

FEDERAL REGISTER



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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

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PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Post Office Department

Effective upon publication in the FEDERAL REGISTER, subparagraph (9) of paragraph (c) and subparagraph (2) of paragraph (f) of § 6.309 are amended as set out below.

§ 6.309 Post Office Department.

* * * * *
(c) *Bureau of Transportation.* * * *
(9) One Executive Assistant to the Assistant Postmaster General.

* * * * *
(f) *Bureau of Operations.* * * *
(2) One Executive Assistant and two Special Assistants to the Assistant Postmaster General.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F.R. Doc. 62-894; Filed, Jan. 25, 1962; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 18]

PART 728—WHEAT

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

APPROVED DURUM WHEAT COUNTIES UNDER 1962 DURUM WHEAT PROGRAM

The amendment herein is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, including the amendments in section 125 of the Agricultural Act of 1961, and is for the purpose of designating the counties in California, Minnesota, Montana, North Dakota, and South Dakota which are capable of producing Durum Wheat (Class II) and which have produced such wheat for commercial food products during one or more of the five years 1957 through 1961.

The determination of eligibility of counties designated in § 728.1027(i) was

based upon past historical records of the Department and of the Bureau of Census, wheat producers' records, and certification from State committees, which are determined to be the latest available statistics of the Federal Government.

Prior to the determination of the counties listed in § 728.1027(i), notice was given (26 F.R. 9912) that consideration would be given to written data, views, or recommendations with respect to such determination submitted not later than November 4, 1961. No data, views, or recommendations pursuant to such notice have been received with respect to determination of eligible counties.

In order that producers may proceed with plans for seeding Durum Wheat (Class II) and other classes of wheat of the 1962 crop as expeditiously as possible and particularly to enable producers to determine whether to participate in the 1962 wheat stabilization program, it is hereby determined that compliance with the 30-day effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, the amendment herein shall become effective upon publication in the FEDERAL REGISTER.

Section 728.1027(i) is amended by deleting the last sentence thereof and inserting in lieu thereof the following: "The list of approved Durum Wheat (Class II) counties are as follows:

State and Counties of:

California—Modoc and Siskiyou.
Minnesota—Becker, Beltrami, Big Stone, Blue Earth, Brown, Chippewa, Clay, Clearwater, Cottonwood, Dakota, Dodge, Douglas, Faribault, Freeborn, Goodhue, Grant, Jackson, Kandiyohi, Kittson, Lac qui Parle, Lake of the Woods, Le Sueur, Lincoln, Lyon, McLeod, Mahanomen, Marshall, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Norman, Olmsted, West Otter Tail, East Otter Tail, Pennington, West Polk, East Polk, Pope, Red Lake, Redwood, Renville, Rice, Rock, Roseau, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Watonwan, Wilkin, Yellow Medicine.

Montana—Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Hill, Judith Basin, Lewis and Clark, Liberty, McCone, Madison, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Sweet Grass, Teton, Toole, Valley, Wibaux, Yellowstone.

North Dakota—All counties.

South Dakota—Aurora, Beadle, Bennett, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Codington, Corson, Day, Deuel, Dewey, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lincoln, Lyman, McPherson, Marshall, Meade, Mellette, Miner, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Washabaugh."

(Secs. 334, 375, 52 Stat. 54, as amended, 66, 75 Stat. 300; 7 U.S.C. 1334, 1375)

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on January 23, 1962.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-899; Filed, Jan. 25, 1962; 8:49 a.m.]

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

[Milk Order No. 125]

PART 1125—MILK IN THE PUGET SOUND, WASHINGTON, MARKETING AREA

Order Amending Order

§ 1125.0 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 the 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 agreement and to the order regulating the handling of milk in the Puget Sound, Washington, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only

to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than February 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued November 2, 1961, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued January 5, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective February 1, 1962, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

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

§ 1125.16 Producer-handler.

"Producer-handler" means a person who is both a dairy farmer and a handler, and who has been so designated by the market administrator upon his determination that all of the requirements of § 1125.102 have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until cancelled pursuant to § 1125.102(d). The Department of Institutions, State of Washington, shall be a producer-handler exempt from the provisions of §§ 1125.102 (other than paragraph (g) thereof), 1125.30 and 1125.32 with respect to milk

of its own production and receipts from fluid milk plants and country plants processed or received for consumption in state institutions and with respect to movements of milk to or from a fluid milk plant or country plant.

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

Effective date: February 1, 1962.

Signed at Washington, D.C., on January 23, 1962.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 62-898; Filed, Jan. 25, 1962;
8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 773; Amdt. 60-27; Supp. 33]

PART 60—AIR TRAFFIC RULES

Radio Communications Failure

Draft Release No. 61-13 published as a notice of proposed rule making in the FEDERAL REGISTER on June 16, 1961 (26 F.R. 5404), gave notice that the Federal Aviation Agency proposed to amend § 60.49, Radio Failure, of Part 60 of the Civil Air Regulations. The reasons for the amendment were outlined in detail in the draft release. All comments received in response to this draft release have been reviewed and given due consideration. The majority of comments received either endorsed the proposed revision or recommended certain changes. Only one comment was in opposition to the amendment.

The proposed rule contained the provision that when weather conditions permit, the pilot shall terminate his flight in VFR conditions and land as soon as practicable. One organization and one individual tempered their concurrence with the recommendation to delete this mandatory requirement. It was contended that the ATC system either cannot or does not want to cope with aircraft which experience radio communications failure in VFR conditions. It is emphasized that the question is not whether the system can or cannot cope with the situation but whether the resultant adverse impact upon other users of the system is reasonable compared to the possible inconvenience to one pilot. Air traffic control provides standard separation to all en route IFR aircraft regardless of weather conditions. When a radio communications failure occurs, a near emergency situation is sometimes created, in that it may become necessary for air traffic control to reroute or reclear a substantial number of IFR aircraft in order to maintain proper separation. In essence, air traffic control is often forced, for reasons of safety, to grant priority to the aircraft experiencing the failure. It is not considered logical to permit an aircraft which is in VFR conditions to continue an extended flight to the destination at the possible inconvenience of other aircraft using the

system. As stated in the Draft Release, the simplest way to eliminate such a problem is to remove the source, i.e., to require the pilot of the aircraft experiencing the malfunction to land.

In the original proposal, the requirement to terminate the flight under VFR would not apply to operations conducted within positive control airspace. Upon consideration of the safety factors involved, it has been determined that the requirement to land VFR should also apply to this airspace. Therefore, this regulation provides that, regardless of the airspace involved, when VFR conditions prevail the flight must be terminated as soon as practicable. It should be emphasized the pilot of an aircraft in such circumstances is fully responsible for the separation of his aircraft from all others.

It is not intended that the requirement to "land as soon as practicable" be construed to mean "as soon as possible." The pilot, of course, retains his prerogative of exercising his best judgment and is not required to land at an unauthorized airport, at an airport unsuitable for the type of aircraft flown, or to land only minutes short of his intended destination. The primary objective of this provision of the rule is to preclude extended IFR operations in the air traffic control system in VFR weather conditions. The regulation does not prohibit the pilot experiencing radio communications failure, after landing and cancelling his IFR flight plan, from taking off again and proceeding to the destination in accordance with VFR if he so desires.

The Air Line Pilots Association (ALPA) recommended that in the event of radio communications failure, a pilot would proceed according to the route and altitude filed in the flight plan, rather than via the route and altitude specified by air traffic control. Such a provision would require a pilot to proceed via the filed route which might be a considerable distance away from the route specified in the air traffic control clearance. In a similar manner, a pilot who has been assigned an altitude other than his filed altitude within a route structure would be required to climb or to descend, as might be appropriate, to the filed altitude. Obviously, pilot action which would disregard an ATC clearance and revert to a filed flight plan is not feasible since it is virtually impossible to develop procedures for transition to flight planned route and altitude which would be applicable in all situations.

ALPA also suggested that, when a climb to a higher route structure is necessary, the pilot should climb to the altitude or flight level specified in the flight plan rather than the cardinal altitude at or above the MSA of the filed route structure. Since pilots often may file multiple altitudes or multiple route structures in a single flight plan, such a regulation would only compound the problems and impair the ability of air traffic control to provide proper separation. It is concluded that one easily determined and easily recalled altitude for application during radio communica-

tion failure is imperative to meet the needs of the pilot and the air traffic control system.

The Air Traffic Control Association (ATCA) suggested that when a climb to a higher route structure is necessary, the pilot should be required to exercise his emergency authority and initiate climb at his discretion. Such a requirement would eliminate the provision to "initiate climb ten minutes after passing the first compulsory reporting point over which the failure prevented communications with air traffic control." ATCA contended that the controller would not, in all cases, be able to provide standard separation in the event of such a climb. This contention may be valid in some cases; however, the ten minute delay before initiating climb will provide a margin of safety which is considered indispensable. In addition, to require a pilot to use such emergency authority is not feasible since in most cases pilots do not consider radio communications failure to be an emergency situation.

British Overseas Airways Corporation suggested that transponder procedures be developed for use during radio communications failure. While such procedures would be very advantageous, the lack of decoding equipment in ATC facilities at present prohibits the adoption of this suggestion. The implementation of transponder procedures is contemplated when adequate decoding equipment becomes available.

The one comment in opposition to the amendment contended that it would not be possible for military jet aircraft to complete certain flights if radio communication failure provisions require that the operation be conducted at Flight Level 240. It was recommended that the rule be amended to require a cruising altitude advisory prior to take-off in order that the pilot might proceed to his destination at the flight level advised by ATC. Procedures currently in effect provide that when a pilot is not issued a clearance within the filed route structure, the pilot must be issued an advisory as to when he may expect a clearance to an altitude in the requested structure. Since this procedure appears to satisfy the objective of this recommendation, it is not considered necessary to alter the provisions of the rule.

It is virtually impossible to promulgate a rule which provides definitive action for every conceivable eventuality associated with radio communications failure. Such a rule would be too voluminous for ready comprehension and application. Conversely, it is not intended to promulgate a rule so brief or general as to be ambiguous. It is not intended to attempt to regulate emergency or near emergency situations. For example, the rule omits reference to the problems arising from a missed approach. The circumstances would be so unpredictable in such a situation that it is considered that an emergency would exist and, as such, would not be subject to regulation.

Concurrently with the adoption of the rule contained herein, detailed procedures which shall be followed in the event of radio communications failure

will be published in the Flight Information Manual. All necessary supplementary data will be consolidated in this publication. The Flight Information Manual will henceforth be the sole source of FAA supplementary material applicable to radio communications failure.

In consideration of the foregoing, Part 60 of the Civil Air Regulations (14 CFR Part 60) and Civil Aeronautics Manual 60 are amended as follows:

1. By amending § 60.49 to read as follows:

§ 60.49 Radio communications failure.

In the event of two-way radio communications failure the pilot shall comply with the following procedures, unless otherwise authorized by air traffic control:

(a) *VFR conditions.* If the failure occurs in VFR conditions or if such conditions are subsequently encountered, continue flight under VFR and land as soon as practicable.

(b) *IFR conditions.* If the failure occurs in IFR conditions or if the provisions of paragraph (a) of this section cannot be followed, continue flight to the airport of destination.

(1) *Route.* Via the route specified in the last air traffic control clearance received or, if no route has been specified, via the planned route.

(2) *Altitude.* At whichever of the following altitudes or flight levels is the higher:

(i) At the altitude or flight level specified in the last air traffic control clearance received;

(ii) At the minimum safe altitude; or

(iii) At the lowest cardinal altitude or flight level (1,000-foot level), at or above the MEA of the highest planned route structure.

When climb to a higher route structure is necessary, climb shall be initiated, unless required earlier by the minimum safe altitude, 10 minutes after passing the first compulsory reporting point over which the failure prevented communications with air traffic control.

(3) *Holding.* When holding instructions have been received, depart the holding fix at the expected further clearance time received or, if an expected approach clearance time has been received, depart the holding fix so as to arrive over the radio facility to be used for the approach at the destination airport as nearly as possible to the expected approach clearance time.

(4) *Descent.* Descent from the en route altitude or flight level shall be initiated at the radio facility to be used for the approach at the destination airport at whichever of the following times is the later:

(i) The expected approach clearance time, if received;

(ii) The estimated time of arrival as determined from the flight plan, as amended with air traffic control; or

(iii) The actual time of arrival over the facility.

§§ 60.21-1, 60.49-1 [Rescinded]

2. By rescinding §§ 60.21-1 and 60.49-1 of Civil Aeronautics Manual 60.

This amendment shall become effective May 1, 1962.

(Sec. 307; 72 Stat. 749, 49 U.S.C. 1348)

Issued in Washington, D.C., on January 19, 1962.

N. E. HALABY,
Administrator.

[F.R. Doc. 62-865; Filed, Jan. 25, 1962; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1043; Amdt. 393]

PART 507—AIRWORTHINESS DIRECTIVES

Boeing 707 and 720 Series Aircraft

Investigation has shown that extensions of certain repetitive inspection intervals based on service experience may be granted to operators of Boeing 707 and 720 Series aircraft in complying with Amendment 326, 26 F.R. 7873. Accordingly, the inspection interval in paragraphs (b) and (e)(3) are being extended from 65 to 100 hours and 3,500 to 4,000 hours respectively. Also, reference is being made to a later issue of the manufacturer's service bulletin and paragraph (b)(2) is being revised to redefine the area to be inspected. The aircraft affected also are listed by serial number.

Since this amendment relaxes a requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended as follows:

Amendment 326, 26 F.R. 7873, Boeing 707 and 720 Series aircraft, is amended by:

1. Changing the applicability statement to read:

Applies to Boeing 707 Series aircraft Serial Nos. 17586-17652, 17658-17690, 17692-17712, 17718-17724, 17903-17906, 17918-17919, 17925-17930, 18012 and 18054 and Boeing 720 Series aircraft Serial Nos. 17907-17917, 18013-18020, 18023, and 18041 as indicated.

2. Changing the first paragraph to read:

Due to failure in a main landing gear trunnion support, the following inspections, contained in paragraphs (a), (b), and (c), are required on all specified 707 Series aircraft until paragraph (d) has been accomplished. Paragraph (e) is required on all specified 707 Series aircraft after paragraph (d) is accomplished and on all specified 720 Series aircraft.

3. Changing the inspection interval in paragraph (b) from "every 65 hours" to "every 100 hours".

4. Changing paragraph (b)(2) to read:

(2) A strip ½-inch wide around upper bearing support, from the upper barrel nut to lower 1.31 diameter inboard (tension) bolt hole, on aft side.

5. Deleting the following reference statement in paragraph (d) (3): "and S.B. No. 1044 (October 26, 1960, or later)."

6. Changing paragraph (e) to read:

(e) The following repetitive inspections are required on all specified 707 Series aircraft upon completion of the inspections and rework outlined in (d) and on all specified 720 Series aircraft.

7. Changing the inspection interval in paragraph (e) (3) from "every 3,500 hours" to "every 4,000 hours".

8. Changing reference to Boeing S.B. 859 from "(R-1 or later)" to "(R-2 or later)" in paragraphs (c), (c) (1), (d) (7), (e) (3) (iv), and the parenthetical reference statement.

This amendment shall become effective January 26, 1962.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 19, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-866; Filed, Jan. 25, 1962;
8:46 a.m.]

[Reg. Docket No. 989; Amdt. 394]

PART 507—AIRWORTHINESS DIRECTIVES

Lycoming VO-540 Series Engines

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring replacement of hydraulic valve tappet bodies and plunger assemblies which are subject to failure on Lycoming VO-540 Series engines, with newly designed improved parts, was published in 26 F.R. 11870.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

LYCOMING. Applies to all VO-540 Series engines.

Compliance required as indicated.

To preclude failures of the hydraulic valve tappet body and plunger assembly, an improved hydraulic tappet body and plunger assembly has been provided.

Unless already incorporated, install a Lycoming P/N 72876 plunger assembly and a Lycoming P/N 73061 tappet body at the next engine overhaul after the effective date of this AD.

(Lycoming Service Instruction No. 1011 covers this same subject.)

This amendment shall become effective February 27, 1962.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on January 19, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-867; Filed, Jan. 25, 1962;
8:46 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-SW-125]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Zone and Control Area Extension

The purpose of these amendments to §§ 601.2024 and 601.1238 of the regulations of the Administrator is to alter the Amarillo, Tex., control zone and control area extension.

The Amarillo control zone (§ 601.2024) and control area extension (§ 601.1238) are described, in part, with reference to the Amarillo radio range. The Federal Aviation Agency is converting the Amarillo radio range to a nondirectional radio beacon. Therefore, action is taken herein to revoke the control zone extension based on the north course of the radio range, delete the radio range from the description of the control zone, and substitute geographical coordinates in lieu of the radio range in the description of the control area extension.

Since these amendments impose no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following actions are taken:

1. Section 601.2024 (14 CFR 601.2024) is amended to read:

§ 601.2024 Amarillo, Tex., control zone.

Within a 5-mile radius of the Amarillo, Tex., AFB/Municipal Airport (latitude 35°13'11" N., longitude 101°42'42" W.), within 2 miles either side of the 046° bearing from the Tradewind RBN extending from the 5-mile radius zone to the RBN, and within 2 miles either side of the Amarillo VORTAC 221° radial extending from the 5-mile radius zone to the VORTAC.

2. Section 601.1238 (14 CFR 601.1238) is amended to read:

§ 601.1238 Control area extension (Amarillo, Tex.).

That airspace within a 50-mile radius of latitude 35°13'42" N., longitude 101°-44'24" W.

These amendments shall become effective 0001 e.s.t. April 5, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 22, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-868; Filed, Jan. 25, 1962;
8:46 a.m.]

[Airspace Docket No. 61-LA-71]

PART 602—DESIGNATION OF JET ROUTES, JET ADVISORY AREAS AND HIGH ALTITUDE NAVIGATIONAL AIDS

Designation of Jet Advisory Area

On October 10, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 9556) stating that the Federal Aviation Agency proposed to designate a terminal radar jet advisory area following a departure route from the San Francisco/Oakland, Calif., Metropolitan area toward the south.

The Department of the Air Force interposed no objection to the proposed amendment. No other comments were received.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for reasons stated in the notice, the following action is taken:

In § 602.300 *Terminal jet advisory areas* (26 F.R. 7084) under San Francisco/Oakland, Calif., jet advisory area—Radar, the following is added:

f. Oakland, Calif., via INT Oakland 221° and Point Reyes, Calif., 161° radials; the INT of Point Reyes 161° and Big Sur, Calif., 325° radials; Big Sur; thence via Big Sur 099° radial to Jet Route No. 1.

This amendment shall become effective 001 e.s.t., April 5, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 19, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-869; Filed, Jan. 25, 1962;
8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8353 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Jerry Gross and Transparent Glass Coatings Co.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; § 13.15-235 *Producer status of dealer or seller*; § 13.15-235(m) *Manufacturer*; § 13.110 *Indorsements, approval and testimonials*; § 13.265 *Tests and investigations*. Subpart—Claiming or using indorsements or testimonials falsely or misleadingly: § 13.330 *Claiming or using indorsements or testimonials falsely or misleadingly*; § 13.330-60 *National organizations*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15

U.S.C. 45) [Cease and desist order, Jerry Gross trading as Transparent Glass Coatings Company, Los Angeles, Calif., Docket 8353, Oct. 10, 1961]

In the Matter of Jerry Gross, an Individual, Trading and Doing Business as Transparent Glass Coatings Company

Consent order requiring a Los Angeles distributor of transparent window coatings to retailers, to cease representing falsely in newspaper and other advertising and through statements of salesmen that he manufactured said product, that it had been used, endorsed and approved by nationally known concerns, and that it had been tested by reputable testing companies.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Jerry Gross, an individual, trading and doing business as Transparent Glass Coatings Company, or trading and doing business under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of transparent plastic glass coatings, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That he manufactures the products sold by him when such is not the fact;

2. That any products have been used by, or had the endorsement and approval of any concern when such is not the fact; and

3. That any product has been tested by the United States Testing Company and Albert L. Chaney Chemical Laboratory, or any other organization, if such is not the case.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: October 10, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-870; Filed, Jan. 25, 1962; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55555]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Identification and Examination of Theatrical Paraphernalia Taken Abroad

It has been established that in the case of shipments abroad of theatrical

scenery, properties, and effects by rail in carload lots in cars sealed by customs officers for entry at a foreign port where sufficient United States customs officers are regularly stationed the United States customs revenue will be adequately protected if the application for identification (customs Form 4455) is filed with such an officer and he examines the articles prior to their release from customs custody by the foreign customs officers.

Accordingly, § 10.68(a) is amended by adding at the end thereof the following sentence: "In the case of theatrical scenery, properties, and effects taken abroad by rail for temporary use in carload lots in cars sealed by customs officers for entry at Montreal or Toronto, application and examination prior to or at the time of exportation is waived if customs Form 4455 is filed with the United States customs officer in Montreal or Toronto, as the case may be, and that officer examines the articles prior to their release from customs custody by the foreign customs officers."

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

Approved: January 19, 1962.

JAMES A. REED,
Assistant Secretary of the
Treasury.

[F.R. Doc. 62-891; Filed, Jan. 25, 1962; 8:48 a.m.]

[T.D. 55554]

PART 10—ARTICLES UNCONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

United States Government Importations

Certain provisions of the Customs Regulations limit blanket applications for immediate delivery of merchandise imported by a military department, the General Services Administration, or the Atomic Energy Commission to 1 year. The following amendment is made to permit these agencies to file general blanket applications for indefinite periods of time or specific blanket applications for particular classes of shipments or limited periods of time.

Section 10.104(a), Customs Regulations, is amended to read as follows:

(a) Shipments consigned to a military department, the General Services Administration, the Atomic Energy Commission, or other party acting for the Atomic Energy Commission, or to an officer or official of any such agency in his official capacity, shall be regarded for purposes of this regulation as shipments the immediate delivery of which is necessary within the purview of section 448(b), Tariff Act of 1930. Such shipments may be released upon the filing of immediate delivery applications on customs Form 3461 as set forth in § 8.59 of this chapter. Such applications may be limited to particular ship-

ments or may cover all shipments imported by the government agency making the application. They may be approved for specific periods of time or for indefinite periods of time provided in either case they are supported by blanket carrier's certificates and stipulations as provided in paragraph (b) of this section.

(Secs. 448, 624, 46 Stat. 714, 759; 19 U.S.C. 1448, 1624)

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

Approved: January 19, 1962.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 62-890; Filed, Jan. 25, 1962; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

In § 203.17 paragraph (d) is amended to read as follows:

§ 203.17 Mortgage provisions.

(d) *Maturity*. (1) The mortgage shall have a maturity as set forth in subparagraph (2) or (3) of this paragraph, whichever is the lesser.

(2) The mortgage shall have a maturity not in excess of three-quarters of the remaining economic life of the building improvements.

(3) The mortgage shall have a term of not less than 10 nor more than:

(i) Thirty years from the date of the beginning of amortization; or

(ii) Thirty-five years from the date of the beginning of amortization if the application for mortgage insurance involves the financing of a dwelling which was:

(a) Prior to the beginning of construction, approved for mortgage insurance by the Commissioner or approved for guaranty, insurance, or direct loan by the Administrator of Veterans Affairs; and

(b) Inspected by the FHA and found to have been completed in compliance with the terms of the FHA commitment or inspected by the VA and found to have been completed in compliance with the terms of the VA Certificate of Reasonable Value.

Subpart B—Contract Rights and Obligations

In § 203.367 paragraph (a) (3) is deleted.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER D—RENTAL HOUSING INSURANCE

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

In § 207.15 paragraphs (c) and (d) are amended as follows:

§ 207.15 Issuance of bonds secured by trust indenture.

(c) The holders of the bonds or other obligations shall look solely to the Trustee for the benefits of the contract of mortgage insurance and the trust indenture shall expressly authorize the Commissioner to make payment of any claim under the contract of mortgage insurance to the Trustee, without liability or accountability to the bond holders to see to the application of the mortgage insurance contract benefits; and

(d) The bonds or other obligations shall be issued only to holders meeting the following qualifications:

(1) A mortgagee approved by the Commissioner;

(2) A pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which has lawful authority to acquire the bonds or other obligations; or

(3) A charitable or nonprofit organization.

In § 207.19 paragraph (c) (6) is amended to read as follows:

§ 207.19 Required supervision of private mortgagors.

(c) * * *

(6) An irrevocable letter of credit acceptable to the Commissioner and the mortgagee and issued by an institution satisfactory to them may be substituted for any cash deposit required by subparagraphs (1), (3), and (5) of this paragraph.

Subpart B—Contract Rights and Obligations

In § 207.261 paragraph (b) is amended to read as follows:

§ 207.261 Assignment of insured mortgages.

(b) *Bonds.* Bonds or other obligations issued in connection with an insured mortgage executed in the form of an indenture of trust may be transferred as provided in the trust indenture and the provisions of paragraph (g) of this section shall not be applicable to these transfers.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 207; 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER E—COOPERATIVE HOUSING INSURANCE

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

In § 213.19 paragraph (d) is amended to read as follows:

§ 213.19 Issuance of bonds secured by trust indenture.

(d) The bonds or other obligations shall be issued only to holders meeting the following qualifications:

(1) A mortgagee approved by the Commissioner;

(2) A pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which has lawful authority to acquire the bonds or other obligations; or

(3) A charitable or nonprofit organization.

Section 213.26 is amended to read as follows:

§ 213.26 Working capital.

The amount of working capital, if any, required by the Commissioner to be deposited by the mortgagor with the mortgagee or in a depository satisfactory to the mortgagee and under its control, shall not exceed 2 percent of the original amount of the mortgage. Disbursements from such deposit shall be made only in a manner prescribed by the Commissioner. An irrevocable letter of credit acceptable to the Commissioner and the mortgagee and issued by an institution satisfactory to them may be substituted for any cash deposits required by this section.

Section 213.27 is amended by adding a new paragraph (f) to read as follows:

§ 213.27 Assurances of completion.

(f) An irrevocable letter of credit acceptable to the Commissioner and the mortgagee and issued by an institution satisfactory to them may be substituted for any cash deposit required by paragraphs (b) and (d) of this section.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 213, 64 Stat. 54, as amended; 12 U.S.C. 1715e)

SUBCHAPTER G—HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Low Cost Homes

In § 221.30 paragraph (a) (2) is amended to read as follows:

§ 221.30 Maturity of mortgage.

(a) * * *

(2) Thirty-five years in the case of any other family if the application for mortgage insurance involves the financing of a dwelling which was:

(i) Prior to the beginning of construction, approved for mortgage insurance by the Commissioner or approved for guaranty, insurance, or direct loan by the Administrator of Veterans Affairs; and

(ii) Inspected by the FHA and found to have been completed in compliance with the terms of the FHA commitment or inspected by the VA and found to have been completed in compliance with the terms of the VA Certificate of Reasonable Value.

Subpart C—Eligibility Requirements—Moderate Income Projects

In § 221.526 paragraph (d) is amended to read as follows:

§ 221.526 Issuance of bonds secured by trust indenture.

(d) The bonds or other obligations shall be issued only to holders meeting the following qualifications:

(1) A mortgagee approved by the Commissioner;

(2) A pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which has lawful authority to acquire the bonds or other obligations; or

(3) A charitable or nonprofit organization.

In § 221.540 add a new paragraph (d) as follows:

§ 221.540 Financial requirements.

(d) An irrevocable letter of credit acceptable to the Commissioner and the mortgagee and issued by an institution satisfactory to them may be substituted for any cash deposit required by paragraphs (a) and (c) of this section.

In § 221.542 delete the period in subparagraph (b) and substitute in lieu thereof “; or” and add a new subparagraph (c) as follows:

§ 221.542 Assurance of completion.

(c) An irrevocable letter of credit acceptable to the Commissioner and the mortgagee which is issued by an institution satisfactory to them in an amount at least equal to 10 percent of the estimated cost of construction of the project.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 1715l)

SUBCHAPTER I—HOUSING FOR ELDERLY PERSONS

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY.

Subpart A—Eligibility Requirements

In § 231.2 paragraph (i) is amended to read as follows:

§ 231.2 Definitions.

(i) “Private Mortgagor—Profit” means any mortgagor approved by the Commis-

sioner, which, until the termination of all obligations of the Commissioner under the insurance contract and during such further period of time as the Commissioner shall be the owner, holder, or reinsurer of the mortgage, may in the Commissioner's discretion be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 231, 73 Stat. 665; 12 U.S.C. 1715v)

SUBCHAPTER J—MORTGAGE INSURANCE FOR NURSING HOMES

PART 232—NURSING HOMES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

In § 232.43 paragraph (d) is amended to read as follows:

§ 232.43 Issuance of bonds secured by trust indenture.

* * * * *

(d) The bonds or other obligations shall be issued only to holders meeting the following qualifications:

(1) A mortgagee approved by the Commissioner;

(2) A pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which has lawful authority to acquire the bonds or other obligations; or

(3) A charitable or nonprofit organization.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 232, 73 Stat. 663; 12 U.S.C. 1715w)

SUBCHAPTER I—MORTGAGE INSURANCE FOR INDIVIDUALLY OWNED UNITS IN MULTI-FAMILY STRUCTURES

PART 234—CONDOMINIUM OWNERSHIP

In Part 234 the table of contents is amended by adding two new section headings as follows:

Sec.
234.273 Assessment of taxes.
234.274 Certificate of tax assessment.

Subpart A—Eligibility Requirements

In § 234.26 paragraph (d) (3) is amended to read as follows:

§ 234.26 Eligibility family unit, multi-family structure, and plan of apartment ownership.

* * * * *

(d) Certificate of mortgagee. * * *

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

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Subpart B—Contract Rights and Obligations

In Part 234 two new §§ 234.273 and 234.274 are added as follows:

§ 234.273 Assessment of taxes.

When a family unit is conveyed to the Commissioner or a mortgage is assigned to the Commissioner, the unit shall be assessed and subject to assessment for taxes pertaining only to that unit.

§ 234.274 Certificate of tax assessment.

The mortgagee shall certify, as of the date of filing for record of the deed or assignment of the mortgage to the Commissioner, that the family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 234, 75 Stat. 160; 12 U.S.C. 1715y)

SUBCHAPTER T—MILITARY AND ARMED SERVICES HOUSING MORTGAGE INSURANCE

PART 803—ARMED SERVICES HOUSING—MILITARY PERSONNEL

Subpart A—Eligibility Requirements

In § 803.21 paragraph (d) is amended to read as follows:

§ 803.21 Issuance of bonds secured by trust indenture.

* * * * *

(d) The bonds or other obligations shall be issued only to holders meeting the following qualifications:

(1) A mortgagee approved by the Commissioner;

(2) A pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which has lawful authority to acquire the bonds or other obligations; or

(3) A charitable or nonprofit organization.

Subpart B—Contract Rights and Obligations

In § 803.261 paragraph (b) is amended to read as follows:

§ 803.261 Assignment of insured mortgages.

* * * * *

(b) *Bonds.* Bonds or other obligations issued in connection with an insured mortgage executed in the form of an indenture of trust may be transferred as provided in the trust indenture and the provisions of paragraph (g) of this section shall not be applicable to these transfers.

(Sec. 807, 69 Stat. 651; 12 U.S.C. 1748f. Interpret or apply sec. 803, 69 Stat. 647, as amended; 12 U.S.C. 1748b)

Issued at Washington, D.C., January 22, 1962.

NEAL J. HARDY,
Federal Housing Commissioner.

[F.R. Doc. 62-393; Filed, Jan. 25, 1962; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6588]

PART 252—EXPORTATION OF LIQUORS

Miscellaneous Amendments

On November 7, 1961, a notice of proposed rule making to amend 26 CFR Part 252 was published in the FEDERAL REGISTER (26 F.R. 10484). In accordance with the notice, interested persons were given an opportunity to submit written comments or suggestions pertaining thereto.

