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1949 Edition

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in hospitals where a mess for subsisting enlisted members is available and when such enlisted members are authorized to subsist themselves independently. Such term shall also be considered applicable in the case of enlisted members during all periods of authorized leave, including periods of leave or delay while en route between duty stations.

(d) The term "when assigned to duty under emergency conditions where no Government messing facilities are available" shall be considered applicable in the case of enlisted members assigned to duty under conditions requiring extraordinary expenses for subsistence as determined in accordance with regula-

tions prescribed pursuant to section 2 hereof.

(e) The term "being subsisted at Government expense" shall be considered applicable to enlisted members who are subsisted in kind by the Government, and to enlisted members while they are in a travel status and are entitled to a per-diem allowance in lieu of subsistence or to a mileage allowance.

SEC. 4. The existing regulations governing the payment of basic allowances for subsistence to members of the uni-

formed services prescribed by Executive orders pursuant to the authority contained in the Pay Readjustment Act of 1942 of June 16, 1942, as amended, and existing departmental regulations and determinations with respect to such allowances prescribed or made pursuant to the authority contained in such act or in such Executive orders are hereby adopted and prescribed, so far as applicable and appropriate, as regulations authorized to be prescribed by the President under section 301 of the Career

Compensation Act of 1949: *Provided*, that all such regulations and determinations shall cease to be effective on May 1, 1950.

SEC. 5. Section 4 of this order shall become effective immediately, and sections 1, 2, and 3 shall become effective on May 1, 1950.

HARRY S. TRUMAN

THE WHITE HOUSE,

March 27, 1950.

[F. R. Doc. 50-2721; Filed, Mar. 29, 1950; 11:39 a. m.]

RULES AND REGULATIONS

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1949 C. C. C. Grain Sorghums Bulletin 1, Amdt. 2]

PART 621—GRAIN SORGHUMS

SUBPART—1949 GRAIN SORGHUMS LOAN AND PURCHASE AGREEMENT PROGRAM

The regulations issued by Commodity Credit Corporation and the Production and Marketing Administration, published in 14 F. R. 2969, 4587, 4653, 5417, 15 F. R. 75 and 1584, governing the making of loans and containing the requirements of the purchase agreement program on grain sorghums produced in 1949 are hereby amended as follows:

Section 621.119 *Maturity and satisfaction*, paragraph (b) *Purchase agreements*, is amended to read as follows:

(b) *Purchase agreements*. The producer who signs a purchase agreement (Commodity Purchase Form 1) will not be obligated to sell any grain sorghums to CCC. However, the quantity which he stated in the purchase agreement will be the maximum quantity he may sell to CCC. If the producer who signs a purchase agreement wishes to sell grain sorghums to CCC he will have a 30-day period during which he must notify the county committee of his intention to sell. This period will end on March 31, 1950.

In the case of eligible grain sorghums stored in an approved warehouse, the producer must on April 1, 1950, submit warehouse receipts, under which the warehouseman guarantees quality and quantity, to the county committee for the quantity of such grain sorghums he elects to sell to CCC but not in excess of the quantity shown on Commodity Purchase Form 1. The producer may submit such warehouse receipts after April 1, but not later than May 1, 1950, only in cases where the eligible grain sorghums are in transit (or where they have been in transit during March, 1950, but such warehouse receipts have not yet been issued): *Provided*, That, not later than April 1, 1950, the producer obtains the

approval of the county committee in writing and certifies that he will deliver such warehouse receipts to the county committee as soon as they are issued.

In case of eligible grain sorghums stored in other than approved warehouse storage, the county committee will, on or after April 1, 1950, issue delivery instructions to the producer. The producer must then complete delivery within a 15-day period immediately following the date the county committee issues delivery instructions unless the county committee determines more time is needed for delivery. The quantity of grain sorghums delivered must not be in excess of the quantity shown on Commodity Purchase Form 1. Grain sorghums delivered under a purchase agreement will be purchased at the applicable settlement value for the approved point of delivery. When delivery is completed, payment will be made by a sight draft drawn on CCC by the State PMA office on the basis of Commodity Purchase Form 4. The producer shall direct on such form to whom payment of the proceeds shall be made.

Eligible grain sorghums will be purchased on the basis of the weight, grade, and other quality factors shown on the warehouse receipts and/or accompanying documents; or, if such grain sorghums are delivered to a CCC storage facility, on the basis of the weight, grade, and other quality factors determined by the county committee (in accordance with instructions for the determination of such factors under the loan program) and agreed to by the producer at the time of delivery. The settlement values for grain sorghums delivered under a purchase agreement will be set forth in Supplement 1 to this bulletin.

(Sec. 4, 62 Stat. 1070, 15 U. S. C. Sup., 714b. Interprets or applies secs. 4, 5, 62 Stat. 1070, 1072; 15 U. S. C. Sup., 714b, 714c)

Issued this 27th day of March 1950.

(SEAL) ELMER F. KRUSE,
Vice President,
Commodity Credit Corporation.

Approved:

FRANK K. WOOLLEY,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 50-2665; Filed, Mar. 29, 1950; 8:51 a. m.]

PART 664—TOBACCO

SUBPART—1949 TOBACCO LOAN PROGRAM

Set forth below are schedules of advance rates, by grades, for sorted 1949 crop of type 51 tobacco under the tobacco loan program formulated by Commodity Credit Corporation and Production and Marketing Administration, published July 7, 1949 (14 F. R. 3752).

