oregon, Washington, Arkansas, Missouri, Illinois, South Carolina, North Carolina, Virginia, Maryland, New Jersey, New York, New Mexico, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7787. Authority sought for purchase by HIGHWAY TRANSPORT COMPANY, INC., 4143 East 43d Street, Des Moines 17, Iowa, of the operating rights and property of L. D. EASTER, E. M. EASTER, M. E. EASTER, L. W. EASTER, L. B. EASTER, and M. M. MORSE, a partnership, doing business as HIGHWAY TRANSPORT COMPANY, 4143 East 43d Street, Des Moines 17, Iowa, and for acquisition by E. M. EASTER, Winterset, Iowa, M. E. EASTER, 2315 45th Street, Des Moines, Iowa, L. W. EASTER, 4052 Ashby, Des Moines, Iowa, L. D. EASTER, 720 35th Street, Des Moines, Iowa, L. B. EASTER, 7204 Colby, Des Moines, Iowa, and M. M. MORSE, Norwalk, Iowa, of control of such rights and property through the purchase. Applicants' attorney: William A. Landau, Post Office Box 1634, Des Moines 6, Iowa. Operating rights sought to be transferred: *Automobiles*, in initial

movements, in truckaway service, and *automobile show equipment, automobile show paraphernalia, and advertising matter* used in connection with the distribution and sale of motor vehicles, as a *common carrier* over irregular routes from Kenosha, Wis., to points in Colorado, Kansas, and Nebraska, *new automobiles, and parts*, in initial movements, in truckaway service, from Kenosha, Wis., to certain points in Iowa, *livestock*, between Nevada, Iowa, and points within 10 miles of Nevada north of U.S. Highway 30, on the one hand, and, on the other, Chicago, Ill., from Cambridge, Iowa, and points (including Jordan, Iowa) south of U.S. Highway 30 within 25 miles of Cambridge, to Chicago, Ill., *egg cases and fillers*, from Chicago, Ill., to Colo. Iowa, *foreign-made automobiles*, in truckaway service, from Kenosha, Wis., to points in Colorado, Nebraska, Kansas, and certain points in Iowa. Vendee holds no authority from this Commission, however, its controlling stockholders control, through stock ownership, ACE LINES, INC., 4143 East 43d Street, Des Moines 17, Iowa, which is authorized to operate as a *common carrier* in Minnesota, North Dakota, Iowa, Illinois, Nebraska, and South Dakota. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R.: Doc. 61-1315; Filed, Feb. 14, 1961;
8:50 a.m.]

[Notice 447]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 10, 1961.

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 63906. By order of February 8, 1961, the Transfer Board approved the transfer to Wilbur T. Wildes, South Portland, Maine, of Certificate No. MC 37457 Sub 1, issued October 11, 1946, to Gordon W. Creelman, Portland, Maine, authorizing the transportation, over irregular routes, of household goods, between Portland, Maine, and points within 15 miles of Portland, on the one hand, and, on the other, points in Massachusetts and New Hampshire. Robert A. Wilson, 85 Exchange Street, Portland, Main, for applicants.

No. MC-FC 63929. By order of February 8, 1961, the Transfer Board approved

the transfer to Local Film Delivery, Inc., Seattle, Wash., of Certificate No. MC 44648 Sub 1, issued November 9, 1951, to Chas. D. Lawson, doing business as Local Film Delivery, Seattle, Wash., authorizing the transportation, of motion picture film, supplies, equipment, and merchandise, incidental to the operation and maintenance of motion picture theaters, over a regular route, between Seattle, Wash., and McChord Field, Wash. George H. Hart, 827 Central Building, Seattle 4, Wash., for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 61-1316; Filed, Feb. 14, 1961;
8:50 a.m.]

[Ex Parte No. MC-62]

LEGISLATIVE RECOMMENDATIONS RE PRACTICES OF HOUSEHOLD GOODS CARRIERS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of January A.D. 1961.

There being under consideration the operations and practices of common carriers by motor vehicle engaged in the transportation of household goods, manner and method in which such transportation is performed, and the desirability of transmitting to the Congress legislative recommendations dealing with the operations and practices of such carriers;

It is ordered, That an investigation be, and it is hereby, instituted under section 204(a)(7) of the Interstate Commerce Act into the practices of, and the manner and methods of the performance of service by, motor common carriers subject to the Interstate Commerce Act, engaged in the transportation of household goods and into the desirability of transmitting to the Congress recommendations for the enactment of legislation dealing with the operations and practices of such carriers, including, but not limited to, legislation which would provide:

(a) That each such carrier shall publish and file with the Commission tariffs which shall state the maximum rates and charges of the carrier, and the lawful charges for transportation and other services on any shipment shall be either (1) the charges determined in accordance with such tariffs, (2) any charges upon which the carrier and the shipper have agreed in writing, or (3) the charges stated in any written estimate given to the shipper by the carrier, whichever will result in the lowest charge to the shipper.