All comments and suggestions received within the prescribed period were carefully considered but no changes were made in the proposed amendments, and the amendments as published in the FEDERAL REGISTER are hereby adopted.

This Treasury decision shall be effective on the first day of the first month that begins not less than 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

PHILIP NICHOLS, JR.,
Commissioner of Customs.

Approved January 19, 1962.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order (a) to conform these regulations to the provisions of section 309(a) of the Tariff Act of 1930 (19 U.S.C. 1309(a)), as amended by section 5(a) (1) of Public Law 86-606, relating to supplies on vessels and aircraft engaged in trade between Hawaii and any other part of the United States or Alaska and any other part of the United States, (b) to remove the requirement that bottles of wine exported with benefit of drawback be labeled "For Export", (c) to clarify the provisions relating to the marking of containers, and (d) to eliminate a discrepancy in the instructions for the preparation of Form 206, 26 CFR Part 252, "Exportation of Liquors", is amended as follows:

1. Section 252.21 is amended by inserting " , or between Hawaii and any other part of the United States or between Alaska and any other part of the United States" immediately after "possessions", wherever it appears in paragraphs (b), (c), (e), and (f).

2. The second sentence of paragraph (a) of § 252.122 is amended to read: "Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn he shall, at the time of withdrawal of the wine, prepare a notice of the withdrawal and shipment, on Form 206, in quadruplicate."

3. Section 252.123 is amended by changing that portion of the section pre-

ceding paragraph (a) to read as follows: "In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 240 of this chapter, the proprietor shall place additional marks, as herein specified, on each such container before removal from the bonded premises:"

4. Section 252.154 is amended by changing that portion of the section preceding paragraph (a) to read as follows: "In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 201 of this chapter, the proprietor shall place additional marks, as herein specified, on each such container before removal from the bonded premises:"

5. Section 252.193 is amended by changing that portion of the section preceding paragraph (a) to read as follows: "In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 201 of this chapter, the proprietor of the export storage shall place additional marks, as herein specified, on each such container before removal from export storage for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone:"

6. Section 252.213 is revoked.

7. Section 252.216 is amended by changing that portion of the section preceding paragraph (a) to read as follows: "In addition to the marks and brands required to be placed on each package and case under the provisions of Parts 201, 231, or 240, of this chapter, each such container removed under the provisions of this subpart shall have stenciled or otherwise marked thereon, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information, as specified below:"

8. Section 252.223 is amended by changing that portion of the section preceding paragraph (a) to read as follows: "In addition to the marks and brands prescribed in Part 245 of this chapter, each keg, barrel, case, crate, or other package containing beer removed under the provisions of this subpart shall have stenciled or otherwise marked thereon, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information as specified below:"

(Sec. 7805, Internal Revenue Code, 1954; 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 62-844; Filed, Jan. 25, 1962; 8:45 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 260-62]

PART 16—PRODUCTION OR DIS- CLOSURE OF MATERIAL OR IN- FORMATION

By virtue of the authority vested in me by section 161 of the Revised Statutes

(5 U.S.C. 22) and section 2 of Reorganization Plan No. 2 of 1950 (64 Stat. 1261), I hereby prescribe the following regulations relating to the production or disclosure of material or information in the files of the Department of Justice:

Sec.

16.1 Response to subpoena or order for production or disclosure.

16.2 Action to be taken on adverse ruling by the court.

AUTHORITY: §§ 16.1 and 16.2 issued under R.S. 161; 5 U.S.C. 22.

§ 16.1 Response to subpoena or order for production or disclosure.

Whenever a United States Attorney or any other officer or employee of the Department of Justice is served with a subpoena or order for the production or disclosure of material or information contained in the files of the Department of Justice, the United States Attorney, or such other attorney as may be designated, shall appear with the person upon whom the demand is made and inform the court or other issuing authority that such person is not authorized to produce or disclose the material or information sought. Time shall be requested within which to refer the subpoena or order to the Attorney General, and the United States Attorney, or other attorney designated, shall refer the court to the regulations in this part. Advice as to such subpoena or order shall be given immediately to the Attorney General without awaiting court appearance.

§ 16.2 Action to be taken on adverse ruling by the court.

In the event the court declines to defer a ruling until instructions from the Attorney General have been received, or in the event the court rules adversely on a claim of privilege asserted under instructions of the Attorney General, the person upon whom such demand is made shall, pursuant to the regulations in this part, respectfully decline to produce the material or information sought (United States ex rel. Touhy v. Ragen, 340 U.S. 462).

This order supersedes Order No. 3229 (Revised) dated January 13, 1953.

Dated: January 19, 1962.

ROBERT F. KENNEDY,
Attorney General.

[F.R. Doc. 62-862; Filed, Jan. 25, 1962; 8:45 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 1—GENERAL RULES AND REGULATIONS

Aircraft

On page 11363 of the FEDERAL REGISTER of December 1, 1961, there was published a notice and text of a proposed amendment to Part 1 of Title 36 Code of Fed-

eral Regulations. The purpose of this amendment is to preserve the wilderness qualities of the park by restricting landings and takeoff of float and amphibious aircraft in Isle Royale National Park.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted without change and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 19, 1962.

Subparagraph (7) of paragraph (a), § 1.61 is amended and revised to read as follows:

§ 1.61 Aircraft.

(a). * * *

(7) *Isle Royale National Park, Michigan.* The portion of Tobin Harbor located in the NE $\frac{1}{4}$ of Sec. 4, T. 66 N., R. 33 W.; the SE $\frac{1}{4}$ of Sec. 33, T. 67 N., R. 33 W.; and the SW $\frac{1}{4}$ of Sec. 34, T. 67 N., R. 33 W. The portion of Rock Harbor located in the SE $\frac{1}{4}$ of Sec. 13, the N $\frac{1}{2}$ of Sec. 24, T. 66 N., R. 34 W, and the W $\frac{1}{2}$ of Sec. 18, T. 66 N., R. 33 W. The portion of Washington Harbor located in the N $\frac{1}{2}$ of Sec. 32, all of Sec. 29, SE $\frac{1}{4}$ of Sec. 30, and the E $\frac{1}{2}$ of Sec. 31, T. 64 N., R. 38 W.

(39 Stat. 535; 16 U.S.C. 3)

[F.R. Doc. 62-876; Filed, Jan. 25, 1962; 8:47 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 96—AIR TRANSPORTATION

First-Class Mail by Air

The regulations of the Post Office Department in Part 96—Air Transportation—as published in 26 F.R. 11638-11653, and as amended by 26 F.R. 12218-12220, are revised by making the following changes in Subpart E—First-class Mail (FCM) by Air.

I. In § 96.48 *Forms and procedures for dispatching and receiving FCM* make the following changes:

A. In paragraph (c) subparagraphs (1) and (2) are amended to clarify the instructions for preparing Form 2715-X and make certain editorial changes therein. As so amended, subparagraphs (1) and (2) read as follows:

(c) *Form 2715-X Carrier record of FCM dispatched by air.* (1) Air carriers receiving FCM on Forms 2713-X, will prepare Form 2715-X to provide a record for each 24-hour period of FCM dispatched to the various destinations.

(2) *Preparation.* The form is prepared by the air carrier representative as follows:

(i) Prepare original and one copy for each destination. Where dispatches are regularly made to a destination, but for any reason "no" dispatch is made on a particular date, prepare Form 2715-X and mark "NIL".

(ii) Complete headings.

(iii) Under heading "Received From AMF":

(a) Post pieces and weight of mail carried forward from previous day.

(b) Post bill order number, promptly on receipt of related mail described on each Form 2713-X.

(c) Post pieces and weight of mail, originating at that point, received by transfer from other carriers on Forms 2715-B. See paragraph (e) (3) of this section (transfers of FCM described in paragraphs (e) (4) and (5) of this section should not be entered on Forms 2715-X).

(d) At the close of the 24-hour period, add pieces and weight and enter on "Total" line.

(iv) Under heading "Transported by Carrier":

(a) Post pieces, weight and trip number on which FCM boarded. For FCM dispatched to interchange trips, show under "Remarks" the ultimate destination in brackets.

(b) At the close of the 24-hour period, add pieces and weight of mail boarded and enter total.

(c) Post total pieces and weight of mail from Forms 2715-B covering mail transferred to another carrier. Also, total pieces and weight from Forms 2753, "Receipt to Airline", for mail returned to the postal unit.

(d) Inventory any mail stockpiled and enter total pieces and weight of mail on hand.

(e) Post total pieces and weight.

(f) Verify that the total balances with the total under "Received from AMF" column.

(v) Sign and present Form 2715-X (original and one copy) to postal unit for verification.

(vi) Do not complete the portion of Form 2715-X under "Carrier's Statement of Service Performed".

NOTE: The corresponding Postal Manual sections are 534.431 and 534.432.

B. In paragraph (c) (4) amend subdivision (ii) by striking out "(See § 96.5(d) (3).)", and inserting in lieu thereof "(See § 96.5(c).)".

NOTE: The corresponding Postal Manual section is 534.434.

C. In paragraph (d), Form 2713, *Dispatch Record of First-Class Mail by Air*, make the following changes:

1. Subparagraph (1) is amended to show the use of Form 2713 when FCM is irregularly off-loaded. As so amended, subparagraph (1) reads as follows:

(1) *Use.* Form 2713 is used for FCM dispatches over local service air carriers; on the West Coast, over trunkline air carriers between points where no 24-hour dispatch is made on Forms 2715-X, and where FCM is irregularly off-loaded and turned in to the postal unit at a point where dispatches to any point are not made by use of Form 2715-X procedure. See § 96.47(b) (7).

2. Amend subparagraph (2) for the purpose of clarification to read as follows:

(2) *Preparation.* Form 2713 shall be prepared by the designated clerk at the airport mail facility or by the dispatching clerk at the air stop post office as follows:

(i) Prepare original and two copies for each trip to which FCM is dispatched.

(ii) Complete origin code block and first line across top of form. In the "Mail Ready" space, enter the time at which the FCM and forms are ready for delivery to the air carrier. (The departure time must be entered subsequently on AMF files copy on basis of information received from air carrier.)

(iii) Head columns on form, from left to right in station order served by trip, with three-letter alpha code for destination to which FCM is dispatched.

(iv) Provide separate column for listing FCM for dispatch to destination not served by trip of dispatch, and requiring "intraline" transfer to another trip of the same carrier (interline transfers by local service air carriers are not authorized), adjacent to column in which local FCM for the transfer point is recorded. Show (a) the actual or ultimate on-line destination of FCM, and (b) code of transfer point and trip being connected.

(v) Bulk list total pieces and total pounds of FCM due off at each stop point under appropriate destination column, cross add pieces and pounds, enter "Grand Total" in block at bottom of form and sign in space provided.

3. In subparagraph (5), strike out "(See § 96.5(d) (3).)"; and insert in lieu thereof "(See § 96.5(c).)".

NOTE: The corresponding Postal Manual sections are 534.441, 534.442, and 534.445.

D. In paragraph (e) (4) strike out the last sentence of subdivision (i) (c) and insert in lieu thereof "See § 96.47(b) (7) for proper handling by postal unit."

NOTE: The corresponding Postal Manual section is 534.454a(3).

E. In paragraphs (f) and (g) amend the heading of subparagraphs (2) to read "Preparation".

NOTE: The corresponding Postal Manual sections are 534.462, and 534.472.

II. In § 96.49 *Reporting and processing FCM irregularities*, make the following changes:

A. In paragraph (a) (3), subdivision (i) is amended to provide for a memorandum report of refusals/removals of FCM, in lieu of a report on Form 2759. As so amended, subdivision (i) reads as follows:

(3) *FCM irregularities requiring close attention.* (i) Removals of FCM are not subject to the preparation of briefs and the imposition of fines under the space available provisions of Order E-17255. However, remedial action may be required. Submit memorandum report with full particulars to enable the distribution and traffic manager to take such corrective action as may be necessary in situations where repetitive occurrences involving refusals and remov-

als impair the service accorded FCM. See § 96.48(e) (4) (iii) (d) concerning situations involving Form 2715-B transfers requiring report on Form 2759.

NOTE: The corresponding Postal Manual section is 534.513.

B. In paragraph (b) amend subparagraph (2) for the purpose of clarification to read as follows:

(2) *Processing of finable FCM cases.* Reports of (i) damage to mail or equipment, including repetitive instances occurring at the same airport, (ii) failure to protect FCM from depredation, and (iii) neglect resulting in substantial delay, are to be forwarded to the Director, Air Transportation Branch, for appropriate disposition.

NOTE: The corresponding Postal Manual section is 534.522.

(R.S. 161, as amended, sec. 405, 72 Stat. 760; 5 U.S.C. 22, 39 U.S.C. 501, 6301, 6304, 49 U.S.C. 1375)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 62-888; Filed, Jan. 25, 1962; 8:48 a.m.]

PART 112—RATES AND CONDITIONS FOR SPECIFIC CLASSES

PART 131—AIR SERVICE

PART 132—REGISTRATION

PART 151—CUSTOMS

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Miscellaneous Amendments

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

I. In § 112.7, as published in 26 F.R. 8701-8702 and amended by 27 F.R. 404, amend paragraph (d) for purposes of clarification to read as follows:

§ 112.7 Small packets.

(d) *Description.* Small packets offer a convenient and economical means for sending small quantities of merchandise to those countries that admit this class of postal union mail.

NOTE: The corresponding Postal Manual section is 222.74.

II. In § 131.4 as published in 26 F.R. 8710, paragraph (a) is amended to show that senders are responsible for marking Postal Union airmail with the words "Par Avion". As so amended, paragraph (a) reads as follows:

§ 131.4 Marking.

(a) *Postal union mail.* Senders should mark airmail articles in the left corner, immediately below the return address, with the words "Par Avion" in blue color. Post offices may furnish senders with label 19 for the purpose. Articles which the senders have failed to mark "Par Avion" shall not be returned for marking or be marked by postal employees.

NOTE: The corresponding Postal Manual section is 241.41.

III. In § 132.1, as published in 26 F.R. 8710, paragraph (a) is amended to show that direct sacks of mail sent by publishers and new agents abroad in quantity under prescribed conditions may not be registered. As so amended, paragraph (a) reads as follows:

§ 132.1 What may be registered.

(a) *Postal union mail.* Postal union articles of all classes may be registered to all countries unless a specific exception is stated under the country item in § 168.5 of this chapter. Direct sacks of mail as described in § 112.4(f) of this chapter may not be registered.

NOTE: The corresponding Postal Manual section is 242.11.

IV. In § 151.2 as published in 26 F.R. 8719, paragraphs (a) and (b) are amended to incorporate instructions for the use of label 81 on sacks containing dutiable mail. As so amended, paragraphs (a) and (b) read as follows:

§ 151.2 Separation points.

(a) *Exchange offices.* Articles believed liable to customs duty are submitted immediately to local customs officers or redispached for customs treatment to designated distribution offices. In the latter case, exchange offices will attach label 81, a reusable pink slotted tag bearing the words "THIS SACK CONTAINS MAIL 'SUPPOSED LIABLE TO CUSTOMS DUTY,'" to the label holders or hasps of sacks or pouches containing matter to be submitted to customs officers.

(b) *Distribution offices.* Distribution offices will submit articles supposed liable to customs duty to customs officers as soon as possible after receipt. The reusable tags, label 81, removed from sacks containing this mail, will be returned periodically to the postmasters at New York, New Orleans, San Francisco, Seattle, or Miami, as may be appropriate from a geographical standpoint.

NOTE: The corresponding Postal Manual sections are 261.21 and 261.22.

§ 168.5 [Amendment]

V. In § 168.5 *Individual country regulations*, as published in 26 F.R. 8725-8805, the country "Mexico", under Parcel Post, is amended by inserting two new paragraphs immediately preceding the first paragraph of the item *Observations* to include requirements for import licenses. As so added, the paragraphs read as follows:

Observations. A large variety of items, when the value exceeds 200 Mexican pesos (about \$16), require import licenses which the addressees must obtain before the goods arrive. The Mexican official valuation of articles may be higher than the purchase price. Also, customs duty is assessed at high rates. This applies to gifts and to Mexican goods being returned for replacement or repair, as well as commercial shipments. If the addressees have not obtained import licenses if required, before the parcels arrive, the Mexican customs authorities may assess fines in addition to the duty, or confiscate the parcels. Confiscated parcels are not released without

authorization of the customs authorities, even if the addressees refuse them or the senders request their return.

Persons desiring to mail parcels to Mexico should be advised of the foregoing and advised to refrain from mailing unless they are assured that the addressee will be able to take delivery. Information concerning the Mexican import duties applicable to specific items and their status under Mexican import control may be obtained by sending a description of the items to the American Republics Division, Bureau of International Programs, Department of Commerce, Washington 25, D.C., or any field office of that Department.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 62-889; Filed, Jan. 25, 1962;
8:48 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 14—Department of the Interior

PART 14-1—GENERAL

This chapter is effective upon publication in the FEDERAL REGISTER.

Sec.

14-1.000 Scope of part.

Subpart 14-1.1—Introduction

14-1.100 Purpose.

14-1.101 Authority.

14-1.102 Adoption of the Federal Procurement Regulations System.

14-1.103 Relationship of Chapter 14 to the FPR and other procurement instructions.

14-1.104 Applicability.

14-1.105 Method of issuance.

14-1.106 Exclusions.

14-1.107 Arrangement.

14-1.107-1 Numbering.

AUTHORITY: §§ 14-1.000 to 14-1.107 issued under R.S. 161; 5 U.S.C. 22.

§ 14-1.000 Scope of part.

This part establishes a system of procurement procedures applicable to purchases of personal property and nonpersonal services (including construction) by all bureaus and offices of the Department of the Interior, based upon the Federal Property and Administrative Services Act of 1949 and the Federal Procurement Regulations, and describes the method by which the Department of the Interior implements and supplements Federal Procurement Regulations, and sets forth policies and procedures which implement and supplement Part 1-1 of the Federal Procurement Regulations.

Subpart 14-1.1—Introduction

§ 14-1.100 Purpose.

Department of the Interior Procurement Regulations are hereby established as Chapter 14 of the Federal Procurement Regulations System in order to provide uniform policies and procedures for procurement of personal property and services by all bureaus and offices of the

Department of the Interior in conformity with the Federal Property and Administrative Services Act and regulations thereunder. The material in this subpart explains the relationship of Department of the Interior Procurement Regulations to Federal Procurement Regulations and to other procurement instructions governing Department of the Interior operations.

§ 14-1.101 Authority.

Title III of the Federal Property and Administrative Services Act of 1949 provides a procurement system applicable to purchases of personal property and services by the General Services Administration and by other executive agencies to which the Administrator of General Services, pursuant to section 302(a)(2) of the Act, has delegated authority to apply the provisions of Title III. The Administrator on March 10, 1959, issued Delegation of Authority 363 (24 F.R. 1921, March 17, 1959) authorizing all executive agencies (except those governed by the Armed Services Procurement Act) to utilize the provisions of Title III, other than section 305, relating to advance payments. The Federal Procurement Regulations System was established by the Administrator in March 1959 (Procurement Circular 1, 24 F.R. 1933, March 17, 1959), to prescribe policies and methods of procurement by all executive agencies acting under the Federal Property and Administrative Services Act of 1949. Executive agencies are authorized by FPR 1-1.008 to prescribe agency regulations to implement, supplement, and deviate from Federal Procurement Regulations. For the Department of the Interior, the Secretary of the Interior is empowered by law to prescribe such regulations (5 U.S.C. 22).

§ 14-1.102 Adoption of the Federal Procurement Regulations System.

Pursuant to authority delegated by the Administrator of General Services, the provisions of Title III of the Federal Property and Administrative Services Act of 1949 and Federal Procurement Regulations shall, unless an exception is made by the Secretary for any purchase or class of purchases, govern the procurement of personal property and nonpersonal services (including construction) by all bureaus and offices of the Department of the Interior.

§ 14-1.103 Relationship.

(a) Chapter 14 implements and supplements the FPR. Material published in the FPR, which has Government-wide applicability, becomes effective throughout the Department of the Interior upon the effective date of the particular FPR issuance. Such material will not be repeated, paraphrased, or otherwise stated in Chapter 14 except to the extent necessary to implement, supplement or authorize deviations from the FPR.

(b) Procurement instructions necessary to implement or supplement the FPR and Chapter 14 will be issued by the Office of the Administrative Assistant Secretary, when necessary to accomplish Department-wide procurement objectives. Such issuances will be promulgated in the Departmental Manual.

(c) Instructions necessary to supplement the FPR, Chapter 14, and the Departmental Manual will be issued by the heads of the bureaus and contracting offices, and by their delegates in subordinate offices.

§ 14-1.104 Applicability.

(a) Chapter 14 applies to all purchases and contracts made by any bureau or office of the Department of the Interior for the procurement of personal property and nonpersonal services (including construction). Unless otherwise specified, it applies to purchases and contracts within and outside the United States.

(b) This chapter shall not be construed or applied in such a way as to impair the exercise of special statutory authority governing the production, sale or exchange of electric energy, the processing and sale of helium gas, or the production and sale of water or other products under the saline water program.

§ 14-1.105 Method of issuance.

All Chapter 14 material deemed necessary for business concerns and others interested to understand basic and significant Department of the Interior procurement policies and procedures will be published in the FEDERAL REGISTER. Other related material will be promulgated in the Departmental Manual, and copies of such material will be made available to interested individuals or organizations upon request.

§ 14-1.106 Exclusions.

(a) Certain Department of the Interior policies and procedures which come within the scope of this chapter may be excluded therefrom when there is justification therefor. These exclusions will include the following categories:

- (1) Subject matter which bears a security classification.
- (2) Policies or procedures which are expected to be effective for a period of less than six months.
- (3) Experimental policies or procedures, for a reasonable period.

Procurement policies, procedures and instructions issued in other than FPR System format under subparagraphs (2) and (3) of this paragraph will be codified into Chapter 14 at the earliest practicable date.

§ 14-1.107 Arrangement.

§ 14-1.107-1 Numbering.

(a) The numbering system used in Chapter 14 conforms to that of the FPR. Thus, a particular procurement policy or procedure will be identified by the same number in Chapter 14 as in FPR, except that the first digit of the number is 1 (FPR) or 14 (Department of the Interior).

(b) Similarly, procedure and instructions which may be issued by the bureaus and offices of the Department of the Interior will be identified by alphabetical designations immediately following the Departmental Code (14), as illustrated below:

- 14A Office of the Secretary.
14B Division of Administrative Services (Chief Clerk).

- 14C Bureau of Commercial Fisheries and Wildlife.
14D Bureau of Sport Fisheries and Wildlife.
14E Bureau of Mines.
14F Geological Survey.
14G Office of Coal Research.
14I Bureau of Indian Affairs.
14J Bureau of Land Management.
14K National Park Service.
14L Office of Territories.
14M Alaska Railroad.
14R Office of Saline Water.
14S Bureau of Reclamation.
14T Bonneville Power Administration.
14U Southeastern Power Administration.
14W Southwestern Power Administration.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 19, 1962.

[F.R. Doc. 62-877; Filed, Jan. 25, 1962;
8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2591]

[Oregon 010715]

OREGON

Revoking Air Navigation Site Withdrawal No. 107

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of October 22, 1936, creating Air Navigation Site Withdrawal No. 107, which was partially revoked by Bureau of Land Management Order of June 10, 1957, is hereby revoked in its entirety. The following described lands are released from withdrawal by this order:

WILLAMETTE MERIDIAN

T. 7 S., R. 39 E.,
Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.
Containing 2 $\frac{1}{2}$ acres.

2. The lands are grazing lands located on a rocky knoll about 1 $\frac{1}{2}$ miles northeast of Haines in Baker County, Oregon, at an elevation of approximately 3,400 feet. Temperatures vary from a summer high of 100° to winter lows of sub-zero, and precipitation is about nine inches per annum, most of which occurs in the form of rain and snow during the fall, winter, and spring seasons.

3. The lands are hereby restored to the operation of the public land laws, subject to any valid existing rights, the requirements of applicable law, rules and regulations, and the provisions of any existing withdrawals, provided, that until 10:00 a.m., on July 20, 1962, the State of Oregon shall have a preferred right of application to select the lands in accordance with subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

The lands will be open to mining location at 10:00 a.m. on July 20, 1962.

Inquiries concerning the lands should be addressed to the Manager, Land

Office, Bureau of Land Management, Portland, Oregon.

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

JANUARY 19, 1962.

[F.R. Doc. 62-872; Filed, Jan. 25, 1962;
8:46 a.m.]

[Public Land Order 2592]

[Montana 043394]

MONTANA

Power Site Cancellation No. 160; Partly Revoking Power Site Classifications Nos. 301 and 369; Opening Lands Under Section 24 of the Federal Power Act

By virtue of the authority contained in the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to determinations of the Federal Power Commission in DA-169-170, Montana, it is ordered as follows:

1. The departmental orders of October 24, 1944, and August 31, 1937, creating Power Site Classifications No. 369 and No. 301, respectively, are hereby revoked so far as they affect the following described lands:

PRINCIPAL MERIDIAN

Departmental order of August 31, 1937, Power Site Classification No. 301:

T. 26 N., R. 12 E.,
Sec. 13, lot 1.

Departmental order of October 24, 1944, Power Site Classification No. 369:

T. 24 N., R. 8 E.,
Sec. 26, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate 113.55 acres, of which lot 1, section 13, is patented.

2. In DA-169-170-Montana, the Federal Power Commission determined that the value of the following described lands would not be injured or destroyed for purposes of power development by location, entry, or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act, as amended:

PRINCIPAL MERIDIAN

Power Site Classification No. 369

T. 24 N., R. 8 E.,
Sec. 26, lot 5.

Power Site Classification No. 301

T. 25 N., R. 10 E.,
Sec. 4, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 9, lot 3.

T. 26 N., R. 11 E.,

Sec. 22, lot 4;

Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 26 N., R. 12 E.,

Sec. 12, lot 10;

Sec. 13, lot 1, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 275.76 acres.

3. The lands are situated in Chouteau County, Montana. They range from grassy benchland to rough badlands. Vegetative cover consists of native grasses and sagebrush.

4. The public lands described in this order are hereby restored to the opera-

tion of the public land laws, subject to any valid existing rights and equitable claims, the requirements of applicable law, rules, and regulations, and the provisions of any existing withdrawals; any disposals of the lands described in paragraph 2 hereof, being further subject to the provisions of section 24 of the Federal Power Act, supra: *Provided*, That, until 10:00 a.m. on July 20, 1962, the State of Montana shall have a preferred right of application to select the lands in accordance with the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852). During this period the State may also apply for the reservation to it or to any of its political subdivisions, under any statute or regulation applicable thereto, of any of the lands required as a right-of-way for a public highway, or as a source of materials for construction and maintenance of such highways, in accordance with section 24 of the Federal Power Act, as amended.

5. The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Billings, Montana.

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

JANUARY 19, 1962.

[F.R. Doc. 62-873; Filed, Jan. 25, 1962; 8:46 a.m.]

[Public Land Order 2593]

NEW MEXICO

Additions to New Mexico Grazing Districts Nos. 1 and 6; Partial Revocations of Executive Orders Nos. 8095 and 10046

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952; and by virtue of the authority contained in the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, et seq.), as amended, known as the Taylor Grazing Act; and in accordance with Executive Order No. 10787 dated November 6, 1958 (23 F.R. 8717), and Departmental Order No. 2843 dated November 17, 1959, it is ordered as follows:

1. The following-described lands are added to and made a part of New Mexico Grazing District No. 1, as heretofore established and modified:

NEW MEXICO PRINCIPAL MERIDIAN

T. 20 N., R. 1 W.,
Sec. 3, lots 1, 2, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 4, lots 3 and 4.
T. 21 N., R. 1 W.,
Sec. 4, lots 1, 2, 3, and 4;
Sec. 8, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 9, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14, lots 1, 2, 3, and 4;
Sec. 15, lots 1, 3, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 17, lots 3, 6, and 7;
Sec. 18, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 26, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 31, lots 10 and 11;
Sec. 34, lots 7 and 8;
Sec. 35, lot 7.

T. 22 N., R. 1 W.,
Sec. 4, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 5, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 17, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 28, lots 1, 2, 3, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 31, lots 2 and 3;
Sec. 33, lots 5, 6, S $\frac{1}{2}$ S $\frac{1}{2}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 19 N., R. 2 W.,
Sec. 3, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 6, lots 1, 2, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 9, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 20 N., R. 2 W.,
Sec. 5, SW $\frac{1}{4}$;
Sec. 6, SE $\frac{1}{4}$;
Secs. 7, 8, and 9;
Sec. 32, lot 2, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 33, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 34, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 35, SW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 21 N., R. 2 W.,
Sec. 16, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
Sec. 31, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, NW $\frac{1}{4}$;
Sec. 34, N $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 19 N., R. 3 W.,
Sec. 4, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 6, lot 6;
Secs. 12, 13, and 14;
Sec. 15, SW $\frac{1}{4}$.

T. 20 N., R. 3 W.,
Secs. 3, 10, and 11;
Sec. 12, S $\frac{1}{2}$;
Sec. 31, lots 3, 4, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 34, SW $\frac{1}{4}$;
Sec. 36.

T. 21 N., R. 3 W.,
Sec. 2, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 3, N $\frac{1}{2}$ and SE $\frac{1}{4}$;
Sec. 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 5, lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 6, lots 5, 6, SE $\frac{1}{4}$;
Sec. 7;
Sec. 8, NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, NE $\frac{1}{4}$;
Sec. 13, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 16, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Secs. 18 and 19;
Sec. 22, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 24, NW $\frac{1}{4}$;
Secs. 27, 28, 29, and 30;
Sec. 32, NE $\frac{1}{4}$;
Sec. 34.

T. 20 N., R. 4 W.,

Sec. 1;

Sec. 11, NE $\frac{1}{4}$.

T. 21 N., R. 4 W.,
Sec. 1, E $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 2, N $\frac{1}{2}$;
Secs. 3, 4, 5, and 6;
Sec. 7, N $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, N $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Secs. 9, 10, 11, and 12;
Sec. 13, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$;
Sec. 18, NE $\frac{1}{4}$;
Sec. 21, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, NE $\frac{1}{4}$;
Sec. 23, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 24, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 32, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 33, W $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 34.

T. 21 N., R. 5 W.,
Sec. 11, SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 15;
Sec. 23, E $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 24, S $\frac{1}{2}$;
Sec. 26, W $\frac{1}{2}$ and SE $\frac{1}{4}$;
Secs. 27, 34, and 35.

The areas described total in the aggregate 33,290.73 acres.

2. The following-described lands are added to and made a part of New Mexico Grazing District No. 6, as heretofore established and modified:

NEW MEXICO PRINCIPAL MERIDIAN

T. 17 S., R. 21 E.,
Sec. 13, N $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 17 S., R. 23 E.,
Sec. 8, N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 21, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, S $\frac{1}{2}$ SE $\frac{1}{4}$.

The areas described total in the aggregate approximately 480 acres.

3. Section 2 of Executive Order No. 10046 of March 24, 1949, so far as it reserved the public lands described in Paragraph 1 hereof under the jurisdiction of the Department of Agriculture for use, administration, and disposition, in accordance with the provisions of Title III and the related provisions of Title IV of the Bankhead-Jones Farm Tenant Act, is hereby revoked.

4. Executive Order No. 8095 of April 19, 1939, so far as it reserved the public lands described in Paragraph 2 hereof for use of the Department of Agriculture in connection with the Hope Land Use Project, is hereby revoked.

5. The public lands released from withdrawal by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the requirements of applicable law, rules, and regulations, the provisions of any existing withdrawals, provided that until 10:00 a.m. on July 20, 1962, the State of New Mexico shall have a preferred right to apply to select the lands in accordance with subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

The lands have been open to the operation of the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, New Mexico.