§ 664.35 *1949 Crop; Connecticut Valley broadleaf tobacco, Type 51, advance schedule.*¹

SORTED

[Dollars per hundred pounds, farm sales weight]

Grade:	Advance rate	Grade:	Advance rate
B1F 37	100	B2P 37	70
B1F 36	85	B2P 36	60
B2P 37	86	B3P 37	60
B2P 36	75	B3P 36	50
B3P 37	80	B4P 37	54
B3P 36	70	B4P 36	44
B3P 35	50	B5P 37	50
B4P 37	76	B5P 36	40
B4P 36	66	B5P 35	25
B4P 35	48	B6P 37	36
B5F 37	62	B6P 36	30
B5F 36	50	B6P 35	20
B5F 35	36	B7P 37	32
B6F 37	55	B7P 36	24
B6F 36	44	B7P 35	18
B6F 35	30	B5Z	40
B6F 34	25	B6Z	30
B7P 37	52	B7Z	22
B7P 36	40	R3S 37	30
B7P 35	28	R3S 36	20
B7P 34	20	Y1	15
B1P 37	76	Y2	14
B1P 36	66		

(Sec. 4, 62 Stat. 1070, 15 U. S. C. Sup., 714b. Interprets or applies secs. 4, 5, 62 Stat. 1070, 1072; 15 U. S. C. Sup., 714b, 714c)

Issued this 27th day of March 1950.

ELMER F. KRUSE,
Vice-President,
Commodity Credit Corporation.

Approved:

FRANK K. WOOLLEY,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 50-2666; Filed, Mar. 29, 1950; 8:52 a. m.]

¹ Tobacco can be placed under loan only by the original producer. Tobacco graded "W" (unsafe keeping order), "U" (unsound), or "N" (nondescript) will not be accepted.

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[MQ-21—Peanuts (1950), Amdt. 1]

PART 729—PEANUTS

MARKETING QUOTA REGULATIONS; PEANUTS OF THE 1950 CROP

The purpose of this amendment is to provide that, under certain conditions, an acreage in excess of 1% of the State allotment for 1950 crop peanuts shall be available for farms on which peanuts will be produced in 1950 for the first time since 1946.

The regulations contained in this amendment are issued pursuant to the Agricultural Adjustment Act of 1938, as amended. Prior to preparing these regulations, public notice of their formulation was published in the FEDERAL REGISTER (15 F. R. 1331). No written expressions of views in connection with the proposed amendment were received.

Because farmers are now filing applications for 1950 farm peanut allotments and because farm allotments must be established prior to the time for planting 1950 crop peanuts, it is necessary that this amendment become effective immediately. Accordingly, it is hereby found that compliance with the 30-day effective date provision of section 4 of the Administrative Procedure Act (60 Stat. 237) is contrary to the public interest; therefore, this amendment shall become effective upon publication in the FEDERAL REGISTER.

The Marketing Quota Regulations for Peanuts of the 1950 Crop (14 F. R. 7611) are hereby amended as follows:

Section 729.126 is amended by changing the period at the end of the final sentence thereof to a colon and adding the following: *Provided*, That, notwithstanding any other provisions of §§ 729.110 to 729.127, if the total of the acreages required to establish fair and equitable allotments and reserves for eligible old farms and the acreage required to be available for allotments for new farms in any State, in accordance with the applicable provisions of §§ 729.110 to 729.127, is less than the State allotment, the balance of such State allotment shall, upon approval by the Assistant Administrator, be available for establishing allotments for new farms.

(Sec. 375, 52 Stat. 86, as amended; 7 U. S. C. 1375. Interprets or applies secs. 358, 359, 55 Stat. 88, 90, as amended; 7 U. S. C. and Sup., 1358, 1359)

Done at Washington, D. C., this 27th day of March 1950. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary.

[F. R. Doc. 50-2664; Filed, Mar. 29, 1950; 8:51 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 905—MILK IN THE OKLAHOMA CITY, OKLAHOMA, MARKETING AREA

ORDER REGULATING HANDLING

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AUTHORITY: §§ 905.0 to 905.101 issued under sec. 5, 49 Stat. 753, as amended; 74 U. S. C. and Sup. 608c.

§ 905.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held at Oklahoma City, Oklahoma, on December 5-9, 1949, upon a proposed marketing agreement and a proposed order, regulating the handling of milk in the Oklahoma City, Oklahoma, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined herein, are in the current of interstate commerce and directly burden, obstruct, or affect interstate commerce in milk and its products.

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expense, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all receipts within the month of (i) other source milk which is classified as Class I milk and (ii) milk from producers, including such handler's own production.

(b) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order which is marketed within the Oklahoma City, Oklahoma, marketing area) of more than 50 per cent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing

agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance, and who during the determined representative period (January 1950) were engaged in the production of milk for sale in the said marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered that on and after the effective date hereof the handling of milk in the Oklahoma City, Okla., marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

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

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

§ 905.3 *Department*. "Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified herein.

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

§ 905.5 *Cooperative association*. "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

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

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 905.6 *Oklahoma City, Oklahoma, marketing area*. "Oklahoma City, Oklahoma, marketing area", hereinafter called the marketing area, means all the territory within the boundaries of Oklahoma County, except Deer Creek, Edmond, Lincoln, Deep Fork, Luther, and Elk townships and sections 23, 24, 25 and 26 of Choctaw township, and within the townships of Moore, Taylor, Case, Liberty, Norman and Noble in Cleveland County, all in the State of Oklahoma.

§ 905.7 *Approved plant*. "Approved plant" means a milk processing plant which has been approved by a municipal or state health authority having jurisdiction in the marketing area or by a Federal agency located in the marketing area and from which milk, skim milk,

buttermilk, flavored milk drinks or cream is disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

§ 905.8 *Unapproved plant*. "Unapproved plant" means any milk processing or distributing plant which is not an approved plant.

§ 905.9 *Handler*. "Handler" means (a) any person in his capacity as the operator of an approved plant, or (b) any cooperative association, with respect to the milk of any producer which it caused to be diverted to an unapproved plant for the account of such cooperative association.

§ 905.10 *Producer*. "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at an approved plant: *Provided*, That such milk is produced under a dairy farm permit or rating issued by a municipal or state health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as Grade A milk or which is acceptable to a Federal agency. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be diverted to an unapproved plant by a handler and milk so diverted shall be deemed to have been received at an approved plant by the handler who caused it to be diverted. This definition shall not include a person with respect to milk produced by him which is received by a handler who is subject to another Federal marketing order and who is partially exempted from the provisions of this order pursuant to § 905.61.