(b) That penalties and forfeitures be imposed to prevent excessive underestimation of charges.

It is further ordered, That this proceeding be consolidated for joint hearing and determination on a common record with the proceedings in Ex Parte No. MC-19 and Ex Parte No. MC-1, which are the subject of a Notice of Proposed Rule Making dated January 16, 1961, dealing with proposals to revise and modify certain regulations governing the practices of motor common carriers of household goods and the payment of rates and

charges of such carriers, and with the proceedings in Ex Parte No. MC-61, Released Rates of Motor Common Carriers of Household Goods;

It is further ordered, That the Bureau of Inquiry and Compliance shall participate in the consolidated proceedings for the purpose of developing the facts and issues;

It is further ordered, That the consolidated proceedings be assigned for hearing at a time and place to be hereafter fixed;

It is further ordered, That the consolidated proceedings be and they are hereby assigned to Commissioner Webb for administrative handling;

And it is further ordered, That notice of the institution of this proceeding and of the other matters covered herein shall be given to motor common carriers of household goods and to the general public by posting a copy of this order for public inspection in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 61-1317; Filed, Feb. 14, 1961;
8:56 a.m.]

[No. 33440]

PREVENTION OF RAIL-HIGHWAY GRADE-CROSSING ACCIDENTS INVOLVING RAILWAY TRAINS AND MOTOR VEHICLES

Corrected Order¹

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 6th day of February A.D. 1961.

It appearing that upon consideration of a petition filed September 21, 1960, by the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors and Brakemen, and the Brotherhood of Railroad Trainmen and Switchmen's Union of North America, requesting reconsideration of a Commission order dated August 15, 1960, denying a general investigation to determine what rules, regulations, facilities or other measures are necessary to prevent accidents at railroad crossings between railway trains and motor vehicles carrying petroleum, petroleum products and similar dangerous flammable liquids; of a petition in support of said petition for reconsideration, of 41 railroads in the Western District filed September 26, 1960; of a reply of the Central Committee on Highway Transportation of the American Petroleum Institute filed October 28, 1960; and of a petition filed December 20, 1960, to allow the late-filing of a statement by National Tank

¹ The third ordering paragraph is corrected by the interpolation of "(Public Law 86-710)". The fourth ordering paragraph is corrected to show that notice to respondents, as well as the general public, is provided by publication in the FEDERAL REGISTER.

Truck Carriers, Inc., in reply to the petition for reconsideration, and such statement;

It is ordered, That the petition requesting approval for the late filing of the statement in reply to the petitions for reconsideration be, and it is hereby, granted, and that such statement in reply be, and it is hereby, accepted for filing;

It is further ordered, That upon consideration of all the aforementioned pleadings, the petitions for reconsideration be, and they are hereby, granted, for the reason that the interest of public safety requires a general investigation to determine the adequacy of the Commission's present safety regulations for the purpose of reducing and possibly eliminating these accidents in the future, and determining whether additional legislation should be recommended;

It is further ordered, That under the authority of sections 12(1), 25, and 204(a)(1), (2), (3), and (7) of the Interstate Commerce Act (49 U.S.C. 12(1), 26, and 304(a)(1), (2), (3), and (7)) and 18 U.S.C. 831-835, (Public Law 86-710) a proceeding be, and it is hereby, instituted by the Commission on its own motion into and concerning accidents at railroad-highway crossings involving railway trains and highway motor vehicles transporting liquid petroleum and liquid petroleum products, explosives, flammable or oxidizing liquids and solids, flammable or poisonous compressed gases, volatile liquids and solids which emit poisonous fumes, corrosive liquids, and radioactive materials, for the purpose of determining what further safety requirements can or should be made, within the authority of the Commission; what additional legislation may be necessary, and for the further purpose of focusing public attention on the gravity of the safety problem occasioned by collisions at railroad crossings between railway trains and such motor vehicles;