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

JANUARY 19, 1962.

[F.R. Doc. 62-874; Filed, Jan. 25, 1962; 8:47 a.m.]

[Public Land Order 2594]

[Los Angeles 0163998]

[Sacramento 065966]

CALIFORNIA**Establishing Monache-Walker Pass National Cooperative Land and Wildlife Management Area**

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Subject to existing valid rights, the following described public lands are hereby withdrawn from application under the nonmineral public land laws and from disposition under the homestead, desert land and scrip selection laws, and designated as the Monache-Walker Pass National Cooperative Land and Wildlife Management Area, to be managed by the Bureau of Land Management for the development, conservation, utilization, and maintenance of their natural resources, including their recreational and wildlife resources:

MOUNT DIABLO MERIDIAN

- T. 25 S., R. 32 E.,
 Sec. 25, N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 36, S $\frac{1}{2}$ and W $\frac{1}{2}$ NW $\frac{1}{4}$.
 T. 26 S., R. 32 E.,
 Sec. 1, lots 1, 2, 3, and 4;
 Sec. 2, lots 1, 2, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 10;
 Sec. 11, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 12, N $\frac{1}{2}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 13, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$.
 T. 27 S., R. 32 E.,
 Sec. 1, lot 1 and W $\frac{1}{2}$;
 Sec. 2, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Sec. 12, NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 23, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 24 and 25;
 Sec. 26, NE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 27, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 28 and 33;
 Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 36, N $\frac{1}{2}$.
 T. 28 S., R. 32 E.,
 Sec. 3, lots 1, 3, 4, 5, 6, 7, 9, 10, 11, 37-A, 37-B, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 4, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Sec. 9, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 44, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, lots 1, 2, 3, 6, 7, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 12, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 13, S $\frac{1}{2}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 14, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 16, W $\frac{1}{2}$ E $\frac{1}{2}$ and W $\frac{1}{2}$;
 Sec. 21, E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Secs. 24, 25, and 26;
 Sec. 27, SE $\frac{1}{4}$;
 Sec. 34, E $\frac{1}{2}$;
 Sec. 35;
 Sec. 36, E $\frac{1}{2}$ and SW $\frac{1}{4}$.
 T. 26 S., R. 33 E.,
 Sec. 33.
 T. 27 S., R. 33 E.,
 Sec. 1, lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 2, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 4;

- Sec. 9, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Secs. 10 to 13, incl.;
 Sec. 14, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 15, N $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 16;
 Sec. 17, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, lots 1, 2, 7 to 11, incl., 13 to 16, incl.;
 Sec. 20, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 21 and 22;
 Sec. 23, lots 1, 2, N $\frac{1}{2}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$.
 T. 26 S., R. 34 E.,
 Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Secs. 34 to 36, incl.
 T. 23 S., R. 35 E.,
 Sec. 25;
 Sec. 36, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 24 S., R. 35 E.,
 Secs. 1, 12, 13, 24, 25;
 Sec. 36, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 25 S., R. 35 E.,
 Sec. 34, N $\frac{1}{2}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 26 S., R. 35 E.,
 Sec. 1, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 3, SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 4, lots 2 to 4, incl., and S $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 5, N $\frac{1}{2}$;
 Sec. 6, lot 2, and N $\frac{1}{2}$;
 Sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 11;
 Sec. 14, N $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 16, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 17, E $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 20, E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 21, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 22, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 26, W $\frac{1}{2}$ E $\frac{1}{2}$ and W $\frac{1}{2}$;
 Sec. 27, E $\frac{1}{2}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 32, E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Secs. 33 to 35, incl.
 T. 27 S., R. 35 E.,
 Secs. 2 and 3;
 Sec. 4, lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 7, lots 1 to 4, incl., W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 10, 11, 14, and 15;
 Sec. 16, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 17, SE $\frac{1}{4}$;
 Sec. 18, lots 1, 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 20, NE $\frac{1}{4}$;
 Sec. 21, N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 22, N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 23 to 25, incl.;
 Sec. 26, N $\frac{1}{2}$ and SE $\frac{1}{4}$;
 Sec. 30, lots 2 to 4, incl., SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 31;
 Sec. 35, NE $\frac{1}{4}$, and S $\frac{1}{2}$.
 T. 28 S., R. 35 E.,
 Sec. 1;
 Sec. 2, lots 5 to 12, incl., S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Sec. 3, lots 5, 6, 11, 12, 14, 16, 17, 18, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 4, lots 6 to 11, incl., 13 to 23, incl., S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 5, lots 5 to 7, incl., 12 to 15, incl., 19, 21 to 23, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 6, lots 11 to 16, incl., 23 to 28, incl., 31, 33 to 35, incl., SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 7 and 8;
 Sec. 9, lots 1 to 20, incl.;
 Sec. 10, lots 1, 4 to 8, incl., and SE $\frac{1}{4}$;
 Sec. 11;
 Sec. 12, lots 1 to 4 incl., N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 13 and 14;
 Sec. 15, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 16 to 19, incl.;
 Sec. 20, E $\frac{1}{2}$ E $\frac{1}{2}$, and W $\frac{1}{2}$;
 Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$;
 Secs. 22 to 27, incl.;
 Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Secs. 30 to 35, incl.;
 Sec. 36, lots 1 and 2.
 T. 22 S., R. 36 E.,
 Sec. 1;
 Sec. 2, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 3 and 4;
 Sec. 5, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 9, N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 11, E $\frac{1}{2}$ E $\frac{1}{2}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 12 and 13;
 Sec. 14, E $\frac{1}{2}$;
 Sec. 15, W $\frac{1}{2}$;
 Sec. 19, SE $\frac{1}{4}$;
 Sec. 20, SW $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 23, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24;
 Sec. 25, lots 1 to 9, incl., and NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 27, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 29;
 Sec. 30, lots 1, 2, 4, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, lots 1 to 4, incl., SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33, E $\frac{1}{2}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 34, E $\frac{1}{2}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$;
 Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 36, W $\frac{1}{2}$ and SE $\frac{1}{4}$.
 T. 23 S., R. 36 E.,
 Sec. 1;
 Sec. 2, lots 1, 4, SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 3 to 9, incl.;
 Sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 12;
 Sec. 13, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 14, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 15 and 16;
 Sec. 17, N $\frac{1}{2}$, SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 18 and 19;
 Sec. 20, W $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, and W $\frac{1}{2}$;
 Sec. 22, N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 23;
 Sec. 24, W $\frac{1}{2}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 25 to 35, incl.;
 Sec. 36, N $\frac{1}{2}$.
 T. 24 S., R. 36 E.,
 Sec. 1, S $\frac{1}{2}$;
 Secs. 2 to 23, incl.;
 Sec. 24, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 25, N $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 26;
 Sec. 27, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 29 to 35, incl.;
 Sec. 36, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$, and SE $\frac{1}{4}$.

- T. 25 S., R. 36 E.,
 Secs. 1 to 7, incl.;
 Sec. 8, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 9, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 10 and 11;
 Sec. 13, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 14, N $\frac{1}{2}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, N $\frac{1}{2}$;
 Sec. 16, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 18;
 Sec. 24, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 25;
 Sec. 26, W $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 27, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, lot 4, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 31, lots 1, 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 32, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 33, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 34, S $\frac{1}{2}$;
 Sec. 35;
 Sec. 36, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 26 S., R. 36 E.,
 Sec. 6, lots 1 and 2.
- T. 27 S., R. 36 E.,
 Sec. 12, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 13, N $\frac{1}{2}$ NW $\frac{1}{4}$; S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
 Secs. 19, 22, and 23;
 Sec. 24, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 25 to 36, incl.
- T. 28 S., R. 36 E.,
 Secs. 1 to 13, incl.;
 Sec. 14, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 15 to 26, incl.;
 Sec. 27, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 28 to 35, incl.;
 Sec. 36, NE $\frac{1}{4}$ and S $\frac{1}{2}$.
- T. 22 S., R. 37 E., Partially unsurveyed,
 Sec. 3, W $\frac{1}{2}$, lot 2 of NE $\frac{1}{4}$, lot 2 of NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 4, lot 2 of NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Secs. 5 to 9, incl.;
 Sec. 10, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 14, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Secs. 15 to 22, incl.;
 Sec. 23, W $\frac{1}{2}$;
 Sec. 26, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Secs. 27 to 34, incl.;
 Sec. 35, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 23 S., R. 37 E.,
 Secs. 2 to 11, incl.;
 Sec. 12, lots 7, 8, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 13 to 15, incl.;
 Sec. 16, lots 1 to 4, incl., 6, and W $\frac{1}{2}$;
 Sec. 17, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 18;
 Sec. 19, lots 1, 3, 6, and E $\frac{1}{2}$;
 Sec. 20, W $\frac{1}{2}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 21, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Secs. 22 to 27, incl.;
 Sec. 28, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 29, N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 30, lots 1, 8, 11, E $\frac{1}{2}$ lot 5, and N $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 31, lots 1 to 12, incl., NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 33, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Secs. 34 to 36, incl.
- T. 24 S., R. 37 E.,
 Secs. 1 to 3, incl.;
 Sec. 4, lots 1 to 3, incl., and S $\frac{1}{2}$;
 Sec. 5, S $\frac{1}{2}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 6, lots 1 to 6, incl., E $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 7;
 Sec. 8, W $\frac{1}{2}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 9 to 29, incl.;
 Sec. 30, lots 1, 2, E $\frac{1}{2}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 31, lots 2 to 4, incl., SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$;
 Secs. 32 and 33;
 Sec. 34, SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, E $\frac{1}{2}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 36, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 25 S., R. 37 E.,
 Sec. 1, lots 1 to 4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 2, lots 1 to 4, incl.;
 Sec. 3, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 4 to 6, incl.;
 Sec. 7, E $\frac{1}{2}$;
 Secs. 8 to 10, incl.;
 Sec. 11, S $\frac{1}{2}$ and S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 12;
 Sec. 13, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 14 to 22, incl.;
 Sec. 23, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Secs. 26 to 31, incl.;
 Sec. 32, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 34 and 35;
 Sec. 36, N $\frac{1}{2}$ S $\frac{1}{2}$.
- T. 26 S., R. 37 E.,
 Secs. 1 to 3, incl.;
 Sec. 4, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
 Sec. 5, lots 2 to 4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
 Sec. 6, lots 1 to 3, incl., E $\frac{1}{2}$ lot 4, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 7, NE $\frac{1}{4}$;
 Sec. 8, N $\frac{1}{2}$ and SE $\frac{1}{4}$;
 Secs. 9 to 15, incl.;
 Sec. 16, E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$;
 Sec. 17, NE $\frac{1}{4}$ and S $\frac{1}{2}$;
 Sec. 18, lots 1 to 4, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Secs. 22 to 25, incl.;
 Sec. 26, E $\frac{1}{2}$;
 Secs. 27, 28, and 33;
 Sec. 34, W $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 35, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 36.
- T. 27 S., R. 37 E.,
 Sec. 1, lot 2 of NE $\frac{1}{4}$, lot 2 of NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Secs. 2 to 4, incl.;
 Sec. 7, lots 1 to 3, incl., E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Secs. 8 to 15, incl.;
 Sec. 16, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
 Sec. 17;
 Sec. 18, lots 3, 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 19, lots 1 to 3, incl., SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 20 to 23, incl.;
 Sec. 24, N $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$;
 Sec. 27, N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$;
 Secs. 28 to 32, incl.;
 Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 28 S., R. 37 E.,
 Sec. 5, W $\frac{1}{2}$ lot 2 of NE $\frac{1}{4}$, lot 2 of NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Secs. 6 and 7;
 Sec. 8, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 17, W $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
 Secs. 18 and 19;
 Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$;
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 29 to 32, incl.;
 Sec. 33, W $\frac{1}{2}$.
- T. 23 S., R. 38 E.,
 Sec. 19, lots 1 to 4, incl., and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 30, lots 1 to 4, incl., and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 31, lots 1 to 4, incl., and SE $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 24 S., R. 38 E.,
 Sec. 19, SW $\frac{1}{4}$;
 Sec. 30, W $\frac{1}{2}$;
 Sec. 31, W $\frac{1}{2}$ E $\frac{1}{2}$ and W $\frac{1}{2}$.
- T. 25 S., R. 38 E.,
 Sec. 5, lots 2 to 4, incl., SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 6, lots 1 to 7, incl.;
 Sec. 7;
 Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 17, W $\frac{1}{2}$ W $\frac{1}{2}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 18;
 Sec. 19, lots 1 to 5, incl., NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, W $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
 Sec. 29, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 30, lots 7, 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 31;
 Sec. 32, W $\frac{1}{2}$.
- T. 26 S., R. 38 E.,
 Sec. 5, lots 3, 4, 6, 7, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 6 and 7;
 Sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 17, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Secs. 18 to 20, incl.;
 Sec. 21, W $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, lot 2 and W $\frac{1}{2}$ NW $\frac{1}{4}$;
 Secs. 29 to 31, incl.;
 Sec. 32, lots 1 to 10, incl., W $\frac{1}{2}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 27 S., R. 38 E.,
 Sec. 5, W $\frac{1}{2}$ lot 2 of NE $\frac{1}{4}$, lot 2 of NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 6;
 Sec. 7, lot 2 of NW $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$ less 20 acre mining claim, lot 2 of SW $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 18, lot 2 of NW $\frac{1}{4}$, lot 2 of SW $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$.

The areas described aggregate approximately 306,422 acres.

2. For the purpose of furthering the objectives of this order, the Bureau of Land Management shall manage the lands with the advice of the Bureau of Sport Fisheries and Wildlife, the State of California (through its appropriate agencies or instrumentalities), and with such other interested parties as the Bureau of Land Management, after consultation with the State of California and the Bureau of Sport Fisheries and Wildlife, may agree should participate in the appropriate development, conservation, utilization, and maintenance of the lands and the resources thereon.

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

JANUARY 22, 1962.

[F.R. Doc. 62-875; Filed, Jan. 25, 1962; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

17 CFR Ch. IX 1

[Docket No. AO-340]

HANDLING OF APRICOTS GROWN IN SOLANO AND YOLO COUNTIES IN CALIFORNIA

Notice of Hearing With Respect To Proposed Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Fortnightly Club Room, City Hall, 318 First Street, Winters, California, beginning at 10 a.m., P.s.t., February 15, 1962, with respect to a proposed marketing agreement and order regulating the handling of apricots grown in Solano and Yolo Counties in the State of California. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the provisions of the proposed marketing agreement and order hereinafter set forth, and to any appropriate modifications thereof.

The Apricot Promulgation Committee submitted, and requested the hearing on, the proposed marketing agreement and order, the provisions of which are as follows (the sections identified with asterisks (* * *)) apply only to the proposed marketing agreement and not to the proposed order):

DEFINITIONS

Section 1. Secretary.

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

Sec. 2. Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674).

Sec. 3. Person.

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

Sec. 4. Production area.

"Production area" means Yolo County, California, and that portion of Solano County, California, north of the first standard parallel north of the Mt. Diablo Base and Meridian.

Sec. 5. Apricots.

"Apricots" means all varieties of apricots, grown in the production area, classified botanically as *Prunus armeniaca*.

Sec. 6. Varieties.

"Varieties" means and includes all classifications or subdivisions of *Prunus armeniaca*.

Sec. 7. Fiscal period.

"Fiscal period" is synonymous with fiscal year and means the 12-month period ending on the last day of February of each year, or such other period that may be approved by the Secretary pursuant to recommendations by the committee.

Sec. 8. Committee.

"Committee" means the Apricot Administrative Committee established pursuant to section 20.

Sec. 9. Grade.

"Grade" means any one of the officially established grades of apricots as defined and set forth in:

(a) United States Standards for Apricots (21 F.R. 9935) or amendments thereto, or modifications thereof, or variations based thereon;

(b) Standards for apricots issued by the State of California or amendments thereto, or modifications thereof, or variations based thereon.

Sec. 10. Size.

"Size" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end, or such other specification as may be established by the committee with the approval of the Secretary.

Sec. 11. Grower.

"Grower" is synonymous with producer and means any person who produces apricots for fresh market in fresh form, and who has a proprietary interest therein.

Sec. 12. Handler.

"Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting apricots owned by another person) who handles apricots.

Sec. 13. Handle.

"Handle" and "ship" are synonymous and mean to sell, consign, deliver, or transport apricots or cause the sale, consignment, delivery or transportation of apricots or in any other way to place apricots, or cause apricots to be placed,

in the current of the commerce from any point within the production area to any point outside thereof: *Provided*, That the term handle shall not include the sale of apricots on the tree.

Sec. 14. District.

"District" means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to section 31(m):

(a) "District 1" shall include the Apricot School District of Yolo County;

(b) "District 2" shall include that portion of Yolo County not included in District 1.

(c) "District 3" shall include the Wolfskill and Olive School Districts of Solano County and that portion of Solano County north and west of the intersection of Putah Creek Road and Pleasants Valley Road.

(d) "District 4" shall include that portion of Solano County which is north of the first Standard Parallel north of the Mt. Diablo Base and Meridian and is not included in District 3.

Sec. 15. Pack.

"Pack" means the specific arrangement, size, weight, count, of a quantity of apricots in a particular type and size of container, or any combination thereof.

Sec. 16. Container.

"Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of apricots.

ADMINISTRATIVE BODY

Sec. 20. Establishment and membership.

There is hereby established an Apricot Administrative Committee consisting of seven members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. The members and their alternates shall be growers or employees of growers. Each member and his alternate shall be a producer of apricots in the district he is chosen to represent as established pursuant to section 14. Three of the members and their respective alternates shall be producers of apricots in District 1; one member and his alternate shall be producers of apricots in District 2; two members and their respective alternates shall be producers of apricots in District 3; and one member and his alternate shall be producers of apricots in District 4.

Sec. 21. Term of office.

The term of office of each member and alternate member of the committee shall be for one year beginning March 1 and ending on the last day of February: *Provided*, That the terms of the initial members and their alternates shall end on the last day of February 1964. Mem-

bers and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

Sec. 22. Nomination.

(a) *Initial members.* Nominations for each of the initial members, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the committee responsible for promulgation of this part. Such nominations may be made by means of group meetings of the growers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in, this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in section 20.

(b) *Successor members.* (1) The committee shall hold or cause to be held not later than February 15 of each year (excluding the initial term) a meeting, or meetings of growers for the purpose of designating nominees for successor members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedures as shall be reasonable and fair to all persons concerned.

(2) Only growers, including duly authorized officers or employees of corporate growers, who are present at such nomination meetings may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in any district in which he produces apricots.

Sec. 23. Selection.

From the nominations made pursuant to section 22, or from other qualified persons, the Secretary shall select the seven members of the committee and an alternate for each such member.

Sec. 24. Failure to nominate.

If nominations are not made within the time and in the manner prescribed in section 22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in section 20.

Sec. 25. Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

Sec. 26. Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of

the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in sections 22 and 23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in section 20.

Sec. 27. Alternate members.

An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other alternate member to serve in such member's place and stead.

Sec. 30. Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

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

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

Sec. 31. Duties.

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to apricots;

(i) To submit to the Secretary such available information as he may request;

(j) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations;

(k) To give the Secretary the same notice of meetings of the committee as is given to its members;

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided, and to reapportion the representation on the committee: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in fresh apricot production for fresh market within the districts and the production area.

Sec. 32. Procedure.

(a) Five members of the committee, including alternates acting for members, shall constitute a quorum; and any action of the committee shall require the concurring vote of at least four members: *Provided*, That any action of the committee to recommend regulations pursuant to sections 50 to 55 shall require at least five concurring votes.

(b) The committee may vote by telegraph, telephone, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

Sec. 33. Expenses.

The members of the committee and alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided*, That at its discretion the committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses, as aforesaid.

Sec. 34. Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

Sec. 37. Shippers' Advisory Committee.

(a) A Shippers' Advisory Committee, consisting of five members who shall be handlers, or employees of handlers, selected by the handlers in accordance with the provisions of this section, is hereby established. There shall be an alternate for each member of such committee. An alternate member shall, in the event of such member's absence from a meeting of the committee, act in the place and stead of such member, and, in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

(b) The members and alternate members of the Shippers' Advisory Committee shall be elected by handlers at a general meeting of all handlers and shall serve in such capacities during the marketing season subsequent to such election. Such meeting shall be supervised by the Apricot Administrative Committee which may prescribe such rules and procedures as may be necessary to assure a membership representative of all shippers.

(c) The Shippers' Advisory Committee may attend each meeting of the Apricot Administrative Committee held to consider recommendations with respect to regulations of shipments pursuant to the provisions of this subpart. The Shippers' Advisory Committee may advise the committee on matters relating to such recommendations, but shall have no vote with such committee in any matter. Members of the Shippers' Advisory Committee may be reimbursed for expenses necessarily incurred in attendance of meetings of the Apricot Administrative Committee.

EXPENSES AND ASSESSMENTS

Sec. 40. Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in section 41.

Sec. 41. Assessments.

(a) Each person who first handles apricots shall, with respect to the apricots so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds will be incurred by the committee during each fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all apricots handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

Sec. 42. Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of

expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carryover such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal year when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

RESEARCH

Sec. 45. Marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of apricots. The expense of such projects shall be paid from funds collected pursuant to section 41.

REGULATIONS

Sec. 50. Marketing policy.

(a) Each season prior to making any recommendations pursuant to section 51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apricots within the production area;

(2) The expected general quality and size of apricots in the production area and in other areas;

(3) The expected demand conditions for apricots in different market outlets;

(4) The expected shipments of apricots produced in the production area and in areas outside the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of apricots; and

(3) The type of regulations expected to be recommended during the season.

(b) In the event it becomes advisable, because of changes in the supply and demand situation for apricots, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report, including each revised marketing policy report, and copies thereof shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

Sec. 51. Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apricots in the manner provided in section 52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for apricots during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

Sec. 52. Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of apricots whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of apricots grown in the production area;

(2) Limit the shipment of apricots by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix, during any period or periods, the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of apricots.

(b) The committee shall be informed immediately of any such regulation is-

sued by the Secretary, and the committee shall promptly give notice thereof to growers and handlers.

Sec. 53. Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to section 52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of apricots in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such suspension.

Sec. 54. Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of sections 41, 52, 53, and 55, and the regulations issued thereunder, handle apricots (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to sections 41, 52, 53, or 55, the handling of apricots for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to section 45), or in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent apricots handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle apricots pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apricots will not be used for any purpose not authorized by this section.

Sec. 55. Inspection and certification.

(a) Whenever the handling of any variety of apricots is regulated pursuant to section 52 or section 53, each handler who handles apricots shall, prior thereto, cause such apricots to be inspected by the Federal-State Inspection Service and certified by it as meeting the appli-

cable requirements of such regulation: *Provided*, That inspection and certification shall be required for apricots which previously have been so inspected and certified only if such apricots have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such apricots.

(b) The committee may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided*, That all shipments made under such waiver shall comply with all regulations in effect.

REPORTS

Sec. 60. Reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of apricots as follows:

(1) The name of the shipper and the shipping point;

(2) The car or truck license number (or name of the trucker), and identification of the carrier;

(3) The date and time of departure;

(4) The number and type of containers in the shipment;

(5) The quantities shipped, showing separately the variety, grade, and size of the fruit;

(6) The destination;

(7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition to disclosure of individual handler's identities or operations.

(d) Each handler shall maintain for at least two succeeding years such records of the apricots received, and of apricots disposed of, by such handler as may be necessary to verify reports pursuant to this section.

MISCELLANEOUS PROVISIONS

Sec. 61. Compliance.

Except as provided herein, no person shall handle apricots, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle

apricots except in conformity with the provisions of this part.

Sec. 62. Right of the Secretary.

The members of the committee (including successors and alternates), any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

Sec. 63. Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in section 64.

Sec. 64. Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production area in the production of apricots for fresh market: *Provided*, That such majority has produced for fresh market during such period more than 50 percent of the volume of apricots produced for fresh market in the production area; but such termination shall be effective only if announced before the last day of February of the then current fiscal period.

(d) The Secretary shall conduct a referendum within the period beginning December 1, 1963, and ending February 1, 1964, to ascertain whether continuance of this part is favored by the growers. The Secretary shall conduct such a referendum within the same two-month period of every second fiscal period thereafter.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

Sec. 65. Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligation imposed upon the committee and upon the trustees.

Sec. 66. Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

Sec. 67. Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

Sec. 68. Agents.

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

Sec. 69. Derogation.

Nothing contained in the provisions of this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers to act in the premises whenever such action is deemed advisable.

Sec. 70. Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other act, either of commission or omission, as such member, alternate, employee, or agent, except for acts

of dishonesty, willful misconduct, or gross negligence.

Sec. 71. Separability.

If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Sec. 72. Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

Sec. 73. Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

Sec. 74. Order with marketing agreement.

Each signatory handler hereby request the Secretary to issue, pursuant to the act, an order providing for the regulating of the handling of apricots in the same manner as is provided for in this agreement. * * *

Copies of this notice of hearing may be obtained from the office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., or the Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 701 K Street, Rooms 300-302, Sacramento 14, Calif.

Dated: January 22, 1962.

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

[F.R. Doc. 62-878; Filed, Jan. 25, 1962; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR PART 121]

FOOD ADDITIVES

Notice of 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 (FAP 662) has been filed by The

Society of the Plastics Industry, Inc., 250 Park Avenue, New York 17, New York, proposing the issuance of a regulation to provide for the safe use in packaging materials, containers, and equipment intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food of polystyrene, polystyrene modified with butadiene, and polystyrene modified with butadiene-styrene, provided that the styrene monomer content does not exceed 1.0 percent by weight of the polymer.

Dated: January 22, 1962.

J. K. KIRK,
*Assistant Commissioner
of Food and Drugs.*

[F.R. Doc. 62-881; Filed, Jan. 25, 1962; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 9]

PUBLIC RECORDS

Notice of Proposed Rule Making

Notice is hereby given that the Atomic Energy Commission has under consideration a proposed amendment to Part 9 of the Commission's regulations.

On October 5, 1961, the Commission published in the FEDERAL REGISTER (26 F.R. 9386), a notice of proposed rule making which would amend Part 9 and Part 20 of this chapter to provide for inclusion in the public records of the Atomic Energy Commission of reports of incidents filed by licensees, and to extend the provisions of Part 9, "Public Records", to holders of authorizations under Part 115 of this chapter.

The amendment to Part 9 now proposed would provide for inclusion in the public records of notices of violation issued by the Atomic Energy Commission as well as reports by licensees, and correspondence between the Commission and licensees. The term "licensee" would include a holder of an authorization under Part 115.

If the proposed amendment is adopted a notice of alleged violation would not be made public until after receipt of a response, if any, from a licensee, and until after dispatch of the Commission's acknowledgment of the licensee's response, at which time all three documents would simultaneously be placed in the Public Document Room.

This regulation is proposed under the authority of the Administrative Procedure Act and the Atomic Energy Act of 1954, as amended. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed regulation should send them to the Secretary, United States Atomic Energy Commission, Washington 25, D.C., within sixty (60) days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed

within the period specified. Copies of these comments will be available for examination by interested persons in the Public Document Room, 1717 H Street NW., Washington, D.C.

It is proposed to amend 10 CFR Part 9, "Public Records", as follows:

1. By adding the following new paragraph (h) to § 9.2 *Definitions*:

(h) "Licensee" includes any holder of an authorization subject to Part 115 of this chapter.

2. By adding the following new paragraph (f) to § 9.3 *Inclusions*:

(f) All reports required by AEC licenses, regulations or orders and filed by a licensee with the AEC and correspondence between the licensees and the AEC concerning these reports.

By notice published in the FEDERAL REGISTER on October 5, 1961, at page 9386, the Commission announced it proposed to amend § 9.3 by adding a proposed paragraph (f). The present notice modifies that notice by substituting the language quoted above for the language proposed in that notice.

3. By adding the following new paragraph (g) to § 9.3 *Inclusions*:

(g) Notices of alleged violations and correspondence between AEC and the licensee concerning alleged violations.

Dated at Germantown, Md., this 10th day of January 1962.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 62-361; Filed, Jan. 25, 1962;
8:45 a.m.]

CIVIL AERONAUTICS BOARD

I 14 CFR Parts 320, 321 I

[Safety Investigation Regs. Docket
No. 13341]

NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS AND OVERDUE AIRCRAFT; INSPECTION OF RECORDS, FACILITIES AND EQUIPMENT

Notice of Proposed Rule Making

JANUARY 19, 1962.

Notice is hereby given that the Civil Aeronautics Board is proposing to issue a revised Part 320—Rules Pertaining to Aircraft Accidents, Inflight Hazards, Overdue Aircraft and Safety Investigations, of its safety investigation regulations and is proposing to incorporate into the revised part, present Part 321—Inspection of Records, Facilities and Equipment. The principal features of the proposed revised Part 320 are explained in the explanatory statement below, and the proposed revised part is set forth below.

The revised Part 320 is proposed under the authority of sections 202, 204(a), 407(e), 415, 701, 702, 703, 1004 of the Federal Aviation Act of 1958, as amended (72 Stat. 741, 743, 766, 770, 781, 782, 792; 49 U.S.C. 1322, 1324, 1377, 1385, 1441,

1442, 1443 and 1484); section 2 of Reorganization Plan No. 13, 64 Stat. 1266; 5 U.S.C. 133z-15).

Interested persons may participate in the proposed rule making through submission of three (3) copies of written data, views or arguments pertaining thereto addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before February 26, 1962 will be considered by the Board before taking final action on the proposed revised part. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Part 320 (14 CFR Part 320) of the Board's Safety Investigation Regulations contains rules and regulations pertaining to the notification and reporting of aircraft accidents and overdue aircraft, and rules with respect to the preservation and release of aircraft wreckage and records.

The Board has reviewed this part in the light of experience gained during the past two years, and is of the view that a revision of the part is required in order to permit the more effective discharge of the Board's responsibilities under the Act to investigate aircraft accidents, determine their probable cause, initiate appropriate action to prevent the recurrence of similar accidents and develop an effective accident prevention program.

The Board proposes the following changes in Part 320 to accomplish the aforementioned objectives:

1. Amend the definition of "substantial damage" so as to exclude from the notification and reporting requirements of the Part any aircraft accident where it is reasonably estimated the cost to repair the damage resulting therefrom will be less than \$300. Under the existing rules, an operator is required to report any aircraft accident in which it is reasonably estimated the cost of repair or replacement will be \$100 or more. Since the adoption of this rule, repair costs for aircraft have substantially increased. Accordingly, the cost to repair even the most minor aircraft damage resulting from an accident, may well exceed the \$100 criterion. In view of the foregoing, the Board is of the opinion that the \$100 criterion is no longer realistic.

2. Require pilots or operators to notify the Board of certain specific inflight hazards that they may experience. Under the existing regulation, there is no requirement that such specific inflight hazards be reported except fire. The Board is of the view that such reported information will substantially increase the ability of the Board to discharge its responsibilities under Title VII, particularly in the development of an effective accident prevention program.

3. Incorporate into Part 320 the currently effective provisions of Part 321 (14

CFR Part 321) of the Board's safety investigation regulations. Part 321 contains the rules pertaining to the inspection of records, facilities and equipment by representatives of the Board in connection with their responsibilities and duties under Title VII of the Act.

Under this part such inspection of records, facilities and equipment may be in connection with a specific aircraft accident or occurrence; or in connection with a general investigation pertaining to safety in air navigation or the prevention of aircraft accidents. Since there is such a close relationship between the Board's rules pertaining to notifying, reporting, and investigating aircraft accidents, and its duties with respect to conducting special studies or investigations pertaining to safety in air navigation, the Board is of the view that such rules should be consolidated into one part. Moreover, such a consolidation of parts will allow all of the Board's safety investigation regulations to be contained in one document which should permit a better understanding of and added convenience to persons interested in such regulations.