§ 905.11 *Producer milk*. "Producer milk" means all skim milk and butterfat in milk produced by a producer, other than a producer-handler, which is purchased or received by a handler either directly from producers or from other handlers.

§ 905.12 *Other source milk*. "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 905.13 *Producer-handler*. "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers.

MARKET ADMINISTRATOR

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

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

(a) To administer the terms and provisions hereof;

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

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

(d) To recommend to the Secretary amendments hereto.

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

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

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

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

(d) Pay out of the funds provided by § 905.87 the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 905.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 905.30 to 905.32, or (2) payments pursuant to §§ 905.80 to 905.87;

(i) On or before the 12th day after the end of each month report to each cooperative association which so requests the utilization of the milk caused to be delivered by such cooperative association, either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For purposes of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

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

(1) On or before the 5th day of each month the minimum price for Class I milk computed pursuant to § 905.51 (a) and the Class I butterfat differential

RULES AND REGULATIONS

computed pursuant to § 905.52 (a) both for the current month; and the minimum price for Class II milk computed pursuant to § 905.51 (b) and the Class II butterfat differential computed pursuant to § 905.52 (b), both for the previous month, and

(2) On or before the 12th day of each month the uniform price computed pursuant to § 905.71 and the butterfat differential computed pursuant to § 905.81, both for the previous month; and

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

REPORTS, RECORDS AND FACILITIES

§ 905.30 *Reports of receipts and utilization.* On or before the 7th day after the end of the month each handler, except a producer-handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

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

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

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

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

(e) The disposition of Class I products on routes wholly outside the marketing area; and

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

§ 905.31 *Payroll reports.* On or before the 20th day of each month each handler shall submit to the market administrator his producer payroll for the preceding month which shall show (a) the total pounds of milk received from each producer and cooperative association and the total pounds of butterfat contained in such milk, (b) the amount of payment to each producer and cooperative association, and (c) the nature and amount of any deductions or charges involved in such payments.

§ 905.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, of his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

§ 905.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are

necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

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

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 905.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 905.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 905.30 shall be classified by the market administrator pursuant to the provisions of §§ 905.41 to 905.46.

§ 905.41 *Classes of utilization.* Subject to the conditions set forth in §§ 905.43 and 905.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, aerated products containing milk or cream, any mixture (except bulk ice cream mix) of cream and milk or skim milk and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section;

(b) Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those specified in paragraph (a) of this section, (2) disposed of for livestock feed, (3) in shrinkage up to 2 percent of receipts from producers, (4) in shrinkage of other source milk, and (5) in inventory variations of milk, skim milk and cream.

§ 905.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 905.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat (except that transferred to a producer-handler) shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 905.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream, to the approved plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided*, That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 905.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred or diverted to a producer-handler in the form of milk, skim milk or cream.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk to an unapproved plant located more than 200 miles from the approved plant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred in the form of cream under Grade A certification to an unapproved plant located more than 200 miles from the approved plant and as Class II milk if so transferred without Grade A certification.

(e) (1) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to an unapproved plant located not more than 200 miles from the approved plant, and from which fluid milk is disposed of on wholesale or retail routes unless all the following conditions are met:

(i) The market administrator is permitted to audit the records of such unapproved plant; and

(ii) Such unapproved plant receives milk from dairy farmers who the market administrator determines constitute its regular source of supply for Class I milk.

(2) If these conditions are met the market administrator shall classify such milk as reported by the handler subject to verification as follows:

(i) Determine the use of all skim milk and butterfat at such unapproved plant, and

(ii) Allocate the skim milk and butterfat so transferred or diverted to the highest use classification remaining after subtracting in series beginning with the highest use classification, the skim milk and butterfat in milk received at the unapproved plant direct from dairy farmers.

(f) As Class II milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 200 miles from the approved plant and from which fluid milk is not disposed of on wholesale or retail routes.

§ 905.45 Computation of the skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 905.46 Allocation of skim milk and butterfat classified. After making the computations pursuant to § 905.45 the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 905.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided*, That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classification as determined pursuant to § 905.44 (a);

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

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, an amount equal to the difference shall be subtracted from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be called "average".

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

(c) Determine the weighted average butterfat content of the Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

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

Class I milk shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 905.51 (b) for the preceding month.

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

Present Operator and Location

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

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, subtract 3 cents, add 20 percent thereof and multiply by 4.0.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray, and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.96.

§ 905.51 Class prices. Subject to the provisions of § 905.52, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) **Class I milk.** The basic formula price plus \$1.25 during the months of April, May, and June and plus \$1.65 during all other months: *Provided*, That for each of the months of September, October, November, and December, such price shall be not less than that for the preceding month, and that for each of the months of April, May, and June such price shall be not more than that for the preceding month.

(b) **Class II milk.** The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which

prices have been reported to the market administrator or to the Department.

Present Operator and Location

Fairmont Foods Co., Guthrie, Okla.
Wilson & Co., Blackwell, Okla.
Kraft Cheese Co., Sulphur, Okla.
Hawk Dairy, Tulsa, Okla.

§ 905.52 Butterfat differentials to handlers. If the average butterfat content of the milk of any handler allocated to any class pursuant to § 905.46 is more or less than 4.0 percent, there shall be added to the respective class price computed pursuant to § 905.51 for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the applicable butterfat differential computed as follows:

(a) **Class I milk.** Multiply by 1.25 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the preceding month and divide the result by 10.

(b) **Class II milk.** Multiply by 1.15 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month and divide the result by 10.

APPLICATION OF PROVISIONS

§ 905.60 Producer-handlers. Sections 905.40 to 905.46, 905.50 to 905.52, 905.70 to 905.71, 905.80 to 905.87 shall not apply to a producer-handler.

§ 905.61 Handlers subject to other orders. In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the act, the provisions of this order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject, for skim milk and butterfat which would be classified as Class I milk under this order is less than the price provided by this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject.