It is further ordered, That all railroads and all carriers by motor vehicle of liquid petroleum and liquid petroleum products, explosives, flammable or oxidizing liquids and solids, flammable or poisonous compressed gases, volatile liquids and solids which emit poisonous fumes, corrosive liquids, and radioactive materials, subject to regulation under the Interstate Commerce Act with respect to safety of operation, be and they are hereby, made respondents in this proceeding; that State Regulatory Commissions and State, county, and municipal authorities having jurisdiction over railroads or motor vehicle operations with respect to safety of operation, railroad and motor carrier associations, railway and motor carrier labor organizations, and other interested persons are invited to participate in the proceeding with the view of developing a complete and informative record; that the Bureau of Inquiry and Compliance be, and it is hereby, authorized and directed to participate as a party herein and to present evidence and make representations on the issues involved; and that notice of this proceeding be given to respondents and to the general public by posting a copy of this order in the office of the

Secretary of the Commission at Washington, D.C., for public inspection, and by filing a copy with the Director of the Division of the Federal Register for publication in the FEDERAL REGISTER. Any person desiring to receive notice by mail of hearings or other procedures, or copies of notices, reports and orders, in this proceeding shall file requests therefor in writing with the Secretary of the Commission;

And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter direct.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 61-1318; Filed, Feb. 14, 1961;
8:50 a.m.]

**FOURTH SECTION APPLICATIONS
FOR RELIEF**

FEBRUARY 10, 1961.

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. 36897: *Substituted service—NH for Lake Refrigerated Service.* Filed by The New York, New Haven and Hartford Railroad Company (No. 220), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Harlem River, N.Y., on the one hand, and New Haven, Conn., Boston and Springfield, Mass., and Providence, R.I., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

FSA No. 36898: *Carbide of calcium residue from Woodstock, Tenn.* Filed by O. W. South, Jr., Agent (No. A4063), for interested rail carriers. Rates on carbide of calcium residue, in bulk or in packages, in carloads, from Woodstock, Tenn., to points in southern territory.

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

Tariff: Supplement 142 to Southern Freight Association tariff I.C.C. 1345.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 61-1313; Filed, Feb. 14, 1961;
8:50 a.m.]

**OFFICE OF CIVIL AND DEFENSE
MOBILIZATION**

LeROY LUTES

**Appointee's Statement of Business
Interests**

The following statement lists the names and concerns required by subsec-

tion 710(b)(6) of the Defense Production Act of 1950, as amended.

I hold no active position with any corporation. I am a retired Vice President of the Mansfield Tire and Rubber Company, Mansfield, Ohio, and consultant thereto.

Security holdings at present time are common stock of:

- Boeing Aircraft Corp.
- North American Aircraft Corp.
- J. I. Case Implement Co.
- Fairbanks-Whitney Co.
- Trans-Continental Pipe Line Co.
- Atlas Corp.

This amends statement published August 25, 1960 (25 F.R. 8173).

Dated: February 5, 1961.

LeROY LUTES.

[F.R. Doc. 61-1282; Filed, Feb. 14, 1961
8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-13]

BABCOCK & WILCOX CO.

**Issuance of Facility License
Amendment**

Please take notice that the Atomic Energy Commission has issued Amendment No. 3, set forth below, to License No. CX-10. The amendment authorizes The Babcock & Wilcox Company, as requested in its applications for license amendment dated November 2, 1960 and December 22, 1960, to change the water tank critical facility located in Bay 2 in the licensee's Critical Experiment Laboratory located near Lynchburg, Virginia, to accommodate heavy water systems and to conduct therein certain experiments at power levels up to 1,000 watts (thermal) on reactor systems containing mixtures of light and heavy water. As a condition to the conduct of the experiments, the amendment requires that the licensee submit certain written reports to the Commission concerning measured nuclear parameters of the facility. The amendment also authorizes the receipt, possession and use of the special nuclear material and source material which will be used in the licensed operations. The Commission has found that conduct of the activities in accordance with the terms and conditions of the license, as amended, will not present any undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the conduct of the proposed activities does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the facility.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty

days after issuance of the license amendment. Petitions for leave to intervene or requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the AEC's Public Document Room, 1717 H Street NW., Washington, D.C.

For further details see (1) the applications for license amendment dated November 2, 1960 and December 22, 1960, submitted by The Babcock & Wilcox Company, and (2) a hazards analysis prepared by the hazards evaluation staff of the Division of Licensing and Regulation, both on file at the AEC's Public Document Room. A copy of item (2) above may be obtained at the AEC's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 7th day of February 1961.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director,
Division of Licensing and Regulation.

[License No. CX-10; Amdt. 3]

License No. CX-10 issued to The Babcock & Wilcox Company is hereby amended in the following respects:

1. In addition to the activities previously authorized by the Commission in License No. CX-10, as amended, The Babcock & Wilcox Company is authorized, as requested in its applications for license amendment dated November 2, 1960, and December 22, 1960, to change the water tank critical facility located in Bay 2 in the licensee's Critical Experiment Laboratory located near Lynchburg, Virginia, to accommodate heavy water systems and to conduct therein certain experiments at power levels up to 1000 watts (thermal) on reactor systems containing mixtures of light and heavy water.