4. Incorporate into Part 320 the authority of Director and Deputy Director of the Bureau of Safety and presiding and hearing officers of the Board in connection with aircraft accident investigations. Such authority was previously listed in PN-15, 26 F.R. 7231.

5. Finally, many changes of an editorial nature, and various clarifying changes have been made.

PART 320—RULES PERTAINING TO AIRCRAFT ACCIDENTS, INFLIGHT HAZARDS, OVERDUE AIRCRAFT AND SAFETY INVESTIGATIONS

Subpart A—General

§ 320.1 Applicability.

This part contains rules pertaining to:

(a) Giving notice of and reporting aircraft accidents, certain inflight hazards and overdue aircraft where such events involve civil aircraft of the United States wherever they occur or foreign civil aircraft where such events occur in the United States, its territories or possessions.

(b) Preservation and release of aircraft wreckage and records involving all civil aircraft in the United States, its territories and possessions.

(c) Investigation of aircraft accidents, certain inflight hazards and overdue aircraft and special studies and investigations conducted by the Board pertaining to safety in air navigation and the prevention of accidents.

§ 320.2 Definitions.

As used in this part the following words or phrases are defined as follows:

Fatal injury. A fatal injury is any injury which results in death within 48 hours.

Operator. An operator of an aircraft is any person who causes or authorizes the operation of an aircraft, such as the owner, lessee or bailee of an aircraft.

Serious injury. A serious injury is any injury which (1) requires hospitalization and/or medical treatment for a

period of five or more days, commencing within seven days from the date the injury was received; (2) results in a fracture of any bone (except simple fractures of fingers, toes or nose); (3) involves lacerations which cause severe hemorrhages or muscle damage; (4) involves injury to any internal organ; (5) involves second or third degree burns, or any burns affecting more than five percent of the body surface.

Substantial damage. (a) Except as provided in paragraph (b):

(1) Substantial damage in aircraft of 12,500 pounds maximum certificated take-off weight or less means damage or structural failure reasonably estimated to cost \$300.00 or more to repair.

(2) Substantial damage in aircraft of more than 12,500 pounds maximum certificated take-off weight means damage or structural failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component.

(b) Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small punctured holes in the skin or fabric, taxiing damage to propeller blades, damage to tires, engine accessories, brakes, or wing tips are not considered "substantial damage" for the purpose of this part.

Subpart B—Initial Notification of Aircraft Accidents, Inflight Hazards and Overdue Aircraft

§ 320.5 Immediate notification.

The pilot or operator of an aircraft shall immediately and by the most expeditious means available, notify the nearest office of the Civil Aeronautics Board, Bureau of Safety,¹ or Federal Aviation Agency Flight Service Station or Safety District Office when:

(a) As a result of the operation of an aircraft, any person (occupant or nonoccupant) is fatally or seriously injured or any aircraft receives substantial damage;

(b) Aircraft collide in flight;

(c) The following inflight hazards are experienced:

(1) Fire;

(2) Rapid decompression requiring emergency action;

(3) Unwanted or asymmetrical thrust reversal;

(4) Flight control system malfunction or failure;

(5) Incapacitation of any required flight crew member.

¹The present addresses and telephone numbers of Civil Aeronautics Board, Bureau of Safety offices are as follows:

Office, Address, and Telephone

Anchorage; P.O. Box 2219, Anchorage, Alaska; BRoadway 2-7001.

Chicago; Suite 208, 6525 West North Avenue, Oak Park, Ill.; VIlage 8-9565.

Denver; 1549 Emporia Street, Aurora, Colo.; EMpire 6-8249.

Fort Worth; 100 North University Drive, University Plaza Building, Fort Worth 7, Tex.; EDlson 6-3193.

(d) An aircraft is overdue and is believed to have been involved in an accident.

§ 320.6 Information to be given in notification.

The notification required in § 320.5 shall contain the following information, if available:

(a) Location;

(b) Date;

(c) Time;

(d) Aircraft make, model, and registration number and nationality;

(e) Names of operator and crew;

(f) Number of persons involved;

(g) Injuries to each person;

(h) Weather conditions;

(i) Point of last departure and destination;

(j) A description of any explosives, radioactive materials, or other dangerous articles carried;

(k) Nature of and circumstances surrounding the accident or occurrence.

NOTE: See Subpart D of this part for subsequent reports required.

Subpart C—Preservation and Release of Aircraft Wreckage, Cargo, Mail and Records

§ 320.10 Preservation of aircraft wreckage, cargo, mail, and records.

The pilot or operator is responsible for preserving any aircraft wreckage, cargo, mail and all records, including those of flight recorders, pertaining to the operation and maintenance of the aircraft and to airmen involved in an accident for which notification must be given, until permission for release is granted pursuant to § 320.11.

(a) Prior to the release of aircraft wreckage, mail or cargo as provided in § 320.11, the aircraft wreckage, mail and cargo may be disturbed or moved only to the extent necessary:

(1) To remove persons injured or trapped;

(2) To protect the wreckage from further damage; or

(3) To protect the public from injury.

(b) Where it is necessary to disturb or move aircraft wreckage, mail or cargo, sketches, descriptive notes, and photographs shall be made, if possible, of the

Kansas City; 912 East 63d Street, Lower Floor, North, Kansas City 10, Mo.; EMerson 3-2220 and 3-2221.

Los Angeles; Los Angeles International Airport, 5820 Avion Drive, Los Angeles 45, Calif.; SPring 6-0117.

Miami; P.O. Box 48-0931, Miami International Airport, Miami 48, Fla.; TUxedo 8-2919.

New York; Federal Building, Room 101, New York International Airport, Jamaica, N.Y.; OLympia 9-7000, Ext. 316, 317, 318.

Oakland; P.O. Box 2386, Oakland Airport Station, Oakland 14, Calif.; LOKkhaven 8-1290.

Seattle; Room 202, Administration Building, King County Airport, Seattle 8, Wash.; PArkway 3-0751.

The addresses listed above are subject to change. C.A.B. representatives, however, can generally be reached at the telephone numbers listed above.

accident locale including original position and condition of the wreckage and any significant impact marks.

§ 320.11 Release of aircraft wreckage, cargo, mail and records.

Release of aircraft wreckage, cargo, mail and records may be granted by an authorized representative of the Civil Aeronautics Board only.²

Subpart D—Reporting of Aircraft Accidents, Inflight Hazards and Overdue Aircraft

§ 320.15 Reports and statements to be filed.

(a) *Reports.* The operator of an aircraft shall file a report as provided in paragraph (c) of this section on the appropriate CAB form:³

(1) Within seven (7) days after an aircraft accident for which notification is required by § 320.5 (a) and (b);

(2) When, after seven (7) days, an overdue aircraft is still missing;

(3) Upon request of an authorized representative of the Civil Aeronautics Board.

(b) *Crew member statement.* Each crew member, if physically able at the time the report is submitted, shall attach thereto a statement setting forth the facts, conditions and circumstances relating to the accident or occurrence as they appear to him to the best of his knowledge and belief. If the crew member is incapacitated, he shall submit the statement as soon as he is physically able.

(c) *Where to file the reports.* (1) The operator of an aircraft shall file with the nearest Field Office of the Board any report required by this section involving:

(i) Aircraft having a maximum take-off weight of more than 12,500 pounds; or helicopters regardless of weight;

(ii) Aircraft having a maximum take-off weight of 12,500 pounds or less operated by an air carrier certificated to engage in air transportation in the State of Alaska;

(iii) Aircraft regardless of maximum take-off weight where fatal injuries have occurred to any occupant of such aircraft; and

(iv) Any occurrence set forth in § 320.5 (b), (c), and (d), where requested by an authorized representative of the Board.

(2) The operator of an aircraft shall file with the nearest FAA Safety District Office any report required by this section involving fixed wing aircraft with a maximum take-off weight of 12,500 pounds or less except as provided in subparagraph (1) of this paragraph.

² An authorized representative of the FAA has authority to release aircraft wreckage or cargo in those accidents which the Board, pursuant to PN-13 (see footnote 3, infra), has requested the FAA to investigate.

³ Forms are obtainable from the Civil Aeronautics Board Field Offices (see Footnote 1), the Civil Aeronautics Board, Washington 25, D.C., and Federal Aviation Agency Safety District Offices.

Subpart E—Special Studies and Investigations

§ 320.20 Authority of Board representatives.

Upon demand of an authorized representative of the Board and presentation of the credentials issued to such representative, any air carrier, airman, or person engaged in air commerce or in any phase of aeronautics, and any other person having possession or control of any aircraft, aircraft engine, propeller, appliance, air navigation facility, equipment, or any pertinent records and memoranda, including all documents, papers and correspondence now or hereafter existing and kept or required to be kept, shall forthwith permit inspection, photographing or copying thereof by such authorized representative for the purpose of investigating an aircraft accident, inflight hazard or overdue aircraft, or any special study or investigation pertaining to safety in air navigation or the prevention of accidents. Authorized representatives of the Board may interrogate any person having knowledge relevant to an aircraft accident, inflight hazard, overdue aircraft, study or investigation.

§ 320.25 Authority of the Director, Deputy Director, and presiding or hearing officers pertaining to aircraft accidents.

(a) The Director or Deputy Director of the Bureau of Safety of the Board may exercise the following authority in connection with aircraft accidents:

(1) Order an inquiry, by depositions, or otherwise, into the facts, conditions, circumstances and probable cause of all accidents involving civil aircraft, and order a public hearing in accordance with the provisions of Part 303 of this chapter (Board's Procedural Regulations) on the following types of accidents:

(i) Accidents in which unusual, nation-wide public interest is demonstrated.

(ii) Fatal air carrier accidents in air transportation.

(iii) Accidents in air transportation involving an apparent serious departure from good operating practice or significant deficiency in design in which catastrophe is narrowly averted.

⁴ The Board in PN-13, 23 F.R. 10492, effective December 31, 1958, requested the Administrator of the FAA to investigate aircraft accidents involving fixed-wing aircraft with a maximum take-off weight of 12,500 pounds or less except accidents involving aircraft operated by air carriers authorized by certificate of public convenience and necessity to engage in air transportation in the State of Alaska, and accidents in which fatal injuries have occurred to any occupants of such aircraft; and to submit a report to the Board concerning each such investigation.

(iv) Accidents which appear indicative of serious and widespread hazards in air commerce.

(v) Other accidents where it is deemed that a public hearing is necessary in the public interest.

(2) Designate in writing a hearing officer and technical staff for public hearings in accordance with the provisions of Part 303 of this chapter (Board's Procedural Regulations); in cases where the Director, Bureau of Safety, will not personally serve on a Board of Inquiry, he may designate one of his staff to take his place.

(3) Designate one or more hearing officials with authority to sign and issue subpoenas, to administer oaths and affirmations, and to take depositions or cause them to be taken in connection with accident investigations.

(4) Order a special study or investigation on matters pertaining to safety in air navigation, and if necessary, designate a hearing officer in this connection who may be authorized to sign and issue subpoenas, administer oaths and affirmations, and take depositions or cause them to be taken.

(b) Presiding officers or hearing officers appointed by Director or Deputy Director may: (1) hold hearings, (2) sign and issue subpoenas, (3) administer oaths and affirmations, (4) examine witnesses, (5) receive evidence and take or cause depositions to be taken.

[F.R. Doc. 62-895; Filed, Jan 25, 1962; 8:49 a.m.]

FEDERAL AVIATION AGENCY

14 CFR Part 601 I

[Airspace Docket No. 61-KC-50]

CONTROLLED AIRSPACE

Proposed Alteration of Control Zone

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 § 601.2493 of the regulations of the Administrator, the substance of which is stated below.

The St. Charles, Ill., control zone is presently designated within a 3-mile radius of the DuPage County Airport from 0600 to 2200 hours local standard time daily. The Federal Aviation Agency has under consideration the alteration of the St. Charles control zone by enlarging the control zone to a 5-mile radius zone and designating an extension from the 5-mile radius zone to a VOR to be commissioned in April, 1962, near St. Charles (DuPage) at latitude 41°53'25" N., longitude 88°21'00" W. Designation of the control zone extension would provide

protection for aircraft executing proposed prescribed instrument approach procedures based on the DuPage VOR. Expansion of the basic size of the control zone is required in preparation for the application of the provisions of Amendment 60-21 to the Civil Air Regulations, Part 60, Air Traffic Rules in the Chicago, Ill., terminal area, expected in the near future, which will result in the establishment of 1,200 foot floor transition area in a greater portion of this area. Thus, the increased radius zone will provide protection for departing aircraft climbing to the higher base of overlying controlled airspace.

If this action is taken, the St. Charles, Ill., control zone would be designated within a 5-mile radius of the DuPage County Airport (latitude 41°54'45" N., longitude 88°14'35" W.), and within 2 miles either side of the DuPage VOR 069° True radial extending from the 5-mile radius zone to the VOR, from 0600 to 2200 hours local standard time daily.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. 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 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 C-226, 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 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 January 19, 1962.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 62-864; Filed, Jan. 25, 1962; 8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Office of the Secretary
MISSISSIPPI

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in the following counties in the State of Mississippi natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources:

MISSISSIPPI

Attala.	Lowndes.
Calhoun.	Scott.
Leake.	Yalobusha.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1962, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of January 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-879; Filed, Jan. 25, 1962;
8:47 a.m.]

TEXAS

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in Collin County in the State of Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TEXAS
COLLIN.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1962, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of January 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-880; Filed, Jan. 25, 1962;
8:47 a.m.]

No. 18—Pt. I—4

DEPARTMENT OF COMMERCE

Office of the Secretary
RAYMOND E. HEBERT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

- A. Deletions: None.
B. Additions: None.

This statement is made as of January 11, 1962.

RAYMOND E. HEBERT.

JANUARY 11, 1962.

[F.R. Doc. 62-886; Filed, Jan. 25, 1962;
8:48 a.m.]

CLARENCE D. ENDER

Report of Appointment and Statement of Financial Interests

Report of appointment and statement of financial interests required by section 710(b)(6) of the Defense Production Act of 1950, as amended.

Report of appointment

1. Name of appointee: Clarence D. Ender.
2. Employing agency: Department of Commerce, Business and Defense Services Administration.
3. Date of appointment: January 12, 1962.
4. Title of position: Assistant Director for Mobilization Planning, Chemical and Rubber Division.
5. Name of private employer: Hercules Powder Co., Wilmington, Del.

CARLTON HAYWARD,
Director of Personnel.

JANUARY 9, 1962.

Statement of financial interests

6. Names of any corporations of which the appointee is an officer or director or within 60 days preceding appointment has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests; any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

Hercules Powder Co., Wilmington 99, Del.
Unilever N.V., Museumpark, Rotterdam, The Netherlands.
Bank Deposit.

CLARENCE D. ENDER.

JANUARY 15, 1962.

[F.R. Doc. 62-884; Filed, Jan. 25, 1962;
8:48 a.m.]

MAX LARRY BLUESTONE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

A. Deletions: Foster Wheeler; General Dynamics.

B. Additions: Vanadium Corp. of America; Great Western Products; Curtiss-Wright; Howard Johnson; Waldbaum; Pocket Book, Inc.

This statement is made as of January 8, 1962.

MAX LARRY BLUESTONE.

JANUARY 10, 1962.

[F.R. Doc. 62-885; Filed, Jan. 25, 1962;
8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. RM-150-2]

STATE OF CALIFORNIA

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of California for the assumption of certain of the Commission regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A summary of the California program submitted to the Commission is set forth below as Appendix A to this notice. A copy of the complete text of the California program, including proposed California regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Office of Radiation Standards, United States Atomic Energy Commission, Washington 25, D.C. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them in triplicate to the Secretary, U.S. Atomic Energy Commission, Wash-

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ington 25, D.C., within 30 days after initial publication in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as proposed Part 150 to the Commission's regulations in FEDERAL REGISTER issuances of Sept. 29, 1961; Oct. 6, 1961; Oct. 13, 1961; Oct. 20, 1961; 26 F.R. 9174, 9428, 9678, 9873. In reviewing this proposed agreement, interested persons should also consider the aforementioned proposed exemptions, which the Commission still has under consideration.

Dated at Germantown, Md., this 9th day of January 1962.

For the Atomic Energy Commission:

WOODFORD B. McCool,
Secretary.

Agreement Proposed by the State of California Pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, for the Assumption of Certain of the AEC's Regulatory Authority

Whereas, the United States Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274b. of the Atomic Energy Act of 1954, as amended, to enter into an agreement with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under Chapters 6, 7, and 8 and section 161 of that Act with respect to any or all of the following materials within the State; namely, byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass (hereinafter referred to as agreement materials); and

Whereas, the Governor of the State of California (hereinafter referred to as the State) is authorized under section 25830 of the California Health and Safety Code to enter into such an agreement, which agreement shall become effective when ratified by the State Legislature; and

Whereas, the Governor of the State has certified on December 15, 1961, that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to agreement materials within the State, and that the State desires to assume the regulatory responsibility discontinued by the Commission for such materials; and

Whereas, the Commission has found on ----- that the State program is compatible with the Commission's program for the regulation of agreement materials, and that the State program is adequate to protect the public health and safety with respect to such materials; and

Whereas, the Commission and the State recognize the desirability and importance of maintaining compatibility between their respective programs for the control of agreement materials with respect to public health and safety; and

Whereas, the Commission and the State agree that reciprocal recognition of licenses issued by the Commission and by all States which enter into agreements with the Commission similar to this agreement (hereinafter referred to as agreement States) is of great importance for the development of the uses of agreement materials and that such reciprocal recognition must be based upon continuing compatibility of the programs of the Commission and such States for the control of agreement materials;

Now, therefore, it is hereby agreed between the Commission and the Governor of the

State, acting in behalf of the State, as follows:

Article I. For purposes of this agreement: A. "Byproduct materials," "critical mass," and "ocean or sea" have the meanings given to such terms in Part 150 of the Commission's regulations in effect on the ratification date of this agreement.

B. "Source material," "special nuclear material," "production facility," and "utilization facility" have the meanings given to such terms in those parts of the Commission's regulations that are incorporated by reference in Part 150 and that are in effect on the ratification date.

C. "Ratification date" means the date on which the California Legislature transmits to the Governor for signature a bill ratifying this agreement.

Article II. Subject to the exceptions stated in Article III, the Commission shall discontinue, as of the effective date of this agreement, the regulatory authority of the Commission under Chapters 6, 7, and 8 and section 161 of the Atomic Energy Act of 1954, as amended, with respect to the following materials within the State:

A. Byproduct materials;

B. Source materials;

C. Special nuclear materials in quantities such that the amount authorized for possession at any one time under any one license is not sufficient to form a critical mass.

Article III. This agreement does not provide for discontinuance of any Commission responsibility and authority with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Article IV. Notwithstanding this agreement, the Commission is authorized:

A. By rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission; and

B. To issue rules, regulations, or orders under subsection 161 b. or i. of the Atomic Energy Act of 1954, as amended, to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

Article V. Each party to this agreement will:

A. Use its best efforts to maintain compatibility between its program for the control of agreement materials and the programs of the other party and of other agreement States. To this end, each party will consult with the other and with all agreement States prior to any modification of its regulations for the control of agreement materials and will seek to arrive at a common solution of differences, to be incorporated insofar as practicable into the regulations of both parties and all agreement States concurrently.

B. Provide for reciprocal recognition of licenses for agreement materials issued by the other party or by any agreement State, subject to such conditions as to duration of such recognition of each license, reporting of information, and compliance with regulations as are deemed necessary to protect the health and safety of the public.

Such recognition is conditioned upon the continuance of program compatibility in accordance with paragraph A of this article.

Article VI. This agreement, upon acceptance by the Commission and the Governor of the State and ratification by law of the State, shall become effective on July 1, 1962.

Article VII. The Commission, upon its own initiative, after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this agreement and reassert the licensing and regulatory authority vested in it under the Atomic Energy Act of 1954, as amended, if the Commission finds that such termination or suspension is required to protect the public health and safety.

APPENDIX A

Summary of California's Proposed Policies and Procedures for the Licensing and Regulation of Byproduct, Source, and Special Nuclear Materials

State policy and courses of action with respect to atomic energy development and radiation protection have been the subject of California legislative consideration for a number of years. Public hearings by the Assembly Interim Committee on Public Health in 1958 led to the enactment of the Atomic Energy Development and Radiation Protection Law in 1959, which:

1. Declared it to be State policy to "encourage the constructive development of industries producing or utilizing atomic energy and radiation and to eliminate unnecessary exposure of the public to ionizing radiation."

2. Established the position of Coordinator of Atomic Energy Development and Radiation Protection in the Governor's Office.

3. Directed the Department of Public Health to institute a program for the registration of sources of radiation.

The Congress, also in 1959, amended the Atomic Energy Act of 1954 to permit for the first time a transfer of certain regulatory authority from the U.S. Atomic Energy Commission to qualified states in accordance with negotiated agreements.

In implementation of the State statute and with a view toward appraising the desirability or necessity for a broad system of radiation control, including assumption of authority from the AEC, the registration program was so designed as to obtain a maximum of information regarding radiation use in California. The Assembly Interim Committee on Public Health, following public hearings on these subjects in 1960, concluded that a comprehensive program of radiation control should be instituted promptly and that the state should prepare to enter into agreement with the Atomic Energy Commission, subject to approval of such an agreement by the Legislature. The Coordinator of Atomic Energy Development and Radiation Protection, after consultation with the Advisory Council and the Departmental Coordinating Committee of his Office, and with representatives of industry and the professional groups that use atomic energy and radiation, made a similar recommendation in his annual report to the Governor and the Legislature in January 1961.

As a result of these recommendations, Assembly Bill 1975 was introduced in the 1961 session of the Legislature, providing the framework for such a program, including enabling provisions to permit the Governor to enter into agreement with the Atomic Energy Commission. The bill was derived in large measure from suggested legislation of the Council of State Governments. It was widely circulated and critically reviewed by a number of interested and affected persons and groups, and was revised to take into account appropriate comments. After extensive consideration by Committees of the Legislature, including several public

hearings at which all interested parties were afforded opportunity to be heard, the measure was enacted as the Radiation Control Law (Chapter 1711, Laws of 1961).

The statute directed the State Department of Public Health to adopt regulations for effectuating the purposes of this legislation. In drafting regulations, the Department was guided by the statutory provision for compatibility with the standards and regulatory programs of the Federal government, an integrated effective system of regulation within the State, and a system consonant insofar as possible with those of other states. The regulations were drawn largely from models developed jointly by the Atomic Energy Commission, the U.S. Public Health Service, and the Council of State Governments; and from recommendations of the National Committee on Radiation Protection and Measurement.

Assistance in drafting the regulations was obtained from a number of individuals, agencies, and groups, including the Atomic Energy Commission, the U.S. Public Health Service, the California Coordinator of Atomic Energy Development and Radiation Protection, several California state and local agencies, and a distinguished twelve-member Advisory Committee. This Advisory Committee included representation from industry, labor, medicine, dentistry, medical physics, and local health departments.

Two public meetings were held under the auspices of the Department of Public Health to permit interested persons to present their views on the proposed regulations. These meetings were publicized in advance through regular news media. In addition, notices of the meetings, together with copies of the proposed regulations, were sent to some 500 persons and groups known to be concerned. Such notices were mailed to all persons who had previously requested notifications of this sort; known leaders of affected groups; leading industries, distributors, manufacturers, and insurance carriers; leading universities and colleges; major hospitals; the California Manufacturers' Association; the California Medical Association; and others.

The first such meeting was held in Los Angeles on October 17, 1961, and 56 persons attended. The second meeting was held in Berkeley on October 20, with 64 persons in attendance. Each meeting lasted more than five hours and the proposed regulations were considered in detail. The notice announcing the meetings stated that written comments would also be welcomed. This was reiterated to those in attendance at the meetings. A number of written comments were received and given full consideration.

Following the public meetings, the Advisory Committee met to consider suggestions made at the meetings and in correspondence. This led to a final redrafting of the regulations. Copies were sent to all persons and groups that had received the initial draft.

In accordance with section 25734 of the Health and Safety Code, this final draft was submitted for review by the Coordinator of Atomic Energy Development and Radiation Protection and was approved for public notice of a hearing to be held before the State Board of Public Health. Such notice was published thirty days in advance of the hearing date in accordance with section 11423 of the Government Code, and notice of the hearing was also mailed to all persons and groups to whom copies of the proposed regulations had been sent. At the hearing on December 8, 1961, full opportunity was given to all interested persons to be heard before action was taken. The Board adopted the regulations and they constitute Title 17, Chapter 5, Subchapter 4, sections 30100 to 30397, inclusive, of the Administrative Code of California.

SECTION 1. The Radiation Control Program. The radiation control program of the

State is designed to regulate all sources of radiation other than those for which regulatory responsibility is to be retained by the U.S. Atomic Energy Commission. As the term "radiation sources" is used hereinafter in this narrative, it is intended to mean those sources under the control of the State. The sources are divided into two major categories; radioactive materials and radiation machines. Radioactive materials are to be regulated under a licensing program similar to the existing program of the U.S. Atomic Energy Commission, requiring possession of a license prior to acquisition or use of such materials. Radiation machines and certain generally licensed radioactive materials will be subject to a registration program involving the reporting of information by the registrant and the right of inspection by the State for compliance with prescribed safety standards. Each of these two major segments of the program is to be supported by a schedule of fees which relates to that specific part of the program. The agency charged with the responsibility of promulgating regulations and issuing licenses is the State Department of Public Health. A portion of the inspection and enforcement activities will be delegated by specific agreement to the Division of Industrial Safety of the State Department of Industrial Relations and may be delegated to local health agencies of cities and counties as the latter develop and demonstrate competence.

The regulations adopted by the State Department of Public Health will be controlling in this program throughout the State. As agreements for the delegation of responsibility for inspection and enforcement by other agencies are developed, it is planned to insure that no duplication or overlapping or jurisdiction occurs.

Sec. 2. Licensing. Provision is made for the issuance of both specific and general licenses comparable to those issued by the U.S. Atomic Energy Commission. Such licenses are required for the possession of radioactive materials above exempt amounts or concentrations, regardless of the mode of formation of such materials.

The responsibility for licensing of radioactive materials has been assigned by statute to the State Department of Public Health. The statute requires that Department to enter into agreement with the Division of Industrial Safety of the Department of Industrial Relations for the performance of certain inspection and enforcement activities. When such an agreement is concluded, it will allocate to that Division, among other duties, the responsibility for technical evaluations of license applications relating to industrial uses in general, prior to issuance of such licenses by the Department of Public Health. The Department of Public Health will itself conduct such technical evaluations with respect to other uses. As authorized by the Statute, the Department of Public Health plans to enter into agreement with such local health agencies as demonstrate adequate competence, authorizing them to conduct technical evaluations of license applications.

It is planned to make pre-licensing inspection a part of the evaluation procedure in general. In connection with licensing procedures, provision is made to give opportunity for all interested persons to be heard. With respect to human use of radioactive materials, the Department of Public Health will appoint a committee of not less than three qualified physicians to review license applications and make recommendations thereon. The Department will also have on its staff one or more physicians with special competence in radiological health who will review the recommendations of this committee.

Sec. 3. Inspection. Inspection for compliance with regulations and with license conditions will be carried on by the Department of Public Health, the Division of In-

dustrial Safety, and any local health agencies with which agreements have been made as described in section 2—Licensing. Each license will be assigned to a single agency for such purposes.

Based upon the existing number and kind of the specific licenses, a priority system will be established under which inspection of the most hazardous activities will be conducted at least once each six months, and the remainder on a less frequent basis, depending upon the relative hazard. Initial priorities will be established on the basis of the pre-licensing evaluation and may be modified in accordance with subsequent inspections. It is expected that all licensed activities will be inspected at least once in two years.

Most inspections will be scheduled visits; a significant number may be on an unannounced basis. Inspection visits will usually entail a comprehensive review by the inspector of the licensee's equipment, facilities, in the handling or storage of radioactive material, the procedures in effect, including actual operation, and interviewing the personnel directly involved. The inspector will review the licensee's survey methods and results, personnel monitoring practices and results, the posting and labeling used, the instructions to personnel, and the methods and apparent effectiveness of maintaining control of people in the restricted area. He will review the licensee's records of receipts, transfers, and inventory of licensed material. He may physically check the inventory. He will examine records concerning disposal to the sewerage system and burial in the soil, if pertinent. He may make measurements of radiation levels. Prior to leaving the licensee's premises, he will meet with management to discuss the results of his inspection. During this meeting, he will attempt to answer questions concerning the regulatory program.

The inspector will prepare a report in sufficient detail to inform his supervisor of the facts and circumstances observed during the inspection. These reports will provide the basis for any necessary enforcement action. Appropriate elements of this information will be filed in the various agencies as needed. The Department of Public Health will review the operation of this system to insure that timely and adequate inspections are performed and that appropriate actions are taken.

In addition, there will be investigations of incidents and complaints involving licensed materials and operations to determine the cause, the steps taken by the licensee to cope with the incident, whether or not there was noncompliance with a regulation, and the steps the licensee is taking to avoid recurrence of the incident.

Licenses will be informed of the results of all inspections, first orally at the time of the inspection, and by letter or notice from the inspecting agency.

Sec. 4. Enforcement. Reports of inspections of licensee's activities will be evaluated by the inspecting agency to determine the status of compliance of the licensee with license conditions and regulations. If no item of noncompliance is observed, the licensee is so informed. If only minor matters of noncompliance, such as improper signs, failure to label, etc., are involved, which, at the time of the inspection, the licensee agrees to correct, the licensee will be informed in writing of the items of noncompliance and that corrective action will be reviewed during the next inspection. If the inspection reveals a noncompliance of a more serious nature, the licensee will be required to inform the inspecting agency in writing, usually within 15 to 30 days, as to corrective action taken and the date completed. In these cases, the inspecting agency representative will either conduct a prompt follow-up inspection or the matter will be reviewed

during a regular inspection to insure that corrective action has, in fact, been accomplished. If the reply does not satisfactorily explain the noncompliance and assure that further violations will be prevented, the inspecting agency will take such administrative actions as are available to them.

It is expected that most of the enforcement functions will be administratively consummated by the inspecting agency. In cases where this is not successful, the inspecting agency will refer the matter to the State Department of Public Health, which may issue an order to show cause why the license should not be modified or terminated. In that event, there is provision for formal hearing in accordance with the California Administrative Procedures Act, and for judicial review of the final order resulting from such hearing. There is also provision for emergency action without notice or hearing, but such emergency action is subject to a prompt hearing upon request of the licensee. Among the enforcement procedures available to the State Department of Public Health are modification, suspension, or revocation of licenses, injunctive relief, and criminal sanctions afforded in the courts.

Sec. 5. Participation by other agencies. The statute provides for participation in the radiation control program by the State Division of Industrial Safety and by local health agencies in accordance with agreements that may be made between such agencies and the State Department of Public Health, subject to review by the Coordinator of Atomic Energy Development and Radiation Protection. Such agreements will permit the technical evaluation of license applications, the conducting of inspections for compliance with licenses and regulations, and such enforcement activities as may be administratively consummated within the agency. When further enforcement proceedings are required, involving formal hearings upon the suspension or revocation of licenses, such hearings will be conducted by the State Department of Public Health. Participating agencies will be required to maintain equivalent standards to those maintained by the State Department of Public Health with respect to educational and experience requirements of technical personnel engaged in the program, numbers of personnel in proportion to numbers of assigned licenses, adequacy of kinds and amounts of equipment and facilities, and procedures followed in inspection and enforcement. Inspecting agencies will be required to insure compliance by licensees with the license conditions and with the rules and regulations promulgated under the Radiation Control Law.