DETERMINATION OF UNIFORM PRICE

§ 905.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices, and adding together the resulting amounts: *Provided*, That if the handler had overage of either skim milk or butterfat there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 905.46 by the applicable class prices.

§ 905.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform price per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 905.70 for all handlers who made the reports prescribed in § 905.30 and who made the payments pursuant to §§ 905.80 and 905.83 for the preceding month.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 905.85;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 905.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Divide the resulting amount by the total hundredweight of milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received from producers.

PAYMENTS

§ 905.80 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer at not less than the uniform price computed pursuant to § 905.71, adjusted by the butterfat differential computed pursuant to § 905.81, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 13th day after the end of the month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) On or before the last day of each month to each producer for milk received from him during the first 15 days of the month at not less than the Class II price for the preceding month: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payments for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association at least 3 days before the end of the month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

§ 905.81 *Producer butterfat differential.* In making payments pursuant to § 905.80 (a) there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 905.82 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", into which he shall deposit payments made by handlers pursuant to §§ 905.83, 905.81 (b) and 905.85 and out of which he shall make payments to handlers pursuant to §§ 905.84 and 905.85.

§ 905.83 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 905.70 is greater than the amount required to be paid producers by such handler pursuant to § 905.80 (a).

§ 905.84 *Payment out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 905.70 is less than the amount required to be paid producers by such handler pursuant to § 905.80 (a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who has not received the balance of such payment from the market administrator shall be considered in violation of § 905.80 (a) if he reduces his payments to

producers by not more than the amount of the reduction in payment from the producer-settlement fund. The handler shall complete such payments to producers not later than the date for making such payments, next following after the receipt of the balance from the market administrator.

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

§ 905.86 *Marketing services—(a) Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 905.80 shall deduct 5 cents per hundredweight or such lesser amount as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of such month pay such deduction to the cooperative association rendering such services.

§ 905.87 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts within the month of (a) other source milk which is classified as Class I, and (b) milk from producers including such handler's own production.

§ 905.88 *Termination of obligation.* The provisions of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the

milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

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

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

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 905.90 *Effective time.* The provisions hereof or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 905.91.

§ 905.91 *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event

whenever the provisions of the act authorizing it cease to be in effect.

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

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

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 27th day of March 1950, to be effective on and after the first day of May 1950.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 50-2672; Filed, Mar. 29, 1950; 8:53 a. m.]

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

ORDER AMENDING ORDER REGULATING HANDLING

§ 961.0 *Findings and determinations.* The findings and determinations herein-after 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 each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may

be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held at Philadelphia, Pennsylvania, on January 25-28, 1950, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, 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 amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and is hereby further amended, will tend to effectuate the declared policy of the act;

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

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary to make the present amendment to said order, as amended, effective not later than April 1, 1950, to reflect current marketing conditions. Any further delay in the effective date of this order, amending the said order, as amended, will seriously disrupt the orderly marketing of milk for the Philadelphia, Pennsylvania, marketing area. The changes effected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is hereby found that good cause exists for making this order effective April 1, 1950 (see sec. 4 (c), Administrative Procedure Act (5 U. S. C. 1003 (c))).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, amending the order, as amended, which is marketed within the Philadelphia, Pennsylvania, milk marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said

RULES AND REGULATIONS

marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practicable means, pursuant to the declared policy of the Act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, amending the said order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of this order amending the order, as amended, and who during the determined representative period (December 1949) were engaged in the production of milk for sale in the said marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Philadelphia, Pennsylvania, milk marketing area, shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended is hereby further amended as follows:

1. In § 961.1 (a) (6) (i) insert in the list the plant designation: "Philadelphia Dairy Products Company, Inc., Pottstown, Pennsylvania"; and delete the plant designation "Breuninger Dairies, Richlandtown, Pennsylvania."

2. In § 961.3 (e) (1) delete the word "March" and substitute the word "January."

3. In § 961.3 (e) (2) delete the word "April" and substitute the word "February."

4. In § 961.4 (a) (1) delete the proviso: "And provided further, That the price shall be at least \$5.90 per hundredweight for each of the months of October, November and December 1949, and at least \$5.50 per hundredweight for the month of January 1950" and substitute "And provided further, That the price shall be at least \$5.02 per hundredweight for each of the months of April, May and June 1950."

5. Delete § 961.4 (a) (2) and substitute:

(2) *Class II milk.* The price per hundredweight during each month shall be the sum of the values calculated as follows by the market administrator:

(i) *Butterfat.* Add all market quotations (using midpoint of any weekly range as one quotation) of prices for a 40-quart can of fresh sweet cream of bottling quality in the Philadelphia, Pennsylvania, market, reported for each week ending within the month by the United States Department of Agriculture (or such other Federal agency as is authorized to perform this price reporting function), divide by the number of quotations, divide by 33.48, multiply by 4 and subtract 26½ cents: *Provided*, That for butterfat established as used in butter, the price shall be 4 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 19 cents, but in no event shall this butter value be greater than the butterfat value established otherwise by this subdivision.

(ii) *Skim milk.* Multiply by 7.5 the average of all the prices per pound quoted for nonfat dry milk solids under the designation "roller, other brands, human consumption, carlots, bags, or barrels" (using midpoint of any range as one quotation), as published for such month in the "Producers Price Current," and subtract 54 cents in the computation of prices for the months of April, May and June, and 44 cents in other months, except in the computation of prices for March and July 1950, subtract 54 cents. (Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Issued at Washington, D. C., this 27th day of March 1950, to be effective on and after the first day of April 1950.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

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PART 967—MILK IN THE SOUTH BEND-LA PORTE, INDIANA, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED,
REGULATING HANDLING

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AUTHORITY: §§ 967.0 to 967.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c.