The activities shall be conducted in accordance with the procedures and subject to the limitations in License No. CX-10, as amended and in the applications for license amendment dated November 2, 1960 and December 22, 1960.

2. A new paragraph 2c. is hereby added as follows:

Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material" to possess and use in connection with operation of the facility up to 305 kilograms of contained uranium 235 and up to 80 grams of plutonium contained in plutonium-beryllium neutron sources.

3. A new paragraph 2d. is hereby added as follows:

Pursuant to the Act and Title 10, CFR, Chapter 1, Part 40, "Control of Source Material", to receive, possess and use in connection with operation of the facility up to 2600 kilograms of contained thorium.

4. The first paragraph of paragraph 4 is hereby amended to read as follows: "This license shall be deemed to contain and be subject to the conditions specified in § 40.24 of Part 40, § 50.54 of Part 50, and § 70.32 of Part 70, Title 10, Chapter 1, CFR, and to be subject to all applicable provisions of the Act, and to the rules and regulations and orders of the Commission, now or hereafter in effect, and to the additional conditions specified below:"

5. A new paragraph 4e(1) is hereby added as follows:

(1) As promptly as practicable, but no later than 60 days after the initial criticality of the TUPE and NMSR critical assemblies, respectively, the licensee shall submit written reports to the Commission describing the measured values of the nuclear parameters listed below and evaluating any significant variation of a measured parameter from the corresponding predicted value:

- (a) Total rod worth;
- (b) Minimum shutdown margin both at room and operating temperature;
- (c) Maximum worth of the single control rod of highest reactivity value; and
- (d) Maximum total and individual worth of any fixed or movable experiments inserted in the reactor.

(2) The licensee shall promptly submit a written report to the Commission whenever, during operation of the facility subsequently to initial criticality, any of the nuclear characteristics of the facility, including those described in paragraph 4e(1) above and the application, is observed to vary significantly from its predicted value.

This amendment is effective as of the date of issuance.

Date of issuance: February 7, 1961.

For the Atomic Energy Commission.

[F.R. Doc. 61-1280; Filed, Feb. 14, 1961; 8:45 a.m.]

[Docket No. 50-60]

BETHESDA NAVAL HOSPITAL

Issuance of Utilization Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 3, set forth below, to License No. R-27 issued to Bethesda Naval Hospital. The amendment provides additional safeguards for the operation by the licensee of its reactor Model AGN-

201, Serial No. 105, located on its site in Bethesda, Maryland. The Commission has found that operation of the reactor in accordance with the terms and conditions of the license, as amended, will not present any undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the operation of the reactor in accordance with the terms of the license as amended does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the reactor.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after issuance of the license amendment. Petitions for leave to intervene and requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the AEC's Public Document Room, 1717 H Street, Washington, D.C. For further details see Docket No. 50-60 on file at the AEC's Public Document Room.

Dated at Germantown, Md., this 7th day of February 1961.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of
Licensing and Regulation.

[License No. R-27 Amdt. 3]

License No. R-27, as amended, which authorizes Bethesda Naval Hospital to operate its reactor Model AGN-201, Serial No. 105, located on its site in Bethesda, Maryland, is hereby amended by adding the following additional conditions thereto:

1. The control rod and safety rod magnet circuits shall reverse the current direction for the magnets at the time any scram relay is actuated.

2. The licensee shall, at least once during each month when the reactor is operated, check the ability of all safety rods and control rods to drop when the scram instrumentation is actuated. A record shall be made of each instance in which one or more rods fails to scram when called upon to do so.

3. If one or more of the safety or control rods fails to scram when called upon to do so, the reactor shall immediately be shut down and shall not be started up until:

A. The probable cause of the scram malfunction has been determined and remedied; and

B. Cognizant reactor supervisory personnel and, to the extent applicable, the local reactor hazards committee have reviewed and concurred in the remedial action taken; and

C. A written record is made by the licensee of the events in A. and B. above.

4. The effectiveness of the corrective measures taken pursuant to condition 3 above shall be verified by scrambling the rods, which had previously failed to scram, several times under conditions similar to those under which they had failed. A written record of these tests shall be made. Should the rod again fail to scram during the tests, the reactor shall be shut down and the steps described in condition 3 above and this condition 4 shall be repeated. This amendment is effective thirty days after the date of issuance.

Date of issuance: February 7, 1961.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of
Licensing and Regulation.

[F.R. Doc. 61-1281; Filed, Feb. 14, 1961; 8:45 a.m.]

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