The statute permits the existence of local ordinances and regulations that are consistent with State Law and regulations. It provides that only the State shall assess a fee and that the proceeds from such fees shall be equitably distributed between the participating agencies. These provisions will be incorporated in agreements for the participation of such agencies in the program.

Sec. 6. Organization and Personnel. The radiation control program will be established in the Bureau of Radiological Health, an existing organizational unit of the State Department of Public Health. Technical positions in the existing program of this bureau are listed below. Personnel will be utilized in the control program to the degree required.

- Acting Chief.
- Senior Health Physicist.
- Senior Engineer.
- 4 Associate Health Physicists—One position unfilled.
- Associate Statistician.
- 2 Consultant Physicians—One position unfilled.
- Consultant Engineer.

Upon consummation of an agreement with the AEC, the following additional personnel

will be employed, as available, to perform license evaluations and to provide supervision over the inspection program:

- 1 Supervising Health Physicist.
- 2 Senior Health Physicists.
- 1 Associate Health Physicist.

The Department expects to maintain as inspectors qualified personnel trained in health physics in the approximate ratio of one for each 175 licenses. During the initial phases, the equivalent number of man-years is planned to be devoted to these purposes by the existing staff. This ratio of inspectors to licenses will also apply to other agencies having inspectional responsibilities.

The educational and experience requirements for the position categories directly related to the licensing program are as follows:

Supervising Health Physicist: Bachelor's degree in physical or life sciences, including or supplemented by courses in health physics or radiation biology. Seven years of responsible professional experience in health physics or a closely related field, at least three years of which must have included principal responsibility for a major program of radiological health.

Senior Health Physicist: Graduation from college with major work in the applied or life sciences and including or supplemented by at least four courses in nuclear or health physics or radiation biology. Five years of responsible professional experience in health physics or a closely related field, at least two years of which must have included responsibility for a major program in radiological health. (Master's degree or equivalent academic work in health physics or closely related fields may be substitutes for two years of experience; one year of Atomic Energy Commission fellowship training may be substituted for one year of experience.) As an alternate to these requirements, two years of experience as an Associate Health Physicist in the California State service will be acceptable.

Associate Health Physicist: Equivalent of college graduation with major work in physical or life sciences, including or supplemented by at least two courses in nuclear or health physics or radiation biology. Three years of responsible professional experience (excluding routine radiation monitoring and surveys) in health physics or closely related fields. (One year of full time graduate work in health physics or closely related fields, or completion of one-year Atomic Energy Commission health physics fellowship may be substituted for one year of required experience.)

[F.R. Doc. 62-364; Filed, Jan. 11, 1962; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

PINE RIDGE INDIAN RESERVATION LAND RECORDS

Transfer to Aberdeen Area Office

JANUARY 18, 1962.

In accordance with 25 CFR Part 120, notice is hereby given that all title source documents and land records pertaining to trust or restricted Indian-owned lands on the Pine Ridge Indian Reservation in the State of South Dakota have been transferred from the City of Washington to the Aberdeen Area Office, Bureau of Indian Affairs, 820 South Main Street, Aberdeen, South Dakota.

Effective February 1, 1962, the Aberdeen Area Office will be the office for

the maintenance of records for all trust and restricted lands as described above.

JOHN O. CROW,
Deputy Commissioner.

[F.R. Doc. 62-871; Filed, Jan. 25, 1962; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13351 etc.; Order E-17945]

AMERICAN AIRLINES, INC., ET AL.

Reduced Westbound Freight Rates; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of January 1962.

In the matter of reduced westbound freight rates proposed by American Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc.; Dockets 13351, 13330 and 13332.

By tariff revisions marked to become effective January 25, 1962, Trans World Airlines, Inc. (TWA), proposes significant reductions in its rates for group 567, containing numerous commodities, covering westbound movements from Boston, New York, and Philadelphia to Los Angeles and San Francisco, and from Chicago to San Francisco. Reductions are to be effected at weight breaks from 1,000 to 5,000 pounds, and a new rate at 10,000 pounds is to be introduced. American Airlines, Inc. (American), has filed identical rates to be effective on the same date for defensive purposes, and United Air Lines, Inc. (United), has filed such rates with effectiveness on January 27, 1962. TWA's proposals are identical in the foregoing markets to those filed for effectiveness November 17, 1961, and suspended by the Board in Order E-17736, of November 16, 1961;¹ the suspended rates were canceled pursuant to Special Tariff Permission, C.A.B. 15160, dated November 17, 1961. TWA asserts that its refiling of the suspended rates has the purpose of establishing the same volume spreads as those recently approved by the Board for eastbound application; that the proposed volume spreads are not as large as those in effect prior to October 1961; that the proposed spreads are the minimum required to retain large volume shipments for air transportation, because the current lower spreads threaten to cause diversion to surface carriage; that 35 to 40 percent of TWA's domestic freight business consists of shipments using such spreads and such shipments can be handled at substantial economies; that the proposals would be equal to current eastbound rates at higher rate breaks just as the current rates are equal in both directions at 100 pounds; and that there is no marked directional imbalance justifying higher rates westbound for large shipments.

¹The rates proposed from Chicago to San Francisco were below those which had been suspended. However, by revisions to be effective Feb. 11, 1962, the proposed rates were increased to the level of the suspended matter.

American and The Flying Tiger Line Inc. (Tiger), have filed complaints requesting investigation and suspension. In summary, American requests the Board to suspend the proposed rates for the same reasons for which they were suspended previously, viz.: that the suspended proposals were on a low level, and had undercut competition without adequate justification. American also alleges that eastbound rates are normally significantly lower than westbound rates, and that TWA has not presented any facts justifying reduction of westbound rates for the commodities herein involved; that TWA does not claim that the reduced rates would be compensatory but makes only an unsupported statement that the present volume spreads threaten to cause diversion to surface carriage; that rates on such commodities at higher rate breaks have already been reduced by 25 percent since September 1961 in the transcontinental markets; and that large volumes of these commodities moved by air before such reductions are now continuing to move at current rates, and that there is no sound reason for believing that any significant diversion will occur at present rates. Tiger claims that the proposed rates are lower than those in effect for competitive carriers; that TWA does not present data justifying the proposed volume spreads on the basis of costs; and that they are not compensatory to TWA, based upon costs of operating the carrier's L-1049 aircraft.

Upon consideration of matters of record, the Board finds that the rates proposed by TWA may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and should be investigated. TWA's proposals are on a low level for westbound movements, averaging 12.5 cents per ton-mile at the 1,000 pound weight break and 10.9 cents at 10,000 pounds. The rates filed would effect reductions and be lower than the rates in effect for competing carriers, by an average of approximately 2.9 percent for 1,000 pound shipments to 9.8 percent at 10,000 pounds.

Eastbound rates have traditionally been on a relatively low level because they have been based on the added costs of handling return hauls opposite to the direction of the predominant traffic flow. TWA has not presented data to show that an alleged lack of imbalance for large shipments has reduced the cost of handling such shipments westbound to the level of added costs of eastbound movements. With respect to volume spreads, it is the Board's opinion that rates that are prima facie low cannot be justified solely by applying spreads which may be supported by costs and/or which are currently in effect in the reverse direction or on other commodities or in other periods to current rates for 100 pound shipments. TWA has not submitted data showing that the large volumes of traffic allegedly threatened by diversion to surface transportation have permitted attainment of costs warranting the low rates proposed.

Because of the dilution of carrier revenues which might result from the

application of the proposed rates, the Board has further concluded to suspend these portions of the tariff revisions and defer their use pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 1002 thereof: *It is ordered, That:*

1. An investigation is instituted to determine whether the rates and provisions described in Appendix A hereto² are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe lawful rates and provisions.

2. Pending hearing and decision by the Board, the rates and provisions described in Appendix A hereto² are suspended and their use deferred to and including April 24, 1962, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission by the Board.

3. The complaints in Dockets 13330 and 13332 are consolidated herein.

4. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

5. Copies of this order shall be filed with the tariff and shall be served upon American Airlines, Inc., The Flying Tiger Line, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 62-396; Filed, Jan. 25, 1962;
8:49 a.m.]

[Docket No. 13202 etc.]

FLYING TIGER LINE

Notice of Prehearing Conference

The Flying Tiger Line rate cases; Dockets 13202, 13205 etc., and 13272.

Notice is hereby given that a prehearing conference on the above-numbered dockets is assigned to be held on February 9, 1962, at 10 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW, Washington, D.C., before Examiner Leslie G. Donahue.

In order to facilitate the conduct of the conference it is requested that any party in this proceeding file with Examiner Donahue on or before January 31, 1962, motions with respect to the scope of the proceeding, including requests for consolidation, statement of the issues and requests for evidence.

Dated at Washington, D.C., January 22, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-897; Filed, Jan. 25, 1962;
8:49 a.m.]

² Filed as part of the original document.

FEDERAL AVIATION AGENCY

[OE Docket No. 61-CE-70]

PROPOSED TELEVISION ANTENNA STRUCTURES

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: Midwest Radio-Television, Inc. (WCCO-TV); Twin State Broadcasting, Inc. (WTCN-TV); United Television, Inc. (KMSP-TV); all of Minneapolis, Minnesota, and KSTP, Inc. (KSTP-TV), St. Paul, Minnesota, jointly propose to construct two television antenna structures near St. Paul, Minnesota. Site No. 1 is at latitude 45°03'46" north, longitude 93°08'23" west and the overall height of the proposed structure would be 2,649 feet above mean sea level (1,649 feet above ground). Site No. 2 is at latitude 45°03'34" north, longitude 93°07'20" west and the overall height of the proposed structure would be 2,649 feet above mean sea level (1,749 feet above ground). The two proposed structures would be approximately 0.8 mile apart.

This joint proposal was originally circularized specifying overall heights of 2,650 feet MSL (1,650 and 1,750 feet above ground at sites Nos. 1 and 2, respectively). However, at the FAA Kansas City Informal Airspace Meeting, the sponsors agreed to reduce the overall height of the proposed structures to 2,649 feet MSL as shown in the proposal.

Objections were received in response to the circularization from the following: Minneapolis-St. Paul Metropolitan Airports Commission; Chief Pilot, Minnesota Mining and Manufacturing Company; National Business Aircraft Association; Minnesota Business Aircraft Association; Aviation Department Manager, Northwestern Refining Company; Pilot, Archer-Daniels-Midland Company, and a conditional objection from the Department of the Air Force which advised that its objection would be resolved if this Agency found that aeronautical operations would not be adversely affected. In summary, these objectors concluded that the proposed structures would:

1. Violate criteria.
2. Be in the hub of several secondary airports.
3. Be a serious hazard to Visual Flight Rule operations.
4. Slow up Instrument Flight Rules approaches.
5. Be difficult to see.
6. Interfere with the traffic pattern of Anoka County Airport.
7. Raise Minimum En Route Altitudes on several airways and cause the loss of cardinal altitudes.
8. Affect departure procedures from the Minneapolis-St. Paul International Airport, Minneapolis, Minnesota.

As a result of the circularization of this proposal, comments of no objection and tacit approval were received from the

Air Transport Association of America and the Department of the Navy on the basis that this proposal was the best compromise solution to the problem. The Aircraft Owners and Pilots Association commented that this proposal is based upon compromises which may warrant AOPA approval after thorough discussion of the matter.

At the FAA Kansas City Informal Airspace Meeting, objections were made by the Minneapolis-St. Paul Metropolitan Airports Commission and the Minnesota Department of Aeronautics based upon the conclusions of the objectors that towers above 1,000 feet would be a serious hazard to general aviation, should not be constructed unless an improved marking system is used and might possibly interfere with the proposed improvement of Anoka County Airport. No other objections were made.

It is significant to note that the single structure multiple antenna concept and the collocation of the proposed structures embodied in this proposal are consistent with this Agency's policy expressed in § 626.75(b) of Part 626, Regulations of the Administrator. Although this is not a proposal for the establishment of an antenna farm area, the number of broadcast antennas, the area selected and the location relationship of the proposed structures as represented in this proposal appear to coincide with elements which could be taken into consideration for the establishment of an antenna farm area in the future. The complexities of the existing aeronautical operations and procedures in the Minneapolis-St. Paul area tend to preclude the selection of any area where the proposed structures would have no adverse effect upon aeronautical operations and would also meet the broadcast requirements of the four sponsors. Therefore, some degree of adverse influence upon aeronautical operations by any such structures anywhere in this general vicinity would be unavoidable. This joint proposal reflects the exemplary cooperative efforts of the four commercial television broadcast interests in the Minneapolis-St. Paul area and the mutual cooperation and understanding of both the aeronautical and the broadcast interests for their own and their reciprocal requirements with apparent compromise on the part of both interests. In view of the foregoing, the Agency study evaluated the effects and possible adjustments of aeronautical operations, procedures and minimum flight altitudes to determine whether or not the proposed structures might be accommodated within the existing aeronautical environment for the satisfactory fulfillment of both aeronautical and broadcast requirements in the Minneapolis-St. Paul area.

The proposed structures would be located approximately 12.7 miles north northeast of the Minneapolis-St. Paul International Airport and would have the following effects upon aeronautical operations, procedures and minimum flight altitudes:

A. The proposed structures would require an increase in IFR minimum en route altitudes as follows:

1. From 2,500 feet MSL to 3,600 feet MSL on VOR Federal Airway No. 78 be-

tween the Minneapolis VORTAC and the White Bear VOR and LF intersections.

2. From 2,500 feet MSL to 3,600 feet MSL on Victor 2 North between the Minneapolis VORTAC and the Elma intersection. The Minimum Obstruction Clearance Altitude would also be increased accordingly.

3. From 2,600 feet MSL to 3,600 feet MSL on Victor 2 between the Minneapolis VORTAC and the St. Paul intersection.

4. From 2,500 feet MSL to 2,600 feet MSL on Victor 82 between the Minneapolis VORTAC and the Farmington VOR.

5. From 3,200 feet MSL to 3,600 feet MSL on the direct off-airway route between the Minneapolis VORTAC and the Wausau, Wisconsin, VOR.

6. From 3,200 feet MSL to 3,600 feet MSL on the direct off-airway route between the Minneapolis VORTAC and the Wausau radio beacon.

7. From 2,500 feet MSL to 3,000 feet MSL on Victor 13 between the Farmington VOR and the St. Paul intersection.

8. From 2,500 feet MSL to 3,100 feet MSL on Victor 13 between the St. Paul intersection and the Grantsburg, Minnesota, VOR. (Note: This increase from 2,500 to 3,100 vs. 3,000 was determined subsequent to the FAA Kansas City Informal Airspace Meeting. However, following determination, it was discussed with interested persons and no objection was made.)

All of the increases stated above are confined to a relatively small area in the vicinity of Minneapolis-St. Paul; all are relatively low altitudes; and in accordance with the air traffic control procedures in effect in this area, these altitudes are not generally used by IFR operations. The Agency study disclosed that if the proposed structures are erected, the increases stated above could and would be effected, in order to provide appropriate vertical obstruction clearance, without resulting in inefficient utilization of airspace; and further, the air traffic procedures in this area could and would be modified with no substantial adverse effect upon aeronautical operations and procedures.

B. The proposed structures would derogate the Minneapolis-St. Paul International Airport departure procedure 031d as currently depicted on the Minneapolis arrival/departure chart. However, the study further disclosed that if the proposed structures are erected, a minor modification to the procedure could and would be effected with no substantial adverse effect upon this procedure.

C. With reference to VFR aeronautical operations, no unshielded tall structure can be erected without some apparent adverse influence upon VFR operations. The Agency study disclosed that the proposed structures would not have a substantial adverse effect upon VFR operations.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structures.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33; 26 F.R. 5292), it is concluded that the proposed structures at the locations and mean sea level elevations specified herein, would, upon implementation of the above modifications, have no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that neither of these structures would be a hazard to air navigation provided that each structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 (26 F.R. 5292) is granted. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on January 17, 1962.

JOSEPH VIVARI,
Acting Chief,

Obstruction Evaluation Branch.

[F.R. Doc. 62-863; Filed, Jan. 25, 1962; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-20509, RP60-15]

SOUTHERN NATURAL GAS CO.

Order Omitting Intermediate Decision Procedure and Fixing Date for Oral Argument

JANUARY 19, 1962.

On December 4, 1961, Southern Natural Gas Company (Southern) filed a motion for waiver and omission of intermediate decision procedure in these consolidated proceedings. Southern requests that the time limitations upon filing such motion imposed by § 1.30 (c) (3), under the circumstances of these proceedings, be waived. Southern also requests the opportunity to present oral argument before the Commission and reserved its right to apply to the Commission for rehearing and to petition for judicial review of the Commission's decision or order.

The proceedings in the above dockets relate to proposed increases in rates and charges tendered for filing by Southern which, after suspension by Commission order, became effective subject to refund on June 1, 1960 (G-20509), and on August 13, 1960 (TP60-15). Hearings were commenced in Docket No. G-20509 on January 26, 1960, and by order issued herein on July 8, 1960, we determined the allowable rate of return on Southern's pipeline properties, subject to final disposition of the related issues as to accumulated deferred taxes and tax benefits for statutory depletion and intangible well drilling expenses. Final determination of the rate of return to be allowed on Southern's production properties was reserved for further proceed-

ings as were all remaining issues not therein decided.

Following consolidation of these two proceedings further hearings were held on all remaining issues and were concluded on July 20, 1961. Briefing of the remaining issues were completed on December 11, 1961, and the cases are ready for decision.

The aforementioned motion has been filed due to the untimely death of the Presiding Examiner who presided throughout the hearings in these proceedings. Southern also states that assignment of a new Examiner, unfamiliar with the evidence and issues here involved would entail substantial delay in final decision and would be detrimental to the public interest.

Answers in support of Southern's motion and requesting oral argument have been filed by Alabama Gas Corporation, Alabama Public Service Commission, Atlanta Gas Light Company, Mississippi Valley Gas Company, South Carolina Natural Gas Company and Georgia Kraft Company. No objections thereto have been filed.

The Commission finds:

(1) Due and timely execution of our functions requires that the intermediate decision procedure be omitted.

(2) It is appropriate in carrying out the provisions of the Natural Gas Act that oral argument be heard as herein-after provided, on the remaining issues in these proceedings which were not deter-

mined by our order issued herein on July 8, 1960.

The Commission orders:

(A) The intermediate decision procedure in these proceedings is hereby omitted.

(B) Oral Argument before the Commission on all remaining issues herein, shall be heard on February 8, 1962, at 10:00 a.m., e.s.t., in a hearing Room of the Commission, at 441 G Street NW., Washington, D.C.

(C) All parties who desire to participate in the oral argument, shall notify the Secretary, on or before January 29, 1962, of their intent to do so and the amount of time they desire for such argument.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-892; Filed, Jan. 25, 1962; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 23, 1962.

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. 37523: *Plaster and related articles to points in Wyoming.* Filed by Southwestern Freight Bureau, Agent (No. B-8141), for interested rail carriers. Rates on plaster and related articles, also gypsum wallboard and related articles, in carloads, from points in New Mexico, Oklahoma and Texas, to points in Wyoming.

Grounds for relief: Market competition, modified short-line distance scale and grouping.

Tariff: Supplement 109 to Southwestern Freight Bureau tariff I.C.C. 4017.

AGGREGATE-OF-INTERMEDIATES

FSA No. 37524: *Passenger fares in the United States.* Filed by A. J. Winkler, Agent (No. A-11), for interested rail carriers. Involving basic one-way first-class fares for the transportation of persons, between points in the United States.

Grounds for relief: Maintenance of through one-factor fares in excess of lower combinations of intermediate fares, due to joint fares reflecting increased factors.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62-887; Filed, Jan. 25, 1962; 8:48 a.m.]

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Washington, Friday, January 26, 1962

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 1001, 1002, 1004, 1014, 1006, 1016, 1003, 1007, 1010, 1015]

[Docket Nos. AO-14-A 31, AO-71-A 41, AO-160-A 23, AO-302-A 5, AO-203-A 13, AO-312-A 2, AO-293-A 4, AO-204-A 13, AO-276-A 3, AO-305-A 5]

MILK IN THE GREATER BOSTON, MASS.; NEW YORK-NEW JERSEY; PHILADELPHIA, PA.; SOUTHEASTERN NEW ENGLAND; SPRINGFIELD, MASS.; UPPER CHESAPEAKE BAY; WASHINGTON, D.C.; WORCESTER, MASS.; WILMINGTON, DEL., AND CONNECTICUT MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and 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) (7 CFR Chapter X note) notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the respective tentative marketing agreements and orders regulating the handling of milk in the Greater Boston, New York-New Jersey, Philadelphia, Southeastern New England, Springfield, Upper Chesapeake Bay, Washington, D.C., Worcester, Wilmington, and Connecticut 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 close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in six copies.

Preliminary statement. The hearing, on the record of which the proposed

amendments, as hereinafter set forth, to the said tentative marketing agreements and to the orders were formulated, was conducted at New York City during the periods June 19-30 and July 10-August 2, 1961, pursuant to notice thereof issued June 2, 1961 (26 F.R. 5075).

The hearing, which lasted 23 days and consisted of over 5200 pages of testimony accompanied by 110 exhibits, was concerned primarily with the problem of establishing appropriate prices for reserve milk in the ten Federally-regulated fluid milk markets in the Northeastern section of the United States. From this general problem three central issues arose.

The first issue related to the propriety of the existing relationship between reserve milk prices in the Northeastern Federally-regulated markets and prices paid dairy farmers for milk of manufacturing grade at Midwestern plants. This was the dominant issue at the hearing, with a variety of price formula proposals presented for establishing appropriate price relationships.

The several proposals offered, and the testimony presented in support thereof, ranged from suggestions to lower the Class III milk price under Order No. 2¹ for the New York-New Jersey market, including the reinstatement of the butter-cheese differential at four cents per pound of butterfat during all months of the year, and to reduce Class II milk prices in the five New England Federal order markets, to proposed increases in the prices of such respective classes and in the comparable classes of the other Northeastern markets up to at least the level of the prices paid dairy farmers for manufacturing grade milk in the Midwest as reflected by the "Minnesota-Wisconsin Manufacturing Grade Milk-Price Series" (compiled by the Agricultural Estimates Division, U.S.D.A.). The focal point of the controversy involved in this issue was a proposal to use such Minnesota-Wisconsin price series as the basis for Class III milk prices under Order No. 2.

It was the general position of Midwestern representatives of processors,

cooperatives and others, including representatives of the States of Minnesota and Wisconsin, testifying at the hearing, that prices resulting from the present Class III price formula in Order No. 2 are too low in relation to prices paid farmers for manufacturing grade milk at Minnesota and Wisconsin plants, producing competitive disadvantage to Midwestern processors in the sale of the "hard" products of milk, such as butter, nonfat dry milk and cheddar cheese, in Eastern seaboard markets.

Such representatives contended further that the profitability to New York-New Jersey market processors of manufacturing products in Class III milk tends to depress the manufactured products market generally by adding to the national surplus, to the detriment of all farmers producing for this market. An appeal was made that the Federal Government should revise price levels in the Northeastern markets, particularly in the New York-New Jersey market, to insure a pricing policy for milk over and above fluid requirements more consistent with the price aims of the national dairy price support program and to provide equitable pricing to Midwestern dairy farmers.

Although not adhering to any specific price formula to attain these ends, Midwestern representatives proposed rather that the Northeastern markets' minimum prices for surplus milk "be fixed at the highest level that a handler with reasonably efficient operations could afford to pay for such milk, who processes said milk into so-called hard products, so that such handler would not have a competitive advantage in the marketing of such hard products in the domestic market." They recommended, in this connection, careful consideration of the Minnesota-Wisconsin pay price series to obtain the desired result.

Three of the four major producer cooperative groups in the New York-New Jersey market and representatives of handlers of milk in that market strongly opposed the use of such series for pricing Class III milk in the New York-New Jersey market. In support of their general position they testified that the series is based on dairy farmer pay prices in an area approximately 1,000 miles from the New York-New Jersey milkshed

¹ Formerly Order No. 27.

where the seasonality of production, ratio of supply to demand, and other competitive factors differ substantially from conditions in the New York-New Jersey milkshed. They seriously questioned the use of a price series which, at the time of the hearing, had not yet been established statistically and under which no experience had been gained to test its effects on price levels under Order No. 2. They maintained that the pricing of over \$200 million worth of surplus milk per year in Northeastern markets, where a one-cent change in the price can amount to \$60,000 per month in milk value, is too important a matter for reliance upon an untested price series.

The second issue involved the relative levels of reserve milk (manufacturing class) prices in the ten Northeastern fluid milk markets, particularly in respect of problems of competition among processors in the sale of such products as cream, ice cream, ice cream mix, and condensed skim milk in these markets and adjacent areas. Although there were differences in the methods proposed for bringing about price alignment, all witnesses except one, who testified in regard to this issue, supported close alignment of the manufacturing class prices in the ten orders.

There also was testimony by several New York-New Jersey market handler representatives to the effect that extreme emergency conditions existed in the New York-New Jersey milkshed while the hearing was in progress and that immediate action should be taken to suspend the seasonal factors in the Class III formula of Order No. 2 for the fall months of 1961. A representative of several New England producer cooperative associations testified that the seasonal factors in the Class II price formula of the respective New England orders should be suspended, if necessary, to a level which would provide uniformity of surplus prices on a month-to-month basis as between New England and the New York-New Jersey markets during the remainder of 1961. The suspension proposals on which this testimony was offered were denied by determination issued August 11, 1961, and no further findings are necessary on this matter.

The third main issue was concerned with the proposition that at certain times more milk will be produced than handlers operating under the classified pricing system will be willing to accept at the specified minimum class prices in an order. Certain cooperative associations in the New York-New Jersey market, supporting this view, submitted a proposed plan to handle such "excess surplus" milk through a cooperative marketing agency and to price this milk under the orders on the basis of the return for the products of the milk as disposed of under the Federal dairy products price support program, less the expenses of handling and processing. The plan developed considerable opposition from New York-New Jersey handlers and New England-based cooperatives.

More briefly described, the material issues on the record of the hearing relate to:

(1) The establishment of pricing provisions for Class III milk under the New York-New Jersey order and for Class II milk under, respectively, the Greater Boston, Massachusetts; Philadelphia, Pennsylvania; Southeastern New England; Springfield, Massachusetts; Upper Chesapeake Bay; Washington, D.C.; Worcester, Massachusetts; Wilmington, Delaware, and Connecticut orders which are appropriately related: (a) to the value of milk in the Midwest for manufacturing uses and (b) to each other (discussed below as Issues Nos. 1 and 2); This involves consideration of the type and kind of formula or formulas to be used under the respective orders, including the continued applicability of the butter-cheese adjustment presently contained in the New York-New Jersey order;

(2) Provision for the separate and flexible pricing of "excess" surplus milk marketed by or for the account of an incorporated cooperative marketing agency under the Federal government's price support program for dairy products (discussed below as Issue No. 3).

The hearing was called following the submission of amendment proposals applicable to the ten orders by the principal cooperative associations of producers in the several New England, the New York-New Jersey, and the Philadelphia and Wilmington markets, and by certain cooperatives operating in the states of Wisconsin and Minnesota. Certain handlers individually, and the principal handler associations, in the New York-New Jersey market and certain processors of milk produced in Wisconsin and Kansas also submitted amendment proposals affecting one or more of the subject orders.

The proposals submitted, and the testimony presented by proponents and others in support thereof, were directed to the following types of pricing formulas for the respective reserve classes of milk under such orders:

(1) A formula (of the general type in current use in the New York-New Jersey market) based on central market prices for Grade A (92-score) butter at New York City and nonfat dry milk at Chicago area manufacturing plants or at New York City, minus an allowance for handling, including several variations as follows:

(a) Provision for a "basic" manufacturing price formula containing separate fat and skim values [(92-Score butter, New York City +2 cents×3.5—29 cents) + (average price of spray process nonfat dry milk at Chicago area plants —6 cents×7.8)]. Seasonal adjustments to the class price would be made whenever the percentage of total producer receipts allocated to Class I exceed a specified amount.

(b) Revision of the relative production weights given to roller and spray process nonfat dry milk and an increase in the yield factor for nonfat dry milk.

(c) Elimination of seasonal adjustments in the pricing of reserve milk.

(d) Use of the average price of spray process nonfat dry milk minus one cent, with preference to prices reported in "The Producers Price-Current".

(e) Adoption of offsetting plus and minus seasonal differentials in the Class III price formula.

(f) Addition of one cent to the monthly average price of Grade A butter at New York.

(g) The following proposals relating to the differential pricing of milk for butter and cheese within the reserve class (at present only the New York-New Jersey order results in such differential pricing) were offered:

(i) Establish a differential of four cents per pound of butterfat to be applicable in all months, except August through November if a seasonal adjustment, as explained in (a) above, is added to the class price during those months.

(ii) Make the differential applicable during the months of August through November, when the percentage of Class III milk during the month exceeds 35 percent of total receipts.

(iii) Provide a differential of three cents per pound of butterfat during the months of July through February and four cents during the months of March through June.

(iv) Provide in the New York-New Jersey order only, a differential of four cents per pound of butterfat in all months of the year.

(2) The "Minnesota-Wisconsin Manufacturing Grade Milk-Price Series".

(3) The "U.S. Average Manufacturing Grade Milk-Price Series".

(4) A "reverse" supply-demand adjustment factor for the Philadelphia and Wilmington Class II price formulas to operate as follows: Increase or decrease the surplus class price as the proportion of the receipts allocated to such class increases, or decreases, respectively, from the necessary quantity of reserve milk over the immediately preceding 12 months (proponent suggested a like adjustment for the New York-New Jersey order also), with a maximum price deviation of plus or minus 25 cents per hundredweight from the New York-New Jersey Class III price.

(5) A revised method, made with reference to the Philadelphia and Wilmington orders only, of computing the average price of cream at Philadelphia as used in such orders, and addition of a "sub-Class II" price during the spring months for milk in certain products.

Much of the testimony adduced at the hearing centered around the question of the type of formula most appropriate for fixing the minimum level of price for Class III milk in the New York-New Jersey market. Because of the dominant position of the New York-New Jersey market in the controversies involved, major emphasis is given first to the establishment of an appropriate formula for determination of the Class III milk price in Order No. 2 (Issue No. 1). A discussion of testimony relating to the need for appropriate alignment of prices among all ten Northeastern markets is set forth below under the heading Issue No. 2.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence pre-

mented at the hearing and the record thereof.

ISSUE NO. 1

Testimony of proponents of the product price minus handling allowance type of formula. At the present time minimum prices to producers for Class III milk in the New York-New Jersey Federal milk order are based upon the market prices of butter and nonfat dry milk. Basically, the price each month is determined by first adding two cents to the monthly average price of U.S. Grade A (92-Score) butter in New York City. This value is then multiplied by 1.22 to determine the value of one pound of butterfat, which is then multiplied by 3.5 to arrive at the value of butterfat in 3.5 percent milk. To this value is added the product of multiplying the weighted average price of nonfat dry milk made by the roller (weighted 70) and spray (weighted 30) process, f.o.b. manufacturing plants in the Chicago area, by 7.8. From this total is deducted a "make (processing) allowance" of 80 cents. A seasonal adjustment is then added.

The above computation, except for an additional 3 cents added to the average butter price when Class III utilization is relatively low during August through February, is the formula used each month to determine the monthly price of Class III milk in Order No. 2. During December through July, however, butterfat in milk used in the manufacture of butter and certain types of cheese is priced at certain specified differentials below such Class III price.