§ 967.0 *Findings and determinations.* The findings and determinations herein-after 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 each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, 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, as amended, regulating the handling of milk in the South Bend-La Porte, Indiana, 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 amended, and as hereby further 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 amended, and as hereby further

amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make effective not later than April 1, 1950, the present amendments to the said order, as amended, in order to reflect current marketing conditions. Any delay beyond April 1, 1950, in the effective date of this order, as amended, and as hereby further amended, will seriously impair orderly marketing of milk in the South Bend-La Porte, Indiana, marketing area. The provisions of the said order are well known to handlers—the public hearing having been held February 20, 1950, and the decision having been executed by the Secretary on March 10, 1950. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order, amending the order, as amended, effective April 1, 1950, and that it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order 30 days after its publication in the FEDERAL REGISTER (see section 4 (c) Administrative Procedure Act, Public Law 404, 79th Congress, 60 Stat. 237; 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order amending the order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended and as hereby further amended, which is marketed within the South Bend-La Porte, Indiana, marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance, and who, during the determined representative period (January 1950), were engaged in the production of milk for sale in the said marketing area

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the South Bend-La Porte, Indiana, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

DEFINITIONS

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

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

§ 967.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal Agency authorized to perform the price reporting functions of the United States Department of Agriculture specified herein.

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

§ 967.5 *Delivery period.* "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

§ 967.6 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

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

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 967.7 *South Bend-La Porte, Indiana, marketing area.* "South Bend-La Porte, Indiana, marketing area," hereinafter called the "marketing area" means all territory within the corporate limits of South Bend, Mishawaka, La Porte, and Michigan City, Indiana.

§ 967.8 *Approved plant.* "Approved plant" means a milk plant which is approved by the health authorities of any of the following municipalities: South Bend, Mishawaka, La Porte, or Michigan City, Indiana, for the processing and distribution of fluid milk and from which a route is operated wholly or partially within the marketing area.

§ 967.9 *Producer.* "Producer" means any person, except a producer-handler, who produces milk which is received at an approved plant, provided one or more of the health authorities set forth in § 967.8 has approved or certified the production of such milk for use as Class I milk or Class II milk in the marketing area. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be temporarily diverted by a handler

from an approved plant to a plant not an approved plant.

§ 967.10 *Producer milk.* "Producer milk" means milk produced by a producer under the conditions set forth in § 967.9.

§ 967.11 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form, except in a nonfluid milk product disposed of in the same form as received, from sources other than a producer or a handler who receives milk subject to the pricing provisions of this order.

§ 967.12 *Route.* "Route" means a delivery (including a sale at a plant store) of Class I milk to a wholesale or retail stop, other than to a milk processing or distributing plant.

§ 967.13 *Handler.* "Handler" means (a) a person who operates an approved plant or (b) a cooperative association with respect to milk (1) caused by it to be delivered from a producer's farm to an approved plant for the account of such association, or (2) customarily received as producer milk at an approved plant which is diverted by such association for its account to a plant not an approved plant.

§ 967.14 *Producer-handler.* "Producer-handler" means any person who operates an approved plant and whose sole source of supply of skim milk and butterfat is from his own production or from his own production and from an approved plant.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

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

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

(c) Obtain in an amount and with surety thereon satisfactory to the Secre-

tary a bond covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 967.85:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 967.86, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 967.30 to 967.32 or (2) payments pursuant to §§ 967.80 to 967.87;

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

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

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

(1) On or before the 7th day after the end of such delivery period, the minimum class prices for skim milk and butterfat pursuant to § 967.5; and

(2) On or before the 14th day after the end of such delivery period, the uniform price computed pursuant to § 967.71 and the butterfat differential computed pursuant to § 967.81; and

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

REPORTS, RECORDS, AND FACILITIES

§ 967.30 *Reports of receipts and utilization.* On or before the 9th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of butterfat and of skim milk contained in all receipts within such delivery period of (1) producer milk, (2) skim milk and butterfat in any form from any other handler, and (3) other source milk; and the source thereof;

(b) The utilization of all receipts reported under paragraph (a) of this section; and

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

§ 967.31 *Other reports.* (a) Each producer-handler shall make reports to

the market administrator at such time and in such manner as the market administrator may prescribe.

(b) On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator such handler's producer pay roll for the preceding delivery period, which shall show (1) the total pounds of milk received from each producer and the average butterfat test of such milk, (2) the amount of payment to each producer and cooperative association, and (3) the nature and amount of any deductions and charges involved in the payments referred to in subparagraph (2) of this paragraph.

§ 967.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

(a) The receipts and utilization, in whatever form, of all skim milk and butterfat received;

(b) The weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each delivery period.

§ 967.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949; *Provided*, That if, within such three year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 967.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat, in any form, received within the delivery period by a handler, in producer milk, in other source milk, and from another handler shall be classified by the market administrator pursuant to the provisions of §§ 967.41 to 967.46.

§ 967.41 *Classes of utilization.* Subject to the conditions set forth in

§§ 967.43 and 967.44, the skim milk and butterfat described in § 967.40 shall be classified by the market administrator on the basis of the following classes:

(a) Class I milk shall be all skim milk and butterfat:

(1) Disposed of in fluid form as milk, skim milk, flavored milk, flavored milk drink, or buttermilk (except as provided in paragraphs (c) (1) and (d) (2) of this section); and

(2) Shrinkage on receipts of producer milk computed pursuant to § 967.42 which is in excess of 2 percent of such receipts and all skim milk and butterfat not specifically accounted for as any item under subparagraph (1) of this paragraph or Class II milk, Class III milk, or Class IV milk.

(b) Class II milk shall be all skim milk and butterfat disposed of as fluid cream (sweet or sour), any mixture of cream and milk (or skim milk), containing not less than 6 percent butterfat, and eggnog.

(c) Class III milk shall be all skim milk and butterfat:

(1) Disposed of in fluid form in bulk as milk, skim milk, buttermilk, or cream to any manufacturer of candy, soup, or bakery products and used in such products;

(2) Used to produce evaporated or condensed milk, cottage cheese, ice cream, ice cream mix, other frozen desserts and mixes, storage cream; and

(3) Used to produce a milk product other than any of those specified in paragraphs (a) (1), (b), or (c) of this section.

(d) Class IV milk shall be all skim milk and butterfat:

(1) Used to produce butter, cheese (excluding cottage cheese), and nonfat dry milk solids;

(2) Dumped or disposed of for livestock feed as skim milk, flavored milk, flavored milk drink, or buttermilk;

(3) In actual plant shrinkage of producer milk computed pursuant to § 967.42 but not in excess of 2 percent thereof; and

(4) In actual plant shrinkage of other source milk computed pursuant to § 967.42.

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

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

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section between that in producer milk and other source milk.

§ 967.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such

handler or by another handler in another class.

§ 967.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk, if transferred or diverted in the form of milk, and as Class II milk if so disposed of in the form of cream, to another handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 9th day after the end of the delivery period within which such transaction occurred: *Provided*, That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 967.46, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next lowest-priced available utilization;

(b) As Class I milk if transferred or diverted in the form of milk, and as Class II milk if so disposed of in the form of cream, to a producer-handler;

(c) As Class I milk if transferred or diverted in the form of milk, and as Class II milk if so disposed of in the form of cream, to a plant not an approved plant unless, (1) the handler claims another class on the basis of utilization mutually indicated in writing to the market administrator by both the buyer and seller on or before the 8th day after the end of the delivery period within which such transaction occurred, (2) the buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification, (3) such buyer's plant had actually used in the use indicated in such statement not less than an equivalent amount of skim milk and butterfat derived by him from milk or cream: *Provided*, That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of skim milk and butterfat so derived in such indicated use, the remaining pounds shall be classified on the basis of the next highest priced available use in accordance with the classes set forth in § 967.41.

§ 967.45 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, Class III milk, and Class IV milk for such handler.

§ 967.46 *Allocation of skim milk and butterfat classified.* The pounds of skim milk and butterfat, respectively, remaining in each class after the following computations shall be the pounds in each class allocated to producer milk:

(a) Subtract, respectively, from the pounds of skim milk and butterfat in Class I milk the pounds of skim milk and butterfat in other source milk which is disposed of as Class I milk in bottles on a

route outside the marketing area; *Provided*, That the health authority having jurisdiction over the plant from which such distribution is made has granted approval for receiving and processing for fluid distribution both approved milk and other source milk in such plant, the handler maintains adequate accounts and records of and practices complete segregation of producer milk and other source milk used in his Class I milk operations, and that such other source milk is disposed of on a route on which no producer milk is disposed of as Class I milk;

(b) Subtract, respectively, from the remaining pounds of skim milk and butterfat in each class (other than the pounds of plant shrinkage of skim milk and butterfat pursuant to § 967.41 (d) (3)) in series beginning with the lowest-priced available use, the pounds of skim milk and butterfat in other source milk excluding that subtracted pursuant to paragraph (a) of this section;

(c) Subtract, respectively, from the remaining pounds of skim milk and butterfat in each class the pounds of skim milk and butterfat received from other handlers and assigned to such class pursuant to § 967.44; and

(d) Subtract, respectively, from the remaining pounds of skim milk and butterfat in each class in series beginning with the lowest-priced available use, the pounds by which such pounds of skim milk and butterfat in all classes exceed, respectively, the pounds of skim milk and butterfat received from producers.

MINIMUM PRICES

§ 967.50 *Basic formula prices for skim milk and butterfat.* The basic formula prices for skim milk and butterfat shall be determined by the market administrator for each delivery period in the following manner:

(a) Compute the arithmetical average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department by the companies listed below:

Present Operator and Location

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

(b) Compute the price per hundredweight as follows:

(1) Multiply by six the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department during the delivery period;

(2) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin; *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by seven, add 30 percent thereof, and multiply by 3.5.

(c) Compute the price per hundredweight by adding together the plus values resulting under subparagraphs (1) and (2) of this paragraph.

(1) Multiply by 8.2 the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period by the Department, and from the result thus obtained deduct 56¢.

(2) Multiply by 4.24 the simple average, as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the delivery period; *Provided*, That if no price is reported for Grade AA (93-score) butter, the higher of the Grade A (92-score) butter prices, if any, for that day shall be in lieu of the price for Grade AA (93-score) butter and from the result thus obtained deduct 11¢.

(d) Multiply the highest of the prices resulting from paragraphs (a), (b), and (c) of this section for the next preceding delivery period by 0.311 (which amount shall be known as the basic formula price per hundredweight of skim milk).

(e) Multiply the highest of the prices resulting from paragraphs (a), (b), and (c) of this section for the next preceding delivery period by 20.0 (which amount shall be known as the basic formula price per hundredweight of butterfat).

§ 967.51 *Class I milk and Class II milk prices.* The minimum prices per hundredweight to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class I milk and Class II milk shall be determined by adding the following amounts to the respective basic formula prices for skim milk and butterfat for the delivery period:

Delivery period	Skim milk	Butterfat
	Class I and class II milk	Class I and class II milk
May and June.....	\$0.156	\$10.00
September through December.....	.280	18.00
All other months.....	.218	14.00

Provided, That the per hundredweight Class II butterfat price shall not be less than the Class III butterfat price determined pursuant to § 967.52 (e).

§ 967.52 *Class III milk prices.* The minimum prices per hundredweight, to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class III milk, shall be determined as follows:

(a) Compute the arithmetical average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or the Department by the companies listed below:

Present Operator and Location

Goshen Milk Condensing Co., Goshen, Ind.
Litchfield Creamery Co., Warsaw, Ind.
New Paris Creamery Co., New Paris, Ind.

Provided, That the price so determined shall not be less than the per hundredweight price of milk determined pursuant to § 967.50 (c).

(b) Compute the percentage that the values of skim milk and butterfat, respectively, as determined pursuant to § 967.50 (c) of this section, is of their sum.

(c) Multiply the price of milk determined pursuant to paragraph (a) of this section by the percentages determined for skim milk and butterfat, respectively, pursuant to paragraph (b) of this section.