New York-New Jersey market proponents of the "product price minus handling allowance" type of formula maintained that this type of formula is the one better adapted to pricing milk for manufacturing in the Northeast, and more particularly in the New York-New Jersey milkshed, than any series of prices paid dairy farmers at milk manufacturing plants located several hundred miles away in the Midwest. They testified that their receiving and manufacturing costs for Class III milk products are higher than in the Midwest because practically all milk in the supply area is eligible for fluid use, with the alleged consequence that seasonal variations in the quantities of milk available for manufacturing in Class III are much greater than in the Midwest, causing the cost of maintaining standby manufacturing facilities to be relatively high in terms of per unit output. It was contended from this that the use of a pay price series, such as the proposed "Minnesota-Wisconsin" price series, does not reflect marketing conditions in the Northeast and thus would not result in Class III prices at a level which would "clear the market".

In supporting the use of the product price minus processing allowance type of formula, proponents claimed that this formula reflects the prices that handlers under the order actually receive for the finished products, and that it is most appropriate that the processing costs of such handlers should be specifically and directly reflected in the formula.

It was testified that large quantities of reserve milk in the Northeast are used in the manufacture of ice cream and that high quality, unsalted butter and nonfat dry milk can be substituted readily for pool milk in its production, to wit., the Class III price should be based directly on the market prices of butter and nonfat dry milk.

Additional testimony was presented to show how conditions affecting the manufacture of milk in the Northeast differ from those in the Midwest. It was maintained that the Northeast and the Midwest are distinct and separate production areas. It was testified in this regard that (a) a hundredweight of milk of similar butterfat content yields less cheddar-cheese in New York State than in Wisconsin, and (b) Wisconsin milk is delivered directly from the farm to the cheese plant whereas in New York State receiving (feeder) stations receive much of the milk before it is transferred to the manufacturing plant, thus increasing delivery costs from farm to manufacturing plant.

It was stressed that butter and cheese are relatively more important uses for manufacturing milk in the Midwest while ice cream and other frozen products are the important uses of manufacturing milk in the Northeast. New York plants must maintain fluid market health approval, with resulting higher field and inspection expenses. From this it was argued that if a price series such as the "Minnesota-Wisconsin" series had been used during the fall and winter months of 1960 and 1961, any increase that would have resulted from it would have aggravated a difficult surplus situation.

One handler witness presented statistical data to show that prices paid for Class III milk in the New York-New Jersey market compare favorably with prices paid for milk for manufacturing into different specified products in nearby states. Prices paid at condensaries, creameries and cheese factories decline as distances from the states of Minnesota and Wisconsin increase. Comparisons were made for Minnesota-Wisconsin and (a) states to the East toward the Atlantic seaboard, (b) states to the South toward the deficit milk production areas in the Southeast, and (c) states to the Southwest.

The principal competitive sources of supplies for Class III milk uses were stated to be surplus quantities from unregulated markets in the Northeast, cream from states outside the Northeast and butter (as a source of fat for ice cream). From this it was concluded that since ice cream and fluid cream are the largest outlets for reserve milk in the Northeast, it is essential that the method of pricing used should keep reserve milk prices in the Northeastern Federally-regulated markets closely in line with those of competitive sources of butterfat. To accomplish this, it was proposed that any formula for the price of butterfat in reserve milk adopted be based on the price of Grade A (92-Score) butter, with preference for butter prices reported for the New York market. ◊

The principal skim milk products manufactured from producer milk in the 11 Northeastern states are nonfat dry milk, cottage cheese, curd, and unsweetened condensed skim milk. In 1959 these products accounted for nearly 98 percent of all of the skim products produced. Nonfat dry milk can be and is sometimes used in lieu of fluid skim milk in making cottage cheese. Nonfat dry milk can be used also as a substitute for plain condensed skim milk. Proponents conclude that the market prices of nonfat dry milk are the best available measure of changes in the value of nonfat solids in reserve producer milk, and therefore, in the return to be received by producers for such milk.

In addition to such general support given to the product price minus handling allowance type of formula, each proponent presented further testimony in support of individual proposals.

The proposals to adopt a "basic" manufacturing price formula containing separate butterfat and skim milk values was supported at the hearing by one of the principal cooperatives in the new York-New Jersey market. Seasonal adjustments would be applicable when reserve milk is relatively low and a butter-cheese differential would be included in all months except August through November if seasonal adjustment is applied in the latter months. It was testified that confusion in regard to butterfat and skim milk values has resulted from the formula because they are not computed separately. Proponent claimed this confusion should be removed to reduce the number of controversies that exist in the buying and selling of manufactured dairy products. The proposed change from an average value of roller (weighted 70) and spray (weighted 30) nonfat dry milk to the average value of spray nonfat dry milk only was based on the relative importance of skim milk for nonfat dry milk manufacture in the milkshed and the fact that the bulk of nonfat dry milk being produced is spray process type. In 1960, 92 percent of the nonfat dry milk manufactured in the United States was made by the spray process.

Testimony was presented to the further effect that the seasonal adjustment factors contained in the present Class III formula should be applicable to all ten markets only during those months when the Class I utilization in the markets exceeds a specified percentage. The amount of the seasonal adjustment would be changed to 5 cents during March through June, and 10 cents during the remaining months of the year. If the seasonal adjustment factors were to be applicable during the months of August through November, then no butter-cheese adjustment would be applied during those months; however, a butter-cheese adjustment of four cents per pound of butterfat would be applicable during the remaining eight months of the year.

Another of the large producer groups testified that the present New York-New Jersey Class III price, with changes made in the relative weights given to roller and spray process nonfat dry milk

and an increase in the yield factor, should be applied as the Class II price formula under the other Northeastern orders. This proponent testified that the relative weight given to spray process nonfat dry milk should be increased while the weight given to roller process nonfat dry milk should be decreased. To support this change statistics were cited to indicate that of the total amount of nonfat dry milk manufactured, between 80 and 90 percent is by the spray process. This proponent also recommended an increase in the yield factor from the present factor of 7.8 to a factor of 8.2.

Several witnesses representing certain New York-New Jersey handlers testified that the plus seasonal factors contained in the present Class III price formula of Order No. 2 are no longer applicable in view of the general supply condition in the market during the summer and fall months. One such witness maintained there is no relationship between these differentials and production seasonality, and no attempt is made to synchronize them with either the total monthly production of pool milk or actual Class III utilization. This witness claimed also that seasonal pricing should not be used to yield producers additional returns, but rather should balance out (plus=minus) on a yearly basis.

Another witness, representing the principal handler association, concluded from a number of comparisons of pay prices for manufacturing milk for various states that an increase in the Class III price would be unwarranted and that, to the contrary, such price should be lowered to prevent further hardship to handlers. His proposals would eliminate the seasonal differentials in the Class III price formula whenever the utilization adjustment percentage in the Class I-A price formula falls below a certain level and would employ the average price of spray process nonfat dry milk minus one cent in the formula. He indicated the belief that spray quotations for the New York market in "The Producers Price-Current" would be more appropriate for use in the formula than quotations for manufacturing plants in the Chicago area. These proposals were supported on the basis that during those months in 1960 when no butter-cheese differential was applicable about three times as much milk was utilized in butter and cheese as during the corresponding months of 1959. In regard to the use of spray quotations only, he stated that because of the expansion of spray nonfat dry milk manufacture throughout the nation, it has become difficult to get representative quotations for roller nonfat dry milk. He contended also that roller nonfat dry milk prices have been more erratic in relation to the support level than in the case of spray nonfat dry milk prices, that open market roller prices recently have been higher than support prices, and that there has been a decline in the spread between spray prices and the weighted average nonfat dry milk price used in the present Class III price formula. In recommending use of the spray prices reported in "The Producers Price-Current", this

handler representative claimed that the price quotations which most nearly reflect competitive conditions in the market where handlers sell the finished milk products should be used.

A witness for New York-New Jersey ice cream manufacturers testified that recent increases in the volume of whole milk deliveries by farmers in major butter-producing areas have increased the quantities of high quality butter available, and that New York ice cream manufacturers have been able to obtain high-grade, unsalted butter for about one-half cent to one cent over the 92-score butter price at New York. He concluded that the amount added to the "butter" price average in the formula should be reduced to no more than one cent.

A representative of a major producer association in the Philadelphia market suggested that as the proportion of milk in a market disposed of in the manufacturing class increases, the class price should be increased. The need for this, it was claimed, is to discourage the addition of additional supplies above necessary current reserves and thus tend to increase the percentage of Class I utilization. Without making a specific formula proposal, he stated that the maximum Class II price deviation for the Philadelphia and Wilmington markets above or below the Order No. 2 Class III price should not be more than 25 cents per hundredweight. This witness proposed, however, that the cream price used in the Class II price formula of Orders 4² and 10³ (Philadelphia and Wilmington) should be a "weighted average" instead of a simple average of weekly "midpoint" prices of cream, in order to be more representative of actual cream values during the month.

Another recommendation of this witness, made with specific reference to Orders 4 and 10, was that milk moved to unregulated plants for manufacture into certain manufactured products, particularly butter and cheese (other than cottage or creamed), during the months of March through June should be priced at not more than 10 cents per hundredweight below the regular Class II price. It was maintained that this would produce the maximum competitive return for the milk consistent with its orderly movement into reserve uses.

Each of several proposals relating to the butter-cheese differential would have the effect of increasing the number of months each year that it could be applicable. Certain proponents testified in regard to its use in the New York-New Jersey order only, while others discussed its applicability, along with the proposed changes, to all ten markets. The basic reason given for increasing the number of months in which it could be applicable was that there are increasing quantities of milk which must go into butter and cheese during the months of August through November (the differential currently applies in the New York-New Jersey market during December through July).

² Formerly Order No. 61.

³ Formerly Order No. 110.

Other testimony relating to milk handling and processing costs. Research studies on milk processing costs at New York State "cream-nonfat dry milk" plants and at "butter-nonfat dry milk" plants in the State of Minnesota were presented by witnesses from Cornell University and the University of Minnesota.

In the New York study, 8 plants engaged in the manufacture of cream and spray process nonfat dry milk were selected. All but one of the plants were units of multiple-plant organizations operating both fluid milk plants and manufacturing plants. Daily receipts during the month of average volume averaged 250,000 pounds for the 8 plants, with a range in average daily receipts for the 8 plants of 420,000 pounds during the month of highest volume and 151,000 pounds for the month of lowest volume.

Average plant operating costs per hundredweight of milk processed at the 8 New York manufacturing plants were as follows: Month of average volume, \$0.576; high-volume month, \$0.415; and low-volume month, \$0.862. These costs included, however, only the costs of processing together with certain allocated overhead costs for the central office expenses of each of the multiple-plant firms. The additional costs for related handling functions not investigated in this study were estimated by the authors to approximate 50.5 cents per hundredweight of milk in a typical situation. The 50.5 cent estimate included the following: Feeder plant operation, 15 cents; transportation, 15 cents; plant losses, 8.5 cents; packing material, 3.5 cents; use and risk of capital, 7 cents; and selling services, 1.5 cents. Combining the average operating cost of the 8 plants for the month of average volume of 57.6 cents, and the costs associated with the related functions estimated at 50.5 cents, the total handling and processing cost would amount to \$1.081.

In the Minnesota study, data were presented regarding the operations of five typical butter-nonfat dry milk plants in Minnesota. Although data for the five plants were not shown in terms of an average, one of the plants received an average 217,000 pounds of milk per day, an amount nearly the same as the average of quantities handled by the 8 plants in the New York study. The average cost of receiving and processing milk from producers was 39.9 cents per hundredweight at this Minnesota plant.

In another case, the costs of receiving milk at a creamery, separation of the milk, processing the butterfat into butter and shipping the skim milk to a central drying plant were shown through a budgetary cost study of four creameries of varying sizes. These data included the average cost of transporting the skim milk from creameries to central drying plants plus the cost of manufacturing nonfat dry milk by spray process. Combining the costs for an average size creamery (receiving 65,000 pounds of milk per day) and at the central drying plant, including the cost of transporting the skim milk to the central drying

plant, the following total handling and processing costs were shown: Creamery processing, 23.31 cents; transportation, 8.2 cents; and central drying plant processing, 26.08 cents, making a total of 57.59 cents per hundredweight of whole milk.

Thus, the average cost of receiving and processing whole milk into cream and nonfat dry milk at 8 manufacturing plants, disclosed in the New York State study, including estimates for feeder plant handling and transportation, was about \$1.08 per hundredweight, while in Minnesota the average receiving and processing cost at a plant comparable in size to the average of the 8 New York plants, but manufacturing butter and nonfat dry milk, was about 40 cents per hundredweight, or approximately 68 cents per hundredweight less than in New York. The cost of receiving and processing butter and nonfat dry milk in the two-plant (creamery and central drying plant) combination in Minnesota amounted to about 58 cents, or about 50 cents less than in the case of the New York plants. Since butter ordinarily is more costly to process than cream, these differences presumably would be greater if the New York plants were to manufacture butter rather than cream.

It was testified further by the author witness on the Cornell University study that even with only limited changes in physical facilities, such as rearrangement of plant equipment and the introduction of additional labor saving devices, important cost savings can be realized in New York manufacturing plants.

This was illustrated by other data presented in the study which related to specifications and cost estimates for a series of model plants of different capacities for the New York-New Jersey milkshed. Of the four model plants presented, receipts at Model Plant A, the first of the four general types indicated, were the closest, but somewhat lower than, the weighted average of receipts for the 8 actual manufacturing plants. Receipts at Model Plant C were the nearest to, but larger than, the receipts at the largest of the 8 plants studied. It was testified that as the quantity of milk handled at these model plants increases the per-unit processing cost decreases.

The reported unit operating costs at Model Plants A and C (bulk tank operation assumed) during the average volume month were 50.4 cents and 28.1 cents, respectively. The operating costs for the actual plants during the average volume month were 57.6 cents and 54.3 cents, respectively. Unit costs at the two model plants, therefore, were 7.2 cents and 26.2 lower, respectively, than costs for the actual manufacturing plants. It is recognized, however, that any precise comparison between total processing costs per hundredweight of milk at actual plants and at theoretical plants, unit operating costs for Model Plant A would decrease somewhat and conversely operating costs for Model Plant C would increase to some extent.

The largest of the four general types of model plants (Plant D) could receive up to 1,200,000 pounds of milk per day.

The unit operating costs for this model plant were only 24.9 cents per hundredweight of milk during the average volume month.

The data presented for Minnesota plants also reflected theoretical model plant operations. From a comparison between processing costs for theoretical model plants and for actual plants, actual operations were found to be in close conformity (within 2 cents per hundredweight) with the hypothetical operations at model plants.

Presented also for the record was a six-part study entitled "Class III milk in the New York Milkshed." This study was referred to at the hearing as the "Clarke Study." It was a comprehensive analysis of the utilization and pricing of Class III milk under Order No. 2. The subject matter of the separate parts of the study was identified under the following titles:

(1) Manufacturing Operations; (2) Economic Description of the Manufactured Dairy Products Industry; (3) Costs of Manufacturing Dairy Products; (4) Processing Margins for Manufactured Dairy Products; (5) Processors' Decisions on Utilization; and (6) Economic Aspects of Class III Pricing.

This study was prepared as a marketing research project conducted under the general supervision of the Marketing Economics Research Division, Agricultural Marketing Service, U.S. Department of Agriculture. Direct responsibility for the collection and interpretation of data used in the study was assigned to a member of the faculty of the University of California, who testified in detail on the study at the hearing.

The study includes estimates of yields, processing costs and "partial net margins" relative to various combinations of Class III milk products. The study does not attempt, however, to break down processing costs or "partial net margins" for combinations of products into separate costs and margins for individual products or to make any allocation of input costs between individual products made at the same plant from the same milk.

The cost data used as an input in the determination of "partial net margins" for several different combinations of products were designed only for this purpose, and did not purport to represent complete cost data for any product or product combination. They were not designed to reflect average processing costs in New York milkshed plants. Marketing and administrative costs, which were determined to be similar for all Class III products, were excluded from consideration since this study was concerned only with those costs which differ among the several Class III products manufactured. The research was intended to provide information on the possible marketing effects of changes in Class III prices but was not designed as the basis for a determination of an appropriate Class III formula or price level.

Several witnesses presented testimony on relative yields of cheese in Wisconsin and in New York State, and on differences in processing costs between the two

regions. Their testimony may be typified by the following references.

A witness from Cornell University reviewed reported cheese yields at three large cheese manufacturing firms in northern New York State during the cheese-manufacture seasons in 1959 and 1960. The weighted average cheese yield for these firms for the two seasons was stated to be 9.02 pounds (37 percent moisture) per hundredweight of 3.5 percent milk.

This yield of 9.02 pounds, based on data reported by the plants, was then compared with yields of cheese of similar moisture content from 3.5 percent milk reported for 12 Wisconsin cheese factories in a research study made at the University of Wisconsin. The Wisconsin study cited an average cheese yield of 9.84 pounds per hundredweight. Cheese yields in Wisconsin, therefore, were found to be 0.82 pounds per hundredweight greater than in New York. No specific reason was given for the stated difference in cheese yields.

Several manufacturers of Cheddar cheese and other cheeses in New York State presented additional data designed to demonstrate higher costs of manufacturing cheese in New York State than in the Midwest. One such manufacturer also operates a cheese plant in Vermont where milk priced at the Boston Class II milk price is the source of supply for cheese manufacture. Cheese yields from Vermont milk were compared with cheese yields from northern New York milk, which comparison involved higher butterfat content in Vermont and widely varying (up to 25 percent difference) moisture content of the cheese manufactured in the two states.

The company made no complaint about the cost of milk for cheese in the Vermont plant although in 1960 the level of the Boston Class II price exceeded the butter-cheese differential price under order No. 2 by an average of 24 cents per hundredweight and was computed in a manner quite comparable to the formula adopted herein.

This company also testified that it predetermines how much New York Cheddar cheese it will need during the year, and once that volume has been produced their New York State plants are closed regardless of the prevailing price of milk for this use. Further, that even if the butter-cheese differential under order No. 2 were extended to include more months (causing a price reduction), they would not manufacture more cheese in New York State during the year, but would only extend their operations to include more months.

The Director of the Bureau of Accounts and Statistics of the Pennsylvania Milk Control Commission also testified at this hearing. This witness recommended that the open market fluid cream quotations, which are announced for the Philadelphia market by the Agricultural Marketing Service, U.S.D.A., be changed to include only cream that is actually used as bottling cream or in producing ice cream in the Philadelphia market. He stated that this could increase the price of Class II milk by an amount equivalent to 11.76

cents per hundredweight to Pennsylvania producers and would be a method of making manufacturing prices more realistic throughout the region. He recommended also that nonfat dry milk prices be quoted for the spray process only.

Testimony of proponents of the competitive pay price type of formula. Although discussed later in more detail, the general considerations by proponents of competitive pay prices as a proper basis for pricing Class III milk are cited in the following paragraphs.

The major reasons presented by those supporting a competitive pay price series for pricing reserve milk in Northeastern markets were that (1) it would remove the Secretary from the role of "rate-making" and eliminate the need for making several judgments concerning the particular products (price quotations), the yield factors for such products, and appropriate "make allowances" to be used in the formulas, (2) competitive pay prices provide for automatic adjustments over time concerning needed changes in processing and marketing allowances resulting from dynamic competitive conditions and improved technology in the industry, and (3) such a series goes directly to current market values of milk as received from farmers for manufacturing use, is determined from current competitive conditions in milk procurement, and makes possible avoidance of problems involved in determining the separate values of the butterfat and skim milk ingredients in milk delivered by farmers.

Testimony was presented by representatives of Midwestern milk manufacturers to the effect that reserve milk in regulated markets of the Northeast, and particularly in the New York-New Jersey market, has not been priced competitively with Midwestern milk and that the relatively low Northeastern market prices of milk used for manufacture have damaged the competitive position of Midwest milk product manufacturers. They contend that the Federal government has conflicting policies with respect to its nation-wide price support program for dairy products on the one hand, and levels established for reserve milk prices in Northeastern Federal order markets on the other.

Midwest dairy interests also maintained that increases in the production of manufactured products in the Northeast has had a depressing effect on the national market for manufactured products, especially butter, nonfat dry milk and cheddar cheese. In support of this claim it was testified that manufacturers of milk products in the Midwest region had lost sales to lower-priced products manufactured from Class III milk in the New York-New Jersey market. They contended that an objective of pricing milk under a Federal order is to protect producer returns but not to maintain particular handler plants or cooperative associations which may not be able to withstand competition from other manufacturers of milk products. Testimony was presented to demonstrate the relative efficiency of Midwest manufacturers in the manufacture of butter and nonfat

dry milk. Such testimony (Minnesota research study) was discussed previously in conjunction with other research studies presented for the record.

One such witness testified that the effect of maintaining a high Class I price in a Federal order market under classified pricing, while at the same time establishing a low reserve milk price which guarantees an ample margin to pool handlers of reserve milk, is, in effect, subsidization by the consumers of fluid milk of milk production for manufacturing uses. It was stated further that whenever the manufacturing milk price assures handlers under regulation a profitable margin, it follows that the amount of milk used in manufacturing increases and dilutes the effect of the Class I price on maintaining returns to producers through the medium of the uniform price.

One of the large producer cooperative associations in the New York-New Jersey market also testified in support of using a competitive pay price series. In support of its position five principles and objectives to achieve desirable reserve milk prices under Federal milk orders were set forth. These were to (1) promote adequate supply; (2) coordinate manufacturing operations with overall functions of the market (i.e., to balance and channel supplies and to process reserves); (3) influence procurement policies of handlers so that they do not procure additional milk from producers when the market reserve is unusually large; (4) facilitate the movement of milk between markets; and (5) promote efficiency in procurement, processing and marketing. This association proposed and supported adoption of the Minnesota-Wisconsin price series as the basis for pricing Class III milk (and Class II milk) in the Northeastern markets.

Representatives of the New England cooperatives and the largest proprietary handler of milk for manufacturing uses in the New England Federally-regulated markets proposed adoption of the "U.S. Average Manufacturing Grade Milk-Price Series" for pricing reserve milk under all ten Northeastern Federal orders, pointing out that such price series is used currently as the basis of pricing in the New England Federal order markets. These witnesses testified that the markets of New England and New York-New Jersey are highly competitive in respect to the sale of cream, ice cream, ice cream mix, cottage cheese and condensed milk. (This competition is further described in a subsequent part of this decision.)

A witness representing a major New England handler who manufactures large quantities of ice cream expressed a contrasting view from that expressed previously in this decision by the witness for New York ice cream manufacturers. This witness claimed that in the experience of his company prices for unsalted butter usually are about three cents above published butter market quotations. Another witness from New England testified that New England ice cream manufacturers have paid premiums for butterfat for use in ice cream

in excess of 2 cents over the New York butter price.

Such representatives further testified that the pricing of reserve milk on competitive pay prices, as represented by the above-stated price series as the price mover, over a substantial period of time has assisted the New England markets to improve efficiency in the handling and processing of reserve milk supplies under regulation.

Competitive pay prices as the appropriate basis for establishing the general level of the Class III price in the New York-New Jersey market. The Secretary, in carrying out the responsibility placed on him by the statute to establish an appropriate method of fixing reserve milk prices, must decide, on the record evidence, between a "product price minus handling allowance" type of formula (involving the merits of the several variations in such formula as previously described) and a "competitive pay price series", which involves selection of the price series most appropriate in the circumstances as a "price mover" and determination of the amount of any differential that the minimum level of reserve milk prices under the orders should vary from the competitive pay price level.

The present butter-nonfat dry milk price formula contains two yield factors, two price series, and the manufacturing or processing allowance. Each affects the resulting price. In the case of a well-operated plant, using all of its milk in the manufacture of butter and creamery by-products, management should be able to ascertain, with a high degree of accuracy, yields of butter and nonfat dry milk per hundredweight of whole milk. In such cases figures would be available also on the average price received per pound of each product sold from the plant. With cost accounting procedures, receiving and processing costs at such a plant may be determined with accuracy.

The accurate determination of such data on a market-wide basis is complicated, however, by additional factors affecting handling and operational costs which are not, on the basis of the hearing evidence, susceptible of precise appraisal or measurement for the entire market. In the New York-New Jersey market substantial proportions of the producer milk received are shipped as milk, skim milk, or cream from country-located plants to fluid milk distributing plants during the year. Volumes of milk shipped from such country receiving stations, or feeder plants, to bottling plants vary substantially from day to day and from plant to plant. The fact that all milk received at a country receiving station, or feeder plant, is not used there, but is moved elsewhere for butter, cheese, or other Class III use, necessarily means that some allocation of cost between handling for the fluid market and handling for Class III processing must be made for such plants. This problem exists with respect to operations involving a large proportion of the milk supply available for Class III uses and none of the data submitted to show receiving and processing costs involved in manu-

facturing operations in the New York-New Jersey milkshed provide the basis for a reasonably accurate appraisal or reliable estimate of such cost allocation. Obviously, all costs of operating such stations should not be assessed to the manufacturing operation only sometimes served.

Although the apparent difference in processing costs between Minnesota and New York plants as shown by the two studies cited previously, amounts to more than 50 cents per hundredweight of milk, handlers subject to the New York-New Jersey order have been paying prices for milk used in butter and cheese within a range of 13 to 20 cents less annually than prices in Minnesota for manufacturing grade milk of the same butterfat content. It is the latter differences in price that are the center of the controversy. If handlers subject to the New York-New Jersey order experience processing costs that are at least 2½ times greater than the difference in the prices of milk between the regions, a logical conclusion would be that from an economic standpoint they could not manufacture butter with order No. 2 milk. In 1958, however, nearly 605 million pounds of order No. 2 milk were utilized in the manufacture of butter. This amounted to 6.0 percent of the total producer milk classified under the order. In 1959 and 1960, the amounts so used were 460 million and 897 million pounds, respectively, or 4.5 and 8.4 percent of total producer receipts.

While proponents of the product-handling allowance type of formula maintained that the processor must be reimbursed for his costs, even those who suggested a reduction in the Class III price did not propose, and past acceptance of milk by handlers at the prices prevailing certainly denies, that the difference in processing costs between the regions, exceeding 50 cents per hundredweight, shown by the studies would be properly reflected in a Class III pricing formula. Further, there is wide disparity between the cost allowances contained in the specific proposals offered by proponents of the product-handling allowance type of formula and the cost data provided by the study covering New York State plants. The paradoxical circumstances present create substantial doubt that any cost allowance could be developed from the evidence that would give reasonable assurance of providing, over time, a fair value for producer milk under an administered pricing program.

The problem of securing specific data to properly determine the appropriate components of the formula, and particularly the make allowance to be reflected, is only one shortcoming of this method of pricing milk for manufacturing purposes in the New York-New Jersey milkshed under present conditions. Because a wide variety of products is included in Class III milk, a formula based only on the prices for butter and nonfat dry milk does not accurately reflect the full value of producer milk for all Class III uses. For example, the value of milk for cheese is not reflected in the present formula although much cheese is produced in the Northeast, and especially in the New York-New Jersey milkshed.

It would be difficult, indeed, to conclude that New York-New Jersey Class III (butter-nonfat dry milk) formula fully compensated New York-New Jersey producers last winter when the market for milk for cheddar cheese was generally strong.

Another problem with the present type of Class III formula is the lag in its adjustment to cost and technological changes affecting the manufactured products industry. Technological changes have resulted in some significant cost reductions during recent years. Changes which reduce costs of assembling, processing, packaging or merchandising milk and milk products do not have automatic, or even necessarily prompt, reflection in such formula. Such changes are not reflected in formula prices until order amendments are made. With proper adherence to administrative rules and procedures, rapid action in this connection may not be assured for a particular market or group of markets.

When the Class III price formula is based primarily upon the market price of one of these products (e.g., butter) minus a specified processing allowance, handlers under the order are assured, regardless of current values of producer milk competitively procured for the several manufactured product uses in Class III, of a predetermined operating margin. On the other hand, unregulated processors handling manufacturing grade milk pay a price to dairy farmers to maintain milk supplies determined from competition with other processors. When sudden price changes occur in the butter market, for example, manufacturers of butter, buying in competition with manufacturers of other products are not necessarily able to effectuate an immediate offsetting adjustment in pay prices to their farmers. When prices under the order are based on butter prices handlers, however, have the benefit of an offsetting adjustment automatically reflected in the price they pay for the milk. This is an advantage not available to manufacturers purchasing unregulated milk.

Regardless of the immediate relationship of the open market prices of various manufactured products to the competitive values of raw milk at unregulated plants, regulated handlers obviously are not subjected, under the present formula, to the same pressure to adjust to cost and technological changes affecting the unregulated portions of the manufactured products industry. This situation could be self-perpetuating in regulated markets, such as in the Northeast, where in the supply areas involved there are relatively minor quantities of unregulated milk to be manufactured, and the prices of most milk so utilized are administered by public authority. Such circumstances make important, in the public interest, that the administered price be one which is reflective of and promptly responsive to competitive conditions generally prevailing in the manufactured products segment of the dairy industry. The competitive pay price method meets this requirement.

The competitive pay price method of pricing milk is based upon the premise

that in the existing highly competitive dairy industry, concerns buying in competition tend to purchase milk from farmers at prices commensurate with the ability of the more efficient concerns to pay for milk. As shifts in the relationship between finished product prices are indicated, one group of processors may be able to pay higher prices than others. Other processors must meet or approximate these prices or risk loss of milk supply. If a dairy concern in the unregulated manufactured products market fails to make the necessary adjustments in procurement competition, it will, in time, be forced out of business.

Increasing labor and other costs may tend to reduce prices paid farmers for milk. The use of new assembling, processing, packaging and marketing techniques which reduce plant-operating costs, or increase product returns, will tend, on the other hand, to increase the demand for the farmers' milk and thus the prices paid for such milk. These upward and downward price adjustments resulting from procurement competition are directly and automatically reflected in reserve milk prices when based on average competitive pay prices, thus tending, at any given time, to reflect the full value of milk for the basic manufacturing uses.

Much of the evidence presented at the hearing on the use of competitive pay prices as the Class III price formula centered on the so-called "Minnesota-Wisconsin Manufacturing Grade Milk-Price Series" (hereinafter referred to as the "Minnesota-Wisconsin series"). Principal questions raised in connection with this price series were whether the Department would be in position to announce within 5 days after the end of a given month a price which would be satisfactorily representative of prices paid to dairy farmers by manufacturing plants in the two-state area, and whether such a series, even if representative of conditions in such states, would be appropriate for pricing milk under conditions prevailing in the New York-New Jersey milkshed. Opponents of the series contended that a period of time should elapse before any such price series is employed in the pricing of over 7 billion pounds of milk per year, the approximate amount of milk in manufacturing uses under regulation in the Northeast, since the series had not yet been published (at the time of the hearing) and therefore had not been subject to appraisal over time.

The States of Minnesota and Wisconsin represent the two large areas of predominantly "manufacturing grade" milk in the country. Approximately 50 percent of the total manufacturing grade milk sold off farms in the U.S. is produced in these two States. In Minnesota about 80 percent of the milk sold off farms is manufacturing grade while in Wisconsin it amounts to 65 percent of the milk produced. There are approximately 900 plants in Wisconsin that buy manufacturing grade milk, and in Minnesota there are about 425 such plants. Competition among processors for supplies of manufacturing milk is generally strong in both States.

Starting in January 1959 the Agricultural Estimates Division of the Department began publication of a series of prices for manufacturing grade milk, by States, each month in the Department's regular publication, "Agricultural Prices". At the time of the hearing, preliminary estimates of prices paid in each State for a given month were being published near the end of the following month. The prices, so published, are not available in time for use in determining minimum class prices under Federal orders. It is officially noticed, however, that beginning with September 1961 the two-State "Minnesota-Wisconsin series" has been published on or before the 5th day of the month following that for which the price is computed. This series is available for use in pricing milk under Federal orders and was adopted for this purpose in the milk order for the Chicago marketing area (official notice taken) effective September 1, 1961.