(d) Divide the value for skim milk determined pursuant to paragraph (c) of this section by 0.965, which price shall be the Class III price per hundredweight for skim milk.

(e) Divide the value of butterfat determined pursuant to paragraph (c) of this section by 0.035, which price shall be the Class III price per hundredweight for butterfat.

§ 967.53 *Class IV milk prices.* The minimum prices per hundredweight to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class IV milk shall be determined as follows:

(1) The price per hundredweight of such skim milk shall be the price determined pursuant to § 967.50 (c) (1), divided by 0.965.

(2) The price per hundredweight of such butterfat shall be the price determined pursuant to § 967.50 (c) (2), divided by 0.035.

APPLICATION OF PROVISIONS

§ 967.60 *Exempt milk.* Skim milk and butterfat disposed of as Class I and Class II milk on a route in the marketing area shall not be subject to the provisions of this order if (a) such milk is priced under another marketing agreement or order issued pursuant to the act and (b) the person making such disposition of milk in the marketing area is subject to regulation under such other marketing agreement or order: *Provided,* That the handler making such disposition of milk in the marketing area shall at such time and in such manner as the market administrator may require, make reports to the market administrator which shall be subject to verification by the market administrator.

§ 967.61 *Diverted milk.* Producer milk diverted from a handler's plant to an approved plant or to a plant not an approved plant shall be deemed to have been received by the handler for whose account such milk was diverted.

§ 967.62 *Producer-handlers.* Sections 967.40 to 967.46, 967.50 to 967.53, 967.70 to 967.72, and 967.80 to 967.88 shall not apply to a producer-handler.

DETERMINATION OF UNIFORM PRICE

§ 967.70 *Computation of value of producer milk.* The value of producer milk received during each delivery period by each handler shall be computed by the market administrator by multiplying the pounds of skim milk and butterfat respectively allocated to producer milk in each class pursuant to § 967.46, by the applicable class prices, adding together the resulting amounts, and adding the amounts computed as follows: Multiply the pounds of skim milk and butterfat subtracted from the various classes pursuant to § 967.46 (d) by the respective applicable class prices.

§ 967.71 *Computation of uniform price.* For each delivery period, the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 967.70 for all handlers who made the reports pursuant to § 967.30 except those in default in payments required pursuant to § 967.83 for the preceding delivery period;

(b) Subtract, if the weighted average butterfat test of producer milk is greater than 3.5 percent, or add, if such butterfat test is less than 3.5 percent, an amount computed by: Multiplying the amount by which such weighted average butterfat test varies from 3.5 percent by the butterfat differential computed pursuant to § 967.81, and multiply the resulting amount by the hundredweight of such milk;

(c) Add an amount representing the cash balance on hand in the producer-settlement fund, less the amount of unpaid obligations to handlers pursuant to § 967.84 and § 967.87;

(d) Divide by the hundredweight of producer milk; and

(e) Subtract not less than 4 cents nor more than 5 cents (adjusting to the nearest one-tenth cent) from the amount computed under paragraph (d) of this section.

§ 967.72 *Notification to handlers.* On or before the 14th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing (a) the amount and values of his milk in each class and the totals thereof; (b) the applicable minimum class prices and uniform price; (c) the amount owed by him to or the amount due him from the producer-settlement fund, pursuant to § 967.83 or 967.84; and (d) the amount to be paid by him pursuant to §§ 967.80, 967.85, 967.86, and 967.87.

PAYMENTS

§ 967.80 *Time and method of payment.* Each handler shall make payments as follows:

(a) On or before the 18th day after the end of each delivery period, to each producer, except producers for whom payment is made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price for such delivery period pursuant to § 967.71 adjusted by the producer butterfat differential pursuant to § 967.81, for all milk received from such producer during such delivery period: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 967.84, he may reduce such payments uniformly per hundredweight for all producers by an amount not in excess of the per hundredweight reduction in payment from the market administrator: *And provided further,* That such handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) On or before the 15th day after the end of each delivery period, to a cooperative association with respect to milk caused to be delivered from producers' farms to such handler by such association for its account during such delivery period, not less than the value of skim milk and butterfat in such milk computed at the minimum class prices. For the purpose of determining the classification of skim milk and butterfat in such milk, such skim milk and butterfat shall be ratably apportioned among the skim milk and butterfat in such handler's Class I milk, Class II milk, Class III milk and Class IV milk allocated to producer milk pursuant to § 967.46.

§ 967.81 *Producer butterfat differential.* In making payments pursuant to § 967.80 (a) there shall be added to or subtracted from the uniform price, for each one-tenth of one percent of butterfat content in such producer milk above or below 3.5 percent, an amount computed by multiplying the average of the daily wholesale prices per pound of 92-score butter at Chicago during the delivery period as reported by the Department, by 0.12 and rounding to the nearest tenth of a cent.

§ 967.82 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit payments made by handlers pursuant to § 967.83 and payments related thereto pursuant to § 967.87 and out of which he shall make all payments to handlers pursuant to § 967.84 and payments related thereto pursuant to § 967.87.

§ 967.83 *Payments to the producer-settlement fund.* On or before the 16th day after the end of each delivery period, each handler shall pay to the market administrator the amount by which the value of producer milk received by such handler during such delivery period pursuant to § 967.70 minus the amount to be

paid to a cooperative association pursuant to § 967.80 (b) is greater than the amount to be paid producers pursuant to § 967.80 (a): *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 967.80 (b), such cooperative association shall pay to the market administrator, on or before the 16th day after the end of each delivery period, the amount by which the utilization value of such milk is greater than the value computed at the uniform price pursuant to § 967.71 adjusted by the producer butterfat differential pursuant to § 967.81.