Manufacturing grade milk price information for Wisconsin and Minnesota is collected through the facilities of the Federal-State Crop Reporting Office in Madison and St. Paul, respectively. This information is obtained by mail questionnaire. Representatives of the Agricultural Estimates Division, although not proponents of the series for use in pricing milk under any of the ten Federal orders, described on the record a new statistical technique which in their judgment as statisticians would result in a representative price estimate which could be announced within five days after the end of the month for which computed. Reports from 200-220 plants that purchase from 20 to 22 percent of all manufacturing milk in the State of Wisconsin are available each month, while in Minnesota reports covering about 70 percent of all producer sales are similarly available. These prices, as reported for the preceding month, serve as the "benchmark" for computing a combined Minnesota-Wisconsin average price of manufacturing milk for the "current" month (month for which the minimum class price is computed).

The price change from the "benchmark" month to the current month is then measured. This involves collecting available current month data from a "sample" of about 100 plants in the two-State area. These data include quantities of milk being purchased, pounds of butterfat and total dollars paid for milk delivered the first half of such month. For the last half, to the extent possible, individual plant estimates are furnished by plant managers. On the basis of these data, current month price and butterfat test estimates are prepared.

For plants in each state separately, prices and tests are weighted within each product group (butter-nonfat dry milk, cheese, evaporated milk, etc.) by the quantities of milk purchased from farms to obtain weighted averages by product groups. This is done both for the current month and the benchmark month.

Product group averages are then weighted by their relative importance in the state total to obtain a statewide average for all milk of manufacturing

grade. The average prices and butterfat tests for the two states are then combined into a weighted average price and test for the two-State area.

Industry proponents of this particular series of competitive pay prices were satisfied that such techniques would result in a representative manufacturing milk price series for Minnesota and Wisconsin plants. They maintained further that purely local conditions are no longer an adequate basis for pricing milk in manufacturing uses and that, inter-regional relationships of prices, which must be recognized, would be recognized properly through use of such series for reserve milk pricing in the Northeastern markets.

It is concluded, however, that although the Minnesota-Wisconsin series is satisfactorily representative of the pay prices in the two-State area and has been adopted already for Class III pricing purposes under the Chicago milk order, it should not be used to determine the price of Class III milk in the New York-New Jersey market at the present time. Although there is no apparent reason why it could not be adapted to the pricing of reserve milk in the Northeastern markets with equitable results, there is no urgency which should deny the industry its request for an opportunity to examine the series in use and to compare its results with other price series and formulas which are available for pricing under regulation.

The "U.S. Average Manufacturing Grade Milk-Price Series" (hereinafter called the "U.S. average price"), on the other hand, has been published continuously since 1946 by the Department and is a widely known and accepted series of competitive pay prices. It is published by the Agricultural Estimates Division in "Agricultural Prices" on a preliminary basis near the end of each month. In

computing this average price, separate prices are first determined for each of the three principal uses covered, i.e., butter-nonfat dry milk, cheese and evaporated milk. These prices are then volume weighted according to the relative quantities of manufacturing grade milk going into such uses. The weights used in 1960 were: Butter, 43 percent; American cheese, 39 percent; and evaporated milk, 18 percent.

It is the "national average" price series which is used in establishing the parity equivalent for manufacturing milk and therefore is directly involved in the determination of support prices for dairy products. The use of this series in computing the reserve milk prices in the Northeastern markets should provide, therefore, a reasonable and equitable basis for determining appropriate monthly price changes.

The use of the U.S. average price as the basis for pricing reserve milk in some of the fluid milk markets in the Northeastern area is well established. It has been the basis for determining the value of producer milk for Class II uses under Federal regulation in the New England markets regularly (except for two months) since May 1, 1957. Between 1951 and 1957 the U.S. average price shared with the "Boston weighted average cream price" in the performance of such price function.

In the New England markets, the annual level of the Class II price, including seasonal adjustments, averages (simple) 6.4 cents per hundredweight over the U.S. average price. The U.S. average price, the Minnesota-Wisconsin series, the Boston Class II prices, the announced New York-New Jersey Class III prices and the Philadelphia Class II prices per hundredweight may be compared as follows on a 3.5 percent butterfat basis:

	Annual averages				
	1960	1959	1958	1957	1956
Minnesota-Wisconsin series ¹	\$3.12	\$3.01	\$2.99	\$3.10	\$3.06
Boston Class II prices ²	3.10	3.01	2.98	3.05	2.96
U.S. Average Price Series ³	3.04	2.93	2.91	3.01	2.98
New York-New Jersey Class III ^{2,3}	2.94	2.96	2.94	3.06	2.99
Philadelphia Class II ⁴	2.84	2.96	2.90	3.14	2.99

¹ Adjusted to 3.5 percent butterfat test by Boston order butterfat differential.
² For plants located 201-210 miles from the basing point in the marketing area.
³ Class III price without butter-cheese differential.
⁴ Adjusted to 3.5 percent by Philadelphia order butterfat differential.

The annual U.S. average price averages approximately 8 cents below the Minnesota-Wisconsin series. The New York-New Jersey annual average Class III price, on the other hand, was higher than the U.S. average price by one cent in 1956, by five cents in 1957, by three cents in 1958, and by three cents in 1959. In 1960, however, the U.S. average price averaged 10 cents higher than the New York-New Jersey Class III price for the year.

The Boston annual average Class II price was lower than the New York-New Jersey Class III price by three cents and one cent in 1956 and 1957, respectively, but in 1958 and 1959 the Boston Class II price averaged four cents and five cents, respectively, over the New York-

New Jersey Class III price. In 1960, the Boston Class II price increased to a level 16 cents over the New York-New Jersey Class III price.

The annual average Class II price in the Philadelphia market was equal to the New York-New Jersey Class III price in 1956 and 1959, was higher in 1957 by eight cents, and was lower in 1958 and 1960 by four and ten cents, respectively. The Philadelphia Class II price, like New York-New Jersey Class III price, was higher than the U.S. average price during the period from 1956 through 1959, except for 1958 when it was one cent lower. In 1960, however, it declined to a level 20 cents below the U.S. average price.

During the four years 1956-59 Class III prices in the New York-New Jersey market averaged about 3 cents over the U.S. average prices. Only in 1960 did the Class III price fall substantially below U.S. average price plus the 6.4-cent differential used in the Boston formula.

Use of the U.S. average price as the price mover will tend to keep Class III prices in consistent relationship to the general level of prices being paid to farmers for manufacturing milk. Since the U.S. average price has been fairly consistently 8 cents lower than the Minnesota-Wisconsin series on an annual basis, the resulting New York-New Jersey Class III prices in the 201-210 mile zone should move in reasonable relationship to prices in Minnesota and Wisconsin.

It is appropriate, nevertheless, to continue seasonality in the pricing of reserve milk in the New York-New Jersey market. During the late winter and spring months when relatively greater quantities of reserve milk are available and must be utilized in the hard or storable products, the Class III price should be such that manufacturers of storable products share in the utilization of the available supplies. Manufacturers of butter and cheddar cheese should not receive a preferential price, however, with the effect that much of the competition in procurement from manufacturers of soft products is minimized or eliminated. The latter manufacturers, who provide a year-round outlet for reserve milk should not be disadvantaged in procurement in the months of seasonally heavy production by being required to pay a higher price than butter and cheese manufacturers during these months.

More seasonality in the pricing of reserve milk than is contained in the U.S. average price is needed in the Northeastern markets for the added reason that it will encourage handlers to dispose of the maximum amount of milk in Class I uses. Prices during the fall months should not be so high as to prohibit the necessary operating reserves of milk from going into manufacturing uses, but nevertheless should be at such a level that handlers will seek Class I sales rather than to use the milk in manufacturing. Further, during the fall months of the year, when the supply of milk available for manufacturing is used to a greater extent in the production of nonstorable (soft) products, the reserve milk price under the orders should reflect also this higher-valued use.

During the three-year period from January 1958 through December 1960, the New York-New Jersey Class III price (other than butter and cheese) deviation between the highest average monthly price and lowest average monthly price was 26 cents. The month with the lowest three-year average price was June with an average price of \$2.80 per hundredweight. November was the month with the highest three-year average price of \$3.06. If the seasonal variation in the price of milk for butter and cheese is reflected in the regular Class III price (an additional 14 cents

per cwt.) it would increase the seasonality of the Class III price to 40 cents. A range in the Class III price of 40 cents from the month of highest price to the month of lowest price compares with the current seasonal range of 46 cents in the Boston Class II prices during the same three-year period. The monthly seasonal adjustments to the U.S. average price as contained in the current Boston Class II formula range from minus 12 cents during the month of May to plus 17 cents during the months of August, November, and December. To bring monthly reserve milk prices in the northeastern markets more nearly in line with the monthly U.S. average prices and the prices of manufacturing milk in the Midwest than has been the case in the past, a small reduction in such ranges is appropriate. It is concluded that the seasonal adjustments to be applied to the monthly U.S. average prices (which result in an annual (simple) average level 5.4 cents higher than such price) should be as follows:

Jan.....	\$+0.8	July.....	\$+0.08
Feb.....	+ .07	Aug.....	+ .15
Mar.....	.00	Sept.....	+ .11
Apr.....	-.04	Oct.....	+ .11
May.....	-.07	Nov.....	+ .11
June.....	-.06	Dec.....	+ .11

These seasonal adjustments, applied to the three-year period 1958 through 1960, would have resulted in a seasonal variation in prices averaging 37 cents. The resulting monthly prices, on the three-year average, would have varied from the average of Minnesota-Wisconsin prices by the following amounts:

Jan.....	\$0.00	July.....	+\$0.02
Feb.....	+ .03	Aug.....	+ .09
Mar.....	-.04	Sept.....	.00
Apr.....	-.09	Oct.....	-.01
May.....	-.15	Nov.....	.00
June.....	-.14	Dec.....	+ .02

These monthly variations between the reserve milk prices in the Northeast and the Minnesota-Wisconsin pay prices are reasonable in view of the greater seasonality of reserve milk available in the northeastern markets and the need for channeling milk to Class I uses when needed.

The U.S. average prices adjusted by the monthly seasonal adjustments may be compared with the monthly Class III prices which have existed in the New York-New Jersey market. In the following table are shown the proposed monthly prices and the announced Class III prices for the three-year period 1958 through 1960, for 3.5 percent milk, f.o.b. plants in the 201-210 mile zone.

	1958			1959			1960		
	Proposed price, including seasonal adjustments	N.Y.-N.J. class III ¹	Proposed, minus N.Y.-N.J.	Proposed price, including seasonal adjustments	N.Y.-N.J. class III ¹	Proposed, minus N.Y.-N.J.	Proposed price, including seasonal adjustments	N.Y.-N.J. class III ¹	Proposed, minus N.Y.-N.J.
January.....	\$3.11	\$3.07	\$0.04	\$3.00	\$2.87	\$0.13	\$3.07	-\$2.92	\$0.15
February.....	3.09	3.07	.02	3.03	2.87	.16	3.12	2.91	.21
March.....	3.00	3.02	-.02	2.94	2.85	.09	3.04	2.83	.21
April.....	2.79	2.88	-.09	2.87	2.84	.03	2.97	2.83	.14
May.....	2.75	2.79	-.04	2.80	2.82	-.02	2.87	2.83	.04
June.....	2.76	2.78	-.02	2.80	2.80	.00	2.87	2.82	.05
July.....	2.92	2.87	.05	2.96	2.91	.05	3.02	2.89	.13
August.....	3.03	2.91	.12	3.05	3.00	.05	3.14	2.94	.20
September.....	3.03	3.00	.03	3.03	3.12	-.09	3.21	3.03	.18
October.....	3.03	2.94	.09	3.06	3.12	-.06	3.24	3.04	.20
November.....	3.01	2.93	.08	3.13	3.18	-.05	3.29	3.03	.26
December.....	3.07	2.97	.10	3.12	3.09	.03	3.28	3.04	.24
Annual average..	2.97	2.94	.03	2.98	2.96	.02	3.09	2.94	.15

¹ Does not include butter-cheese differential. Butter-cheese differential prices are 14 cents less than class III prices during the months of March through June and 10 cents less during the months of July and December through February. In 1959 only, the month of August also had a 10-cent butter-cheese differential.

The monthly seasonal adjustments adopted result in Class III prices nearly identical with the present Class III prices (other than butter and cheese) during the months of May and June over the three-year period. For the months of April and July, over the same period, the new formula yields a level of prices closely related to prices under the present Class III formula.

During the late summer, fall and winter months, the new formula results in prices which, on the average during this three-year period, exceeded actual Class III prices by somewhat greater amounts. It is during these months, however, when Class III milk should be priced at a somewhat higher level since it is used mostly in higher-valued products and competitive milk and milk products also carry higher prices. The higher level is needed also to encourage handlers to utilize the milk in Class I outlets.

The new formula will have the greatest effect in the New York-New Jersey mar-

ket upon the prices for milk utilized in the manufacture of butter and cheese during April through July. During April, May, and June the price of milk used in butter and cheese will be increased 14 cents per hundredweight and in July, 10 cents per hundredweight plus any increases that apply in connection with regular Class III milk. Over the three-year period 1958-1960, the average increase in the regular Class III price would have been April, \$0.01; May, \$0.01; June, \$0.01; and July, \$0.04.

The U.S. average price, as so adjusted seasonally, will reasonably reflect monthly changes in the value of milk for the particular "product mix" of reserve milk in the Northeast.

While the "product mix" reflected in the U.S. average price represents a lower-valued "product mix" than that generally prevailing in the Northeast, such competitive pay price, which reflects the value of milk used in the manufacture of "hard products", will also reasonably

reflect changes in the value of milk used in, or to manufacture products competitive with, the "soft products" made from manufacturing milk in the Northeast.

The U.S. average price is based to a substantial degree on the use of milk for butter-nonfat dry milk and cheese. This, however, is a lower-valued "product mix" than the "product mix" of the Northeastern markets, which consists largely of ice cream, ice cream mix, cottage cheese and other "soft products", generally considered to represent higher-valued outlets. Manufacturers of "soft products" and handlers of cream in the major production areas of Minnesota and Wisconsin are in competition with manufacturers of the "hard products" for their milk supplies. It may not be reasonably concluded that "soft product" manufacturers in either the Northeast or Midwest can procure milk for less than competitive "hard product" manufacturers.

It is butter-nonfat dry milk and cheese that are considered the residual, or marginal, uses of milk both nationally and in the Northeast, into which milk must find a market when the demands for the higher-valued products have been satisfied. As previously indicated, the U.S. average price is the basis for computation of the support prices for butter, nonfat dry milk and cheese as the residual products of milk nationally.

In opposing competitive pay prices for formula uses, New York-New Jersey handlers maintained that it is the local supply and demand conditions in the regulated market that are the controlling statutory factors in establishing prices for Class III milk as well as the prices of other classes under the order.

In its decision in the "United States v. Rock Royal Co-operative, Inc., et al." case relating to the New York order and the classified pricing plan provided therein (official notice of which is taken), the Supreme Court of the United States recognized that the products made from reserve milk in the New York-New Jersey market not only are affected by, but also affect, the national market for such products:

"It is generally recognized that the chief cause of fluctuating prices and supplies is the existence of a normal surplus which is necessary to furnish an adequate amount for peak periods of consumption. This results in an excess of production during the troughs of demand. As milk is highly perishable, a fertile field for the growth of bacteria, and yet an essential item of diet, it is most desirable to have an adequate production under close sanitary supervision to meet the constantly varying needs. The sale of milk in metropolitan New York is ringed around with requirements of the health departments to assure the purity of the supply. Only farms with equipment approved by the health authorities of the marketing area and operated in accordance with their requirements are permitted to market their milk. More than sixty thousand dairies located in the states of New York, Connecticut, Massachusetts, Maryland, New Jersey, Pennsylvania and Vermont hold certificates of inspection and approval from

the Department of Health of the City of New York. More than five hundred receiving plants similarly scattered have been approved for the receiving and shipping of grades A and B milk. Since all milk produced cannot find a ready market as fluid milk in flush periods, the surplus must move into cream, butter, cheese, milk powder and other more or less nonperishable products. Since these manufacturers are in competition with all similar dairy products, the prices for the milk absorbed into manufacturing processes must necessarily meet the competition of low-cost production areas far removed from the metropolitan centers. The market for fluid milk for use as a food beverage is the most profitable to the producer. Consequently, all producers strive for the fluid milk market. It is obvious that the marketing of fluid milk in New York has contacts at least with the entire national dairy industry. The approval of dairies by the Department of Health of New York City, as a condition for the sale of their fluid milk in the metropolitan area, isolates from this general competition a well recognized segment of the entire industry. Since these producers are numerous enough to keep up a volume of fluid milk for New York distribution beyond ordinary requirements, cut-throat competition even among them would threaten the quality and in the end of the quantity of fluid milk deemed suitable for New York consumption. Students of the problem generally have apparently recognized a fair division among producers of the fluid milk market and utilization of the rest of the available supply in other dairy staples as an appropriate method of attack for its solution. Order No. 27 was an attempt to make effective such an arrangement under the authority of the Agricultural Marketing Agreement Act."

Concern was expressed also by New York-New Jersey handlers that any increase in the Class III price would tend to raise uniform, or blended, prices to producers, stimulating a production response and therefore an increase in the quantity of milk to be used in Class III products. It was contended that reserve milk prices might well be reduced somewhat, rather than increased, in order to encourage a reduction in deliveries of milk by producers or at least to discourage further increases in deliveries.

The percentage of Class III utilization is such that for any given change in the level of the Class III prices a corresponding change in uniform prices of approximately 40 percent of the change in the Class III price will result. The above contention of handlers is not persuasive, however, in the present situation. Certainly it may not be concluded that a price for milk for manufacturing use only slightly above the national level of prices for ungraded milk would be sufficient to encourage an adequate supply of high quality milk as needed for the New York-New Jersey fluid market. An equitable price for milk for manufacture cannot be denied simply because it might result in some increase in the blended price, and particularly so when an outlet for any increased supply is available under the price support program.

Further testimony was presented to the effect that Midwestern milk production has generally contributed far more to the national milk surplus than has Northeastern milk production since milk used in manufactured dairy products, other than ice cream, in the eleven Northeast states amounts to only 5 percent of the total for the United States. From this New York-New Jersey handler representatives argued that complete discounting of the butter, cheese and nonfat dry milk produced in the Northeast would leave in excess nationally an overwhelming percentage of each of the surplus commodities purchased by the Government for price support purposes, and therefore, that the national price level for manufactured milk products is little affected by the prevailing prices for manufacturing milk in the Northeastern markets, particularly the New York-New Jersey market.

Under the dairy products price support program, the Federal government offers to purchase butter, cheese and nonfat dry milk at specified prices. These prices are established at a level which will reflect, on the nationwide average, a specified percentage of parity to dairy farmers deemed reasonable under national policy. The need for this program arises from an excess of milk and milk products produced in the United States over the amounts that can be sold through commercial outlets and still return the appropriate percentage of parity prices to farmers. This is a nationwide program as equally applicable to dairy farmers of the Northeast as to those in any other part of the United States. Products such as butter, cheese and nonfat dry milk, purchased under the support price program, are produced in sizeable quantities in the Northeast and are sold in the national market in direct competition with similar products from other parts of the nation, particularly the Midwest.

Government support purchases during the 5-year period from 1956 through 1960 amounted to only 3.5 percent (on a milk equivalent basis) of the total milk produced in the United States during this period. (Official notice taken of the November 1961 issue of "The Dairy Situation" published by Economic Research Service, USDA, page 41.)

This was the average percentage of the national milk production in surplus which indicated the need for support prices in order that reasonable prices could be returned to farmers. Under the support program, it is immaterial where the largest quantities, or percentages, of dairy products are produced. It is of great significance to dairy farmers, however, that surpluses of dairy products do exist and that these surpluses can undermine the entire structure for the milk used in their production.

While New York-New Jersey handler representatives maintained that manufactured products made from Class III milk under Order No. 2 are a relatively insignificant proportion of the national surplus, and therefore do not depress prices to other processors or to Midwestern dairy farmers, such handlers nevertheless complained strongly concerning

competition in ice cream mix from a plant regulated under the Washington, D.C., order which sells, in terms of the entire New York-New Jersey ice cream market, a very minor percentage of ice cream mix in such market, contending that sales from this plant demoralize the price structure for all ice cream mix sales in Metropolitan New York and Northern New Jersey.

Both grounds cannot be accepted as proper basis for the proposition that no substantial change should be made in the New York-New Jersey Class III price level. The national competition in manufactured dairy products is not, in our view, dissimilar to the kind of competition in Class III milk products which is found to prevail among markets in the Northeast.

The New York-New Jersey handler proponents of the continuance of the butter-nonfat dry milk formula requested that certain prior decisions of the Department on Order No. 2 amendments be taken into account as further evidence supporting their proposals and for denying the use of a competitive pay price series for pricing Class III milk. Official notice was taken at the hearing of all previous decisions and order amendments, as they affected Class III pricing, back to and including the decision leading to the amendment of April 1, 1949.

Review of these decisions has been made, particularly with respect to (a) level of Class III prices; and (b) importance and justification of employing butter and nonfat dry milk prices as the monthly movers in the Class III price formula.

In several of these previous decisions, it was found, on the particular evidence under review, that while the prices paid at unregulated plants were a reliable guide for determining the level of the Class III price, the product prices (butter and nonfat dry milk) were preferred to reflect month-to-month changes in the value of products made from Class III milk, or which could be substituted for producer milk in the manufacture of certain Class III products.

The value of competitive pay prices as an appropriate method of fixing Class III prices under the regulation was repeatedly recognized, but in the particular circumstances shown by the testimony, it was concluded in the several decisions that prices of products which could be made from Class III milk, or substituted for it, should be given preference as the basis of the formula. It is noted, however, that in the decision of June 10, 1957, the Acting Secretary concluded that, "Dairy product prices and yield factors employed in the Class III formula are designed primarily to reflect changes in the market value of products made from Class III milk, and purport to constitute only an approximation of the actual returns to handlers from the sale of products made from Class III milk" (emphasis supplied). It is clear from review of past decisions that although the product price type of formula was retained in use, the trend and level of price which it had produced, or was expected to produce, had been

checked against the "reliable guide" of prices paid by unregulated plant operators.

It is noted that in most of the decisions since 1949 relating to the Class III price formula in Order No. 2 the Secretary, in determining the appropriate level of the Class III price, compared it specifically with the U.S. average price. The U.S. average milk price series, therefore, has been used in the past either directly or indirectly in determining the level of the reserve milk prices for more than 85 percent of the producer milk involved in this hearing.

In the present hearing, the evidence presented, taken in its entirety, represented a broad, almost nationwide, viewpoint concerning the implications on the national markets for dairy products when prices in the Northeastern markets for milk in manufacturing uses tend to depart from the general level and trend of prices to dairy farmers generally for milk in these uses. The milk used in manufactured products under these orders, and particularly Order No. 2, represents significant quantities. The large urban areas of the Northeast represent principal markets for manufactured dairy products such as butter and cheese produced in other parts of the nation. Thus, on the basis of the evidence presently before the Secretary, the pricing of reserve milk to producers in the Northeastern Federal order markets is no longer a matter of local economic interest only and therefore cannot be dealt with simply in local terms.

ISSUE No. 2

There is substantial competition among the 10 regulated markets of the Northeast, both in the procurement of milk supplies and in the marketing of milk products into which reserve supplies of the individual markets are manufactured.

Handlers regulated under several New England orders procure producer milk in Eastern New York State in competition with handlers regulated by the New York-New Jersey order. Located in Washington County, New York, for example, are plants regulated by the New York-New Jersey, Greater Boston, and Connecticut milk orders which draw milk from substantially a common supply area. In the past a Southeastern New England pool handler also has procured milk in this county. New York-New Jersey handlers procure milk in Vermont, the major supply area for the Greater Boston market.

In Pennsylvania there are five counties in which there are plants regulated by the Philadelphia and New York-New Jersey orders. Handlers regulated by the Philadelphia, Wilmington, and New York-New Jersey orders are in direct procurement competition with Upper Chesapeake Bay handlers. Three New York-New Jersey pool plants which receive milk from producers are located in Maryland and Delaware and 74 such plants are located in Pennsylvania. Six Philadelphia producer milk (regulated) plants are located in Maryland and Delaware. The eastern shore of Maryland, all of which is included in the Upper

Chesapeake Bay marketing area, is part of the regular supply area for the Philadelphia and New York-New Jersey markets as well as for the Upper Chesapeake Bay market.

This results in considerable overlapping of procurement (milkshed) areas for the 10 Northeastern markets.

Handlers regulated by the various Northeastern market orders compete in the distribution of most products manufactured from the markets' reserve supplies of producer milk, although the principal competition is in the so-called "soft products" (principally cream, condensed milk, ice cream, ice cream mix and cottage cheese). The markets for these products are highly competitive, with a considerable degree of overlapping of sales territories among markets.

Products manufactured from New York-New Jersey pool milk in the plants of a New York-New Jersey handler are distributed from New York City to Florida, with added distribution therefrom throughout the major cities of the Northeast. These include cottage cheese, cream cheese, and yogurt.

A manufacturer of American-type cheese operates several plants in New York State at which New York-New Jersey pool milk is utilized. The same manufacturer also operates a plant in Vermont which utilizes Boston order pool milk. Cheese manufactured at all these plants is marketed through a central distribution facility at Philadelphia under common brand both in conjunction with, and in competition with, other cheese manufactured from reserve milk priced under Northeastern orders and cheese manufactured in Midwestern states.

A principal Boston handler distributes manufactured milk products from its Boston-regulated plant in New York State in direct competition with products manufactured from New York-New Jersey pool milk. Several New England handlers regularly purchase butterfat and milk solids from New York-New Jersey pool plants for Class II milk uses. Also, New England handlers sometimes depend on manufacturing facilities in New York State as an outlet for seasonal surpluses of milk.

A manufacturing milk plant at Laurel, Maryland, regulated by the Washington, D.C., order, distributes manufactured products in Metropolitan New York and New Jersey in direct competition with New York-New Jersey handlers. The products distributed from this plant are mainly for use in the ice cream trade.

A New York-New Jersey regulated handler operates an unregulated ice cream plant at Woburn, Massachusetts, in the Greater Boston marketing area. The principal sources of butterfat for this plant are New York-New Jersey order pool plants.

New York State plants are regular sources of fluid cream (from Class III milk) for both the Philadelphia and Boston markets. Philadelphia and New York-New Jersey handlers compete for sales in a common market for manufactured milk products in southeastern Pennsylvania and in southern New Jersey.

The record does not indicate that local or state regulations affecting the quality of the raw milk used in manufactured milk products in the markets of the Northeast, operate to reduce intermarket competition to any substantial degree. Some manufacturers compete in products which have "national" markets (customarily supplied to a major extent with products made from ungraded milk). Insofar as health requirements are concerned milk from other fluid markets or processed milk products, such as butter, condensed milk, or nonfat dry milk purchased in the open market, can be substituted in manufacturing milk operations, such as ice cream processing.

Several regulated plants manufacturing reserve supplies of producer milk in these fluid markets are located in close proximity to the large population centers of the Northeast; particularly is this true of plants regulated by the New England and the New York-New Jersey orders. Also, the manufacturing plant at Laurel, Maryland, near Washington, D.C., and regulated by the Washington order, is as near to New York City and northern New Jersey as are many manufacturing plants regulated by the New York-New Jersey order.

The marketing problems which result when reserve milk prices in these fluid markets are out of line were clearly illustrated. In late 1960 and early 1961 an unusually strong "national" market for cheddar cheese increased the U.S. average prices, and consequently Class II prices in New England in relation to reserve milk prices in other Northeastern markets which employ formulas based on the market prices for butter or cream and nonfat dry milk in pricing reserve milk.

During this period New York-New Jersey handlers were successful in obtaining outlets in New England for Class III products, particularly fluid cream and ice cream, which had previously been supplied by New England handlers. During this period also, competition from New York-New Jersey handlers resulted in substantial price reductions on such products in New England markets and placed New England regulated handlers, accounting for milk at the Class II price under their respective orders, at a serious competitive disadvantage in the marketing of manufactured dairy products in their local markets.

At other times, particularly in the months of flush production, when New England Class II prices have been seasonally low in relation to the New York-New Jersey Class III price, a reverse competitive condition exists. Also, New York manufacturers sometimes turn at such times to sources in New England for manufacturing milk. A New York manufacturer testified that in the spring months of the year, New England cooperatives are an important source of cream for his cream cheese plant in Upper New York State. Use of New England cream in New York manufacturing plants in these circumstances tends, of course, to force New York-New Jersey order producer milk into the lowest-valued butter and cheese uses, thereby reducing returns to New York-New Jersey producers.

Under these conditions the orderly marketing of reserve supplies of producer milk calls for close alignment of surplus prices in the Northeastern regulated markets. Except for representatives of the Philadelphia handler association, all interested parties who presented testimony at the hearing, supported a high degree of uniformity among reserve milk prices under the 10 Northeastern orders.

Because of the varying distances of major locations of procurement competition to the basing points in the respective marketing areas, and because of somewhat different transportation rates per mileage zone contained in the orders, an identical price for each location in each milkshed in respect of the basing point at which the price is announced may not be achieved for each of the markets. This, however, is not as significant as achieving at this time relatively close alignment of prices at the principal locations of procurement competition.

The New York-New Jersey market represents the largest market in the Northeast. Also, the New York-New Jersey market is the only market which is in direct competition for supplies with nearly all of the 9 other markets under consideration. The alignment of reserve milk prices under the five New England orders, the Philadelphia and Wilmington orders, and the Upper Chesapeake Bay and Washington orders should be fixed, therefore, in relation to Class III prices under the New York-New Jersey order.

Class III prices under the New York-New Jersey order are announced, on the basis of milk of 3.5 percent butterfat content, at plants located in the 201-210 mile zone. Class II prices for the Boston order also are announced for plants located in the 201-210 mile zone, but on 3.7 percent butterfat basis. These are the markets with the largest volumes of reserve milk for manufacture. The respective Class III and Class II prices under these orders should be similar at such location when adjusted to a common butterfat test.

The Class II prices under the four other New England orders (Connecticut, Southeastern New England, Springfield, and Worcester) presently are announced f.o.b. either city plants or other basing points in the respective marketing areas. The announced Class II price under each of these orders is the Boston Class II price plus 5.8 cents. Practically all the manufacturing facilities associated with these four orders are located within their marketing areas. The current alignment of prices among these orders, and between these orders and the Boston order, have not resulted in disruptive marketing conditions and no reason was presented to alter this relationship.

The transportation differential for Class II milk under the Connecticut, Southeastern New England, Springfield, and Worcester orders (specified in the orders as "zone price differentials") reduces the Class II prices under those orders 7 cents per hundredweight for plants located in the 201-210 mile zone. This compares with an 8-cent differential

for such distance in the New York-New Jersey market. A plant regulated under the Connecticut order and in the 121-130 mile zone, but also so located that if it were subject to the New York-New Jersey order it would be in the 126-130 mile zone, would have a 1.7 cents lower Class II price under the Connecticut order than it would have Class III price if the plant were regulated by the New York-New Jersey order.

The major handler association in the Philadelphia market maintained that Class II prices under the Philadelphia order should not be aligned necessarily with Class III prices under the New York-New Jersey order and contended that local marketing conditions in Philadelphia dictate a different price structure. It was argued that Philadelphia is essentially a fluid milk market, with Class I sales amounting to 74 to 76 percent of producer receipts each year from 1949 through 1959. Because of this high Class I utilization, they contended that the seasonality of available Class II milk in the market is high, increasing the cost of manufacture under order No. 4.

The price relationship between the New York-New Jersey Federal order and the Philadelphia Federal order has varied by amounts up to 10 cents per hundredweight from year to year. The five-year average price (1956-1960) of Class II milk under the Philadelphia order, however, was less than the New York-New Jersey Class III price by only 1.5 cents per hundredweight. Over time, therefore, annual price differences between these orders have tended to balance out so that the long-term differences have been small.

There are five counties in Southeastern Pennsylvania (i.e., Chester, Berks, Cumberland, Franklin, and York), in which there are both Philadelphia and New York-New Jersey pool plants. These plants are located mainly in the 70.1-140 mile zone as set forth in the Philadelphia order. The plants in this area subject to the New York-New Jersey order are located in the 151-170 mile zone from the basing point in the New York-New Jersey marketing area.

Philadelphia price announcements are issued by the market administrator f.o.b. plants in the marketing area for 3.7 percent milk. The applicable location differential to handlers on Class II milk in the 70.1-140 mile zone is a minus 6 cents. The comparable price under the New York-New Jersey order at plants in the 151-170 mile zone is the Class III price in the 201-210 mile zone, plus two cents. To continue the close price alignment between these markets the price for Class II milk under order No. 4, as announced f.o.b. plants in the marketing area, for 3.7 percent milk should be the order No. 2 Class III price as announced for plants in the 201-210 mile zone for 3.5 percent milk (adjusted to a 3.7 percent basis), plus eight cents.

The announced Class II prices for the adjacent Wilmington market are identical with the announced Class II prices under the Philadelphia order. Appropriate changes made herein would maintain that same relationship on the find-

ings previously made in this decision as to the need for aligning all the markets of the Northeast.

There are three order No. 2 plants located in the marketing area of the Upper Chesapeake Bay order. These plants are located in the 151-170 mile zone from the basing point in the New York-New Jersey marketing area. This mileage zone has a transportation differential on Class III milk of plus two cents over the 201-210 mile zone price. It is appropriate, therefore, that the Class II price under the Upper Chesapeake Bay order be set at two cents over the Class III price for 3.5 percent milk in the 201-210 mile zone under the New York-New Jersey order.

The Class II price formula effective in the Upper Chesapeake Bay order (also effective in the Washington, D.C., order) yielded Class II prices which, on the annual average in 1960, were two cents per hundredweight more than the New York-New Jersey Class III prices in the 201-210 mile zone.

Thus, it is reasonable that the Class II price level for the Upper Chesapeake Bay market continue in about the same relationship to New York-New Jersey Class III prices as in the past. In view of the direct and close competition in procurement between the Upper Chesapeake Bay market and the Washington, D.C., market, and the absence of indication in the record that the past price relationship between such adjacent markets has caused procurement or marketing difficulties, the same price formula should be adopted also for the Washington, D.C., market.

While a close alignment of prices among the 10 markets is appropriate, it is recognized that minor price differences among the markets will continue because of the varying location adjustment, or transportation, rates contained in the respective orders (the Upper Chesapeake Bay and Washington, D.C., orders do not provide for any plant location adjustment for Class II milk). Alignment within the limits provided by the evidence represents a substantial narrowing of past price differences among the markets, however, and will tend to promote the orderly marketing of milk. It would not be reasonable to delay the action proposed on the basis that minor differences resulting from variations in location adjustments, which were not under consideration at the hearing, would disrupt orderly marketing.

In the interest of maintaining the closest possible alignment of reserve milk prices in the 10 Northeastern markets, the attached amendments have deleted all references to "cream prices" in the computation of Class II prices under the five New England orders and the Philadelphia, Wilmington, Upper Chesapeake Bay and Washington orders.

The U.S. average price is reported on the basis of the average butterfat content of the milk covered. This butterfat test varies from month to month. Since the class prices under Federal orders are announced on a specified percentage of butterfat content, the U.S. average price should be adjusted to that butterfat test

on which the price is announced in the particular market.

Prices under order No. 2 are based upon milk containing 3.5 percent butterfat content. The method to be used in converting the U.S. average price to a 3.5 percent basis should be as follows: Subtract for each one-tenth of one percent of average butterfat content above 3.5 percent, or add for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the Department of Agriculture.

A similar method should be used in converting the U.S. average price as applied to the nine other Federal orders involved. In those markets, which base their announced prices on 3.7 percent butterfat, "3.7" should be used in the above method of computation in lieu of "3.5".

The butterfat differentials used in adjusting the prices of reserve milk vary considerably among the 10 markets. For example, the Boston, Springfield and Worcester Federal orders provided for an annual average butterfat differential of 7.5 cents per point $\frac{1}{10}$ percent of butterfat) in 1958. The New York-New Jersey butterfat differential was 7.1 cents, and the Philadelphia and Wilmington butterfat differentials averaged 7.0 cents, per point for the same year. Between such three New England orders and the Philadelphia and Wilmington orders there was a difference of 0.5 cent per point. In 1959, the difference between the high and the low annual average butterfat differentials in such markets was 0.6 cent, and in 1960 it was 0.7 cent.

The monthly variations among the orders have been greater than the yearly average differences. For February 1961, the month in which the largest variation occurred, the Connecticut butterfat differential was 8.0 cents per point while the butterfat differential under each of the Philadelphia, Upper Chesapeake Bay, Washington, D.C., and Wilmington orders amounted to 6.8 cents, a difference of 1.2 cents per point.

Establishing uniformity in butterfat differentials on milk for manufacturing uses in Federal order markets in the Northeast also will assist in minimizing differences in prices to handlers under the different orders.

It will assist also in future comparisons of class prices among the markets, reducing confusion as to the proper basis for such comparisons. Today, price comparisons may vary depending upon which butterfat differentials are used in adjusting individual market prices to a common butterfat test. Prices compared may vary by as much as one or two cents per hundredweight depending upon the particular butterfat differentials used. An example of this is that for May and June 1960, conversion of the Boston Class II prices from 3.7 per-

cent to 3.5 percent by use of the Boston butterfat differential results in Boston Class II prices lower than the New York-New Jersey Class III prices (May—Boston \$2.822, New York-New Jersey \$2.83; June—Boston \$2.814, New York-New Jersey \$2.82). If, however, New York-New Jersey Class III prices are converted from a 3.5 percent basis to 3.7 percent, using the New York-New Jersey butterfat differential, the Boston Class II prices exceed the New York-New Jersey Class III prices for such months (May—Boston \$2.97, New York-New Jersey \$2.966; June—Boston \$2.96, New York-New Jersey \$2.954). Although the differences in the prices arrived at by the two methods are relatively small in this example, such comparisons were used in the testimony to reach divergent conclusions.

For the purpose, therefore, of obtaining the best possible alignment of reserve milk prices, it is concluded that the Class III butterfat differential under the New York-New Jersey order and the Class II butterfat differentials under the Philadelphia, Pennsylvania, Upper Chesapeake Bay, Wilmington, Delaware, and Washington, D.C., orders should be computed in the same manner as the producer butterfat differential contained in the Boston, Southeastern New England, Springfield, and Worcester orders. Such differential is within the range of differentials currently in effect in the 10 markets. This is also the same butterfat differential used to convert the U.S. average price to a 3.5 percent butterfat basis under the respective orders.

The time period used in computing the average of the daily prices for Grade A (92-score) butter at wholesale, under the New York-New Jersey, Philadelphia, Wilmington, Upper Chesapeake Bay, and Washington orders has been changed from a monthly basis to "the period between the 16th day of the preceding month to the 15th day, inclusive, of the current month". This conforming change is desirable to make the butterfat differentials for reserve milk under all 10 of the orders the same.

A further conforming change is necessary to insure that the butterfat differential provision of the Connecticut order will be aligned with those in the other markets. The Connecticut order, like the four other New England orders, does not contain butterfat differentials for the separate classes of milk as such but provides for a single (producer) butterfat differential which, in effect, is applicable to each of the classes. Unlike the other New England markets, however, the present Connecticut producer butterfat differential is rounded to the nearest cent rather than to the nearest tenth of a cent. In order to make all butterfat differentials affecting the value of reserve milk identical, the Connecticut butterfat differential would be rounded to the nearest one-tenth of a cent rather than to the nearest full cent. This is appropriate since the difference in such "rounding" methods could result in a possible maximum difference, up or down, of 0.5 of a cent per point of butterfat (5 cents per pound of butterfat) changing the relative butterfat and skim milk values in producer milk by as much

as 2.5 cents per hundredweight of the skim milk portion of the producer milk when the butterfat content varies 5 points from the standard. Such change thus will place the Connecticut market on equal terms with the other markets in the month-to-month disposition of reserve milk. Over time there should be little difference in the average butterfat differential value resulting from the two methods of rounding.

The provisions of the Springfield and Worcester, Massachusetts, orders regarding Class II prices and butterfat differentials do not contain specific formula language, but instead, refer to the appropriate provisions of the Boston order since the formula language would be identical with that of the Boston market. It is not necessary, therefore, to amend these two orders as a result of this hearing. The new formula, however, carries to these orders on the basis of their present relationship to the Boston order.

Issue No. 3

It is concluded that the proposed separate pricing of "excess" surplus milk utilized in manufactured dairy products by or for the account of an "incorporated marketing agency" of producer cooperative associations, and sold to the Commodity Credit Corporation under the national price support program, should not be adopted.

Three of the major producer groups operating primarily in the New York-New Jersey market submitted a proposal for the separate pricing of milk marketed under the following conditions:

(1) The handler has refused to receive milk because he is unwilling to account for it at the minimum prices under the order;

(2) The milk has been marketed by or for the account of an incorporated marketing agency formed, controlled and operated by cooperatives, either qualified for cooperative payments under the New York-New Jersey order or qualified for marketing services under one of the other Northeastern orders (at the hearing, this was modified to include cooperatives qualified under the orders for voting purposes); and

(3) The milk is marketed for such agency under the Government price support program for dairy products.

Such milk was described by proponents as "excess" surplus milk and is so termed for the discussion herein.

The classification price for the producer milk, so marketed, would be computed at the net price received by the agency after deduction of its expenses.

The general objectives of such proposals, as stated by proponents, are: (1) to clear the market of all "excess" surplus by utilizing the product outlets of the national dairy price support program, (2) to obtain higher returns for milk in other Class III uses, and (3) to improve the bargaining position of the cooperative associations.

Although the general objectives apply to all the proposals, the method or approach differed. Proponents of proposals 3 and 5 in the notice would provide only for enabling language in the orders to establish and operate such a marketing agency. Proposal 3 would apply to all

the Northeastern Federal milk orders and complementary New York and New Jersey State orders. Proposal 5 would apply to all the Northeastern Federal milk orders, companion New York and New Jersey State orders, and other Northeastern state milk orders as well. Proposal 14 would limit the agency's operation to the New York-New Jersey market and it also specifies more detailed operating conditions which such an agency would be required to meet.

In order to achieve the general objectives outlined, an additional use-category without a specific price or price formula is proposed for the disposition of producer milk under the above-described conditions. The marketing agency would market the excess surplus milk and would compute a "net" price after processing, and handling costs are deducted. Such net price would be used each month in computing the pool obligation on such milk. By being marketed in this manner it was contended that the milk would be insulated from competition with milk marketed in normal commercial channels.

The marketing agency proposals were prompted by certain other proposals which would change the basis and level of pricing surplus milk in the New York-New Jersey and other Northeastern Federal order markets. It was contended that if Class III milk prices under Order No. 2 are to be increased, there is need to provide additional mechanics for the disposal of both "tail-end" quantities of surplus milk which handlers do not accept and of such increased quantities of milk as might be induced by a higher Class III price level which might not be wanted by proprietary handlers. It was the position of proponents of proposals 3 and 5 that the expense associated with a "guaranteed" alternative market for excess surplus milk should be shared by producers of all regulated markets in the Northeast region.

Proponents generally envisage a marketing agency established and incorporated by those cooperative associations which meet any of the following conditions: are qualified for "cooperative payments" under Order No. 2, are qualified to receive deductions from monies due producer members as provided by the marketing services provisions contained in the other Federal milk orders of the Northeast where such provisions are effective, or meet the requirements of the "Capper-Volstead" Act.

As described by proponents, the organizational structure of the marketing agency would be determined entirely by the participating cooperatives. Each participating cooperative would be represented on the governing board of the agency as a matter of right. Voting representation of the participating cooperatives on the board would be left to the by-laws adopted by the agency. It was the expressed intent, particularly as to proposals 3 and 5, to keep the jurisdictional powers of the Secretary at a minimum in the formation and operations of the agency.

The cooperative marketing agency would establish an office apart from those of participating cooperatives. The agency, in disposing of excess-surplus

milk, presumably would guarantee an "alternative" market for producers. However, at least one proponent testified that a cooperative marketing agency of this kind should not be required to accept all the milk referred to it.

Handlers who are unwilling to account for a quantity of Class III milk at the minimum (formula) Class III price established by the order could utilize the agency to market such milk. In practice, a handler would notify the cooperative marketing agency in advance that certain milk is not wanted. The cooperative marketing agency would negotiate with the handler to process the milk, or would arrange for its delivery to another plant for processing. In the first instance, the cooperative marketing agency and the handler would negotiate a handling allowance to the handler for services performed in receiving, weighing and testing the milk. Certain of the proponents would limit this allowance to not more than 17 cents per hundredweight of milk. To the extent that this amount would be insufficient to cover the actual cost of these services at a particular plant, such plant would make a contribution to the cost of the "rescue" operation performed by the cooperative marketing agency. Another proponent would limit the handling allowance to the actual costs involved plus 6 percent, or 17 cents per hundredweight, whichever is less. Any plant accepting milk from the cooperative marketing agency would contract to take it for a stated period of time with the guarantee that the products made from such milk would be acceptable for purchase by the government under the national price support program. Full processing and transport costs would be allowed in addition to the negotiated allowance for receiving and testing.

Certain basic operating conditions stated in connection with proposal 14 in the hearing notice were (1) the cooperative marketing agency must market all the milk offered to it if the handler certifies to the market administrator that his handling of the milk involved would be unprofitable at prevailing order prices, and (2) the market administrator could not approve such certification if the handler increased his total volume by adding producers to his payroll or by otherwise obtaining milk from producers who had delivered previously to other markets. The latter condition would require the market administrator to verify the alleged unprofitability in handling by the proprietary handler. The obligation on the cooperative marketing agency to take the milk from such handler would be dependent on such determination and verification. It is not clear from the testimony, however, whether such unprofitability has reference to the total operations of the handler, or to certain aspects of handling.

Having negotiated a handling charge, and arranged for milk to be processed at a plant, the cooperative marketing agency would notify the handler from whom the milk was taken of the "net" price at which the milk should be accounted for under the order. Unless

the cooperative marketing agency, or "clearing house", operated facilities of its own as a handler, accountability to the pool would be accomplished through the handler for whom the milk is marketed. Such net price would be the amount received by the agency less handling, transportation and overhead expense. The net price necessarily would be a preliminary figure subject to subsequent adjustment depending on the overhead expense of the cooperative marketing agency, as finally determined by the agency.

The proposals recognized the desirability of disclosure of the financial operations of the cooperative marketing agency. One proposal would vest accounting responsibility in the market administrator. The specific means for auditing agency operations were not indicated in connection with the other proposals.

Proponents contend that existing milk manufacturing facilities are sufficient in the New York-New Jersey market and in other markets of the Northeast to accommodate all quantities of milk likely to be handled by the cooperative marketing agency. Proponents do not preclude, however, the acquisition by the agency of its own processing facilities for the specified purposes. At least one proponent stated the position that the operations of the cooperative marketing agency could generate the funds therefor if such facilities were deemed necessary. The main objective of such an acquisition would be to place producers in position to compete favorably with efficient Midwestern plants processing butter and nonfat dry milk.

The principal effects of the proposals would be to (1) establish a limited use-classification for "excess" surplus milk without a corresponding fixed minimum price, or specific method for fixing minimum prices, which all handlers shall pay, (2) create a cooperative marketing agency to market the milk accounted for in such use, (3) permit handlers to avoid payment of the prevailing Class III milk price on a portion of their receipts, and (4) assess to all producers in the market the costs incurred in marketing excess surplus milk.

The concept of equalizing among producers the returns from the sale of their milk is contained in all the Federal milk marketing orders in the Northeast either by marketwide pooling or through individual-handler pools, as provided by the statute. Such equalization is dependent upon the minimum value of the milk utilized by handlers. This minimum value is determined from the specific methods for fixing the minimum class prices established by the respective orders. Classified pricing is fundamental to such equalization.

Since the proposed cooperative marketing agency would arrive at prices for milk disposed of from time to time as individual quantities of "excess" surplus milk on the basis of negotiation of the receiving and processing costs associated therewith, such prices under Order No. 2, or any of the other orders in the Northeast, normally would not be uniform among all handlers because of the varia-

tions resulting from separate negotiations. An "open-end" plan of negotiating different prices with various handlers for individual lots of milk does not provide assurance of uniform applicability to all handlers.

The preliminary nature of the net price which the proposed agency would determine could prevent or unduly delay the fixing of a specified time at which payment shall be made for milk. In large measure, the success of equalization revolves around a "producers" fund which is solvent and to which all contribute in accordance with a formula equitably determined and of uniform applicability. Failure by handlers to meet their obligations promptly would threaten the whole scheme. Even temporary defaults by some handlers could work unfairness to others, encourage wider noncompliance, and engender doubt and distrust which could dislocate delicate economic arrangements. None of the proposals under consideration contemplated full payment for the milk involved within the periods for payment provided by the several Northeast orders.

Discussion of the problems of determining appropriate Class III milk prices under Order No. 2 is contained in exhibits 14-19 of the record. These exhibits have been referred to earlier as the "Clark study", a marketing research project sponsored by the Department. This study concludes, among other things, that the price-making agency might find it feasible and desirable to control the physical handling of "excess" surplus milk by operating its own processing facilities, or by designating one or more firms within the industry to act in its behalf to dispose of milk not wanted by handlers, so that the pricing agency in setting the general price level for Class III milk under Order No. 2 would not need to be concerned with the possibility of some milk remaining unsold. We believe this suggestion was predicated on the assumption that the pricing agency would have the authority and responsibility of assuring that all the milk produced finds a market.

While such authority and responsibility are not provided, the Secretary is required, on the other hand, to fix classification prices or methods of pricing which, in meeting specific criteria, must be at a level in the public interest. The problem involved in achieving this result when delegation of such responsibility is involved was described in a final decision issued August 13, 1954, by the Assistant Secretary relating to proposed amendments to Order No. 2, official notice of which is taken. At that time the proposal was a "flexible" pricing plan, with a general objective somewhat similar to that underlying the present marketing agency proposal. The proposal at that time would have authorized the market administrator to establish, within prescribed limits, handling allowances to handlers in connection with the disposition of surplus milk. A condition of the 1954 proposal was that such allowances could be revoked by the Secretary within a specified time period. In view of this proposed "veto" it was found

that the prospect of obtaining different decisions than might be arrived at by the Secretary would be indeed remote in any situation where the proposed delegation of authority tended to preclude the Secretary from effectively discharging the responsibilities for the fixing of minimum prices to producers imposed upon him by the statute. Thus, the 1954 decision correctly observed that the price-making responsibility vested in the Secretary by the Act must not be rendered ineffective by delegation. In denial of the proposal, it was found that such an arrangement was not an acceptable method of increasing flexibility in the pricing of Class III milk. A difficulty similar in principle is involved in the present proposal.

It is concluded that none of the proposals to establish a cooperative marketing agency to market "excess" surplus milk under the conditions contemplated may be adopted.

Rulings on proposed findings and conclusions and on motions. 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.

Rulings of the presiding officer to which specific objections were taken in the briefs have been reviewed. Objections were raised to the Presiding Officer's ruling upon the following: (1) denial of cross-examination of a cooperative association representative as to the circumstances now present which had not been considered previously by the Secretary in prior decisions on Class III price formula proposals; and (2) the exclusion of testimony in support of revision of transportation (location) differential rates for Class II or III milk in the respective orders as not being within the scope of the notice of hearing.

In compliance with § 900.9(b) of the rules of practice, a brief was filed in which it was maintained that the Presiding Officer was in error in his ruling on the admission of testimony as described in (1) above. The findings and conclusions contained herein are based necessarily upon the evidence adduced at this hearing. Official notice was taken of the findings and conclusions in previous decisions (as cited in the hearing record) by the Secretary, however, and the content thereof taken into account in relation to the other evidence adduced at this hearing.

The motion on the second objection cited above was supported by an offer of proof under § 900.8(d) (6) of the rules of practice (7 CFR Part 900). In compliance with § 900.9(b) of the rules of practice, a brief was filed by the interested party which requested review of the ruling made by the Presiding Officer to exclude testimony on a proposal contained in the Hearing Notice which re-

ferred to coordination of transportation, or plant location, differentials in all Northeastern Federal orders.

Specifically, this proposal would establish a new method of rate determination to result in revised zone rate schedules for each order currently containing such a schedule and providing a schedule where not so provided by the present order. In ruling on the admission of testimony on such proposal, the Presiding Officer stated his view that the notice would permit consideration of the coordination of transportation rates now in effect in the respective orders in relation to any changes made in the pricing formulas under review, but that the notice did not permit consideration of new bases for the determination of rates. The Presiding Officer granted the motion of those interested parties who complained that the notice was inadequate for the receipt of evidence on such matter. As further discussed in this decision, the relationship of reserve milk prices to be established by the amendments proposed herein takes into account price adjustments based on location.

A review of the supporting statements offered and rulings of the Presiding Officer on these motions has been made. Such rulings are hereby affirmed.

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

Recommended marketing agreement and order amending the order. The following orders amending the orders regulating the handling of milk in the

Greater Boston, Massachusetts; New York-New Jersey; Philadelphia, Pennsylvania; Southeastern New England; Springfield, Massachusetts; Upper Chesapeake Bay; Washington, D.C.; Worcester, Massachusetts; Wilmington, Delaware, and Connecticut marketing areas, respectively, 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 respective orders, as hereby proposed to be amended:

AMENDMENTS TO GREATER BOSTON ORDER PROVISIONS

1. Delete § 1001.41 and substitute therefor the following:

§ 1001.41 Class II price.

The Class II price per hundredweight at plants located in zone 21 shall be determined for each month pursuant to this section.

(a) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.7 percent, or adding for each one-tenth of one percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture.

(b) Adjust the result obtained in paragraph (a) of this section by the amount shown below for the applicable month:

Month:	Amount (cents)	Month:	Amount (cents)
Jan.....	+08	July.....	+08
Feb.....	+07	Aug.....	+15
Mar.....	00	Sept.....	+11
Apr.....	-04	Oct.....	+11
May.....	-07	Nov.....	+11
June.....	-06	Dec.....	+11

2. Delete § 1001.44 and renumber §§ 1001.45 and 1001.46 as §§ 1001.44 and 1001.45.

3. Delete present § 1001.46(b) and substitute therefor the following as new § 1001.45(b):

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

4. Replace the semicolon in § 1001.50 (c) with a period, delete from such paragraph the word "and", and delete § 1001.50(d).

5. Delete § 1001.63 and substitute therefor the following:

§ 1001.63 Butterfat differential.

Each handler, in making payments to each producer for milk received from him, shall add for each one-tenth of one percent of average butterfat content

above 3.7 percent, or deduct for each one-tenth of one percent of average butterfat below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 1.25 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture and dividing the result by 10.

AMENDMENTS TO NEW YORK-NEW JERSEY ORDER PROVISIONS

1. Amend the opening paragraph of § 1002.40 by deleting the cross-reference "1002.44" wherever it appears and substitute therefor "1002.43."

2. Amend § 1002.40(b) by deleting "1002.46" wherever it appears and substitute therefor "1002.45."

3. Delete § 1002.40(e) and substitute therefor the following:

(e) For Class III milk, the price shall be the net amount determined pursuant to this paragraph:

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.5 percent, or adding for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month:	Amount (cents)	Month:	Amount (cents)
Jan.....	+08	July.....	+08
Feb.....	+07	Aug.....	+15
Mar.....	00	Sept.....	+11
Apr.....	-04	Oct.....	+11
May.....	-07	Nov.....	+11
June.....	-06	Dec.....	+11

4. Amend § 1002.41 by deleting the words "and Class III" immediately following the words "Class II", and adding a new sentence at the end of the section to read as follows: "The minimum price for Class III milk shall be plus or minus, for each one-tenth of one percent of butterfat therein above or below 3.5 percent, an amount computed as follows: Multiply by 0.125 and round to the nearest one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the

United States Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market."

5. Amend § 1002.42 by deleting "1002.44" in the last sentence immediately preceding the table and substitute therefor "1002.43".

6. Delete § 1002.43 in its entirety and renumber §§ 1002.44, 1002.45 and 1002.46 as §§ 1002.43, 1002.44 and 1002.45, respectively.

7. Amend present § 1002.45 by deleting "1002.46" immediately following the words "§§ 1002.40 through" and substituting therefor "1002.45".

8. Amend present § 1002.46(b) by deleting subparagraphs (3), (7), and (8); by renumbering subparagraphs (4), (5), (6), (9), and (10) as (3), (4), (5), (6), and (7); and in present subparagraph (4) by deleting "1002.44" and substituting therefor "1002.43".

9. Amend the opening paragraph of § 1002.65 by deleting "1002.43" immediately preceding "1002.66"; by deleting paragraph (e); and by renumbering paragraphs (f), (g) and (h) as (e), (f), and (g).

10. Amend § 1002.82 by deleting paragraph (b) and renumbering paragraph (c) as (b).

11. Amend § 1002.83(b) by deleting "1002.44" wherever it appears and substituting therefor "1002.43"; and in subparagraph (3) by deleting the reference to "§ 1002.46(b) (9)" and substituting therefor "§ 1002.45(b) (6)".

12. Amend § 1002.84(b) (3) by deleting "1002.44" and substituting therefor "1002.43".

AMENDMENTS TO PHILADELPHIA ORDER PROVISIONS

1. Delete § 1004.50(b) and substitute therefor the following:

(b) The price per hundredweight of Class II milk shall be determined for each month as follows:

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.7 percent, or adding for each one-tenth of one percent of average butterfat content below 3.7 percent an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture; and

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month:	Amount (cents)	Month:	Amount (cents)
Jan-----	+16	July-----	+16
Feb-----	+15	Aug-----	+23
Mar-----	+06	Sept-----	+19
Apr-----	+04	Oct-----	+19
May-----	+01	Nov-----	+19
June-----	+02	Dec-----	+19

2. Delete § 1004.51 and substitute therefor the following:

§ 1004.51 Butterfat differentials to handlers.

For milk containing more or less than 3.7 percent butterfat, the class prices for the month calculated pursuant to § 1004.50 shall be increased or decreased, respectively, for each one-tenth of one percent variation in butterfat content by the appropriate rate, rounded in each case to the nearest one-tenth cent determined as follows:

(a) *Class I milk.* Divide by 37 an amount calculated as follows: Add all market quotations (using the midpoint of any weekly range as one quotation) of prices per 40-quart can of fresh sweet cream of bottling quality of 40 percent butterfat content, not including prices for cream carrying special municipal approvals, reported at Philadelphia for each week ending within the month by the United States Department of Agriculture, divide by the number of quotations, subtract \$2.00, divide by 9.19: *Provided,* That such butterfat value shall not be less than 3.7 times 120 percent of the average of the daily wholesale selling prices for Grade A (92-score) butter at New York as reported by the United States Department of Agriculture for the month for which payment is to be made, less 18 cents.

(b) *Class II milk.* Multiply by 0.125 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture for Grade A (92-score) butter in the New York City market.

3. Amend § 1004.81 by deleting all the words following the word "respectively" and substituting therefor the following "by the butterfat value computed pursuant to § 1004.51(a) and rounded to the nearest full cent."

AMENDMENTS TO SOUTHEASTERN NEW ENGLAND ORDER PROVISIONS

1. Amend § 1014.40(b) by deleting subparagraphs (1), (2), (3) and that part of (4) immediately preceding subdivision (i); and renumbering subdivisions (i) and (ii) as subparagraphs (1) and (2).

2. Amend subdivision (ii) of § 1014.40 (b) (4) (renumbered to be subparagraph (2)) by deleting the words "subdivision (i) of this subparagraph" and substitute therefor "subparagraph (1) of this paragraph", and by deleting the monthly seasonal adjustments and substituting therefor the following:

Month:	Amount	Month:	Amount
Jan ----	+\$0.138	July ----	+\$0.138
Feb ----	+ .128	Aug ----	+ .208
Mar ----	+ .058	Sept ----	+ .168
Apr ----	+ .018	Oct ----	+ .168
May ----	- .012	Nov ----	+ .168
June ----	- .002	Dec ----	+ .168

3. Amend § 1014.61 by deleting the language which begins "as follows: Subtract 52.5 cents" through and including the words "the butterfat differential shall be determined".

AMENDMENTS TO UPPER CHESAPEAKE BAY (MARYLAND) ORDER PROVISIONS

1. Delete § 1016.50(b) and substitute therefor the following:

(b) *Class II price.* The price for Class II milk shall be determined for each month as follows:

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.5 percent or adding for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture; and

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month:	Amount	Month:	Amount
Jan ----	+\$0.10	July ----	+\$0.10
Feb ----	+ .09	Aug ----	+ .17
Mar ----	+ .02	Sep ----	+ .13
Apr ----	- .02	Oct ----	+ .13
May ----	- .05	Nov ----	+ .13
June ----	- .04	Dec ----	+ .13

2. Delete § 1016.51(b) and substitute therefor the following:

(b) *Class II milk.* Multiply by 0.125 the simple average of the daily wholesale selling prices per pound (using the midpoint of any range as one price) reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture for Grade A (92-score) butter in the New York City market.

AMENDMENTS TO WASHINGTON, D.C., ORDER PROVISIONS

1. Delete § 1003.50(b) and substitute therefor the following:

(b) *Class II price.* The price for Class II milk shall be determined for each month as follows:

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.5 percent, or adding for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of

the current month by the United States Department of Agriculture; and

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month:	Amount	Month:	Amount
Jan	+\$0.10	July	+\$0.10
Feb	+.09	Aug	+.17
Mar	+.02	Sept	+.13
Apr	-.02	Oct	+.13
May	-.05	Nov	+.13
June	-.04	Dec	+.13

2. Delete § 1003.51(b) and substitute therefor the following:

(b) *Class II milk.* Multiply by 0.125 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture for Grade A (92-score) butter in the New York City market.

AMENDMENTS TO WILMINGTON ORDER PROVISIONS

1. Delete § 1010.50(b) in its entirety and substitute therefor the following:

(b) *Class II milk.* The Class II price per hundredweight shall be the Class II price determined each month pursuant to § 1004.50(b) of the Federal order regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area.

2. Delete § 1010.51(b) in its entirety and substitute therefor the following:

(b) *Class II milk.* The amount per hundredweight determined for each month pursuant to § 1004.51(b) of the

order regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area.

AMENDMENTS TO CONNECTICUT ORDER PROVISIONS

1. Amend § 1015.40 by deleting paragraph (b) and renumbering paragraph (c) as (b).

2. Amend present § 1015.40(c) preceding subparagraph (1) to read as follows:

The Class II price per hundredweight shall be computed for each month as follows:

3. Amend present § 1015.40(c)(2) by deleting the monthly seasonal adjustments and substituting therefor the following:

Month:	Amount	Month:	Amount
Jan	+\$0.138	July	+\$0.138
Feb	+.128	Aug	+.208
Mar	+.058	Sept	+.168
Apr	+.018	Oct	+.168
May	-.012	Nov	+.168
June	-.002	Dec	+.168

4. Amend § 1015.61 by deleting the language which begins as follows: "Subtract 52.5 cents" through and including the words "the butterfat differential shall be determined" and by deleting the last two words in the section, "nearest cent" and substituting therefor the following "nearest one-tenth cent".

Signed at Washington, D.C., on January 22, 1962.

ORVILLE L. FREEMAN,
Secretary.

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