§ 967.84 *Payments out of the producer-settlement fund.* On or before the 17th day after the end of each delivery period, the market administrator shall pay to each handler the amount by which the value of producer milk received by such handler during such delivery period pursuant to § 967.70 minus the amount to be paid to a cooperative association pursuant to § 967.80 (b) is less than the amount to be paid producers pursuant to § 967.80 (a), less any unpaid obligation of such handler to the market administrator pursuant to §§ 967.83, 967.85, 967.86, and 967.87: *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 967.80 (b) the market administrator shall pay to such cooperative association, on or before the 17th day after the end of such delivery period, the amount by which the utilization value of such milk is less than the value computed at the uniform price pursuant to § 967.71 adjusted by the producer butterfat differential pursuant to § 967.81: *And provided further*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

§ 967.85 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 967.22 (d) each handler shall pay the market administrator, on or before the 16th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe with respect to skim milk and butterfat received within the delivery period, in producer milk (including such handler's own production) and in other source milk (excluding milk which is subject to administrative expense of another Federal order issued pursuant to the act).

§ 967.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 967.80 (a) shall make a deduction of 4 cents per hundredweight of milk, or such lesser deduction as the Secretary from time to time may prescribe, with respect to the following:

- (1) All milk received from producers (except milk of such handler's own production) at a plant not operated by a cooperative association; and
- (2) All milk received at a plant operated by a cooperative association from

producers who are not members of such association. Such deductions shall be paid by the handler to the market administrator on or before the 16th day after the end of each delivery period. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing for market information to such producers, such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deduction therefor, to a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the Secretary determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 967.80 (a) the amount per hundredweight on milk authorized by such producer and shall pay over, on or before the 16th day after the end of such delivery period, such deduction to the association entitled to receive it under this paragraph.

§ 967.87 *Adjustments of accounts.* (a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the 5th day after such notice.

(b) An unpaid obligation of a handler or of the market administrator shall bear interest at the rate of one-half of one percent per month, such interest to accrue on the 1st day of the calendar month next following the due date of such obligation and on the first day of each calendar month thereafter until such obligation is paid.

§ 967.88 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete

upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

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

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

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

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

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

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 967.90 *Effective time.* The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 967.91 *Suspension or termination.* The Secretary shall, whenever he finds that this order, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this order or any such provision thereof.

§ 967.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (in-

cluding the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

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

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 27th day of March 1950, to be effective on the 1st day of April 1950.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 50-2671; Filed, Mar. 29, 1950;
8:53 a. m.]

PART 988—MILK IN KNOXVILLE, TENNESSEE, MARKETING AREA ORDER AMENDING ORDER REGULATING HANDLING OF MILK

§ 988.0 *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 each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing

orders (7 CFR, Part 900), a public hearing was held at Knoxville, Tennessee, on February 8 and 9, 1950, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Knoxville, Tennessee, 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 amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and as hereby further amended, will tend to effectuate the declared policy of the act;

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

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make the amendment hereafter set forth effective not later than April 1, 1950, so as to reflect current marketing conditions. Any delay beyond April 1, 1950, in the effective date of this amendment to the order, as amended, will seriously threaten the supply of milk for the Knoxville, Tennessee marketing area. The provisions of the said amendment are well known to handlers—the public hearing having been held on February 8 and 9, 1950, and the decision having been executed by the Secretary on March 8, 1950. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective April 1, 1950, and that it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER.

(Sec. 4 (c), Administrative Procedure Act, 60 Stat. 237, 5 U. S. C. 1001-1011)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order, amending the order, as amended, which is marketed within the Knoxville, Tennessee marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the said order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of this order amending the order, as amended, and who during the determined representative period (February 1950) were engaged in the production of milk for sale in the said marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of milk in the Knoxville, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. Add the following proviso to § 988.5 (b) (2):

Provided, That during the delivery periods from the effective date hereof through August 1950 the price per hundredweight for all milk received at a fluid milk plant and transferred as milk to a nonfluid milk plant, located more than 15 miles but less than 80 miles from the City Hall at Knoxville, Tennessee, by shortest highway route, for condensing or for cheese utilization, or diverted direct from the farm to such outlets by a cooperative association, shall be the price computed above less 15 cents and an allowance of \$0.00187 per hundredweight for each mile of such distance between the City Hall at Knoxville, Tennessee, and the nonfluid milk plant; *And provided further,* That the price per hundredweight of all milk used to produce butter during such delivery periods shall be computed as follows: Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 90-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 10 percent thereof, and then deduct 30 cents.

2. Delete the period at the end of § 988.5 (c) (2) and add the following proviso:

Provided, That during the delivery periods from the effective date hereof through August 1950 the butterfat differential to handlers on all milk received at a fluid milk plant and transferred as milk to a nonfluid milk plant located more than 15 miles but less than 80 miles from the City Hall at Knoxville, Tennessee, by shortest highway route, for condensing or for cheese utilization or diverted direct from the farm to such outlets by a cooperative association, shall be calculated as follows: Multiply by 1.1

the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10: *And provided further*, That for all milk used to produce butter during such delivery periods the butterfat differential to handlers shall be calculated by dividing the price computed for such use as set forth in § 988.5 (b) (2) by 40.

3. Delete subdivision (ii) of § 988.4 (f) (1) and substitute therefor the following:

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest price Class II milk, the pounds of skim milk in other source milk;

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Issued at Washington, D. C., this 27th day of March 1950, to be effective on and after the 1st day of April 1950.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 50-2670; Filed, Mar. 29, 1950; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations
[Supp. 7, Amdt. 30]

PART 60—AIR TRAFFIC RULES

DANGER AREA ALTERATIONS

Under sections 205 and 601 of the Civil Aeronautics Act of 1938, as amended, and § 60.13 of the Civil Air Regulations, the Administrator of Civil Aeronautics is authorized to designate as a danger area any area within which he has determined that an invisible hazard to aircraft in flight exists, and no person may operate an aircraft within a danger area unless permission for such operation has been issued by appropriate authority. Such areas have been designated and published.

The following danger area alterations have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and they should be adopted without delay, in order to promote safety of the flying public. Compliance with the notices, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Acting pursuant to sections 205 and 601 of the Civil Aeronautics Act of 1938, as amended, and § 60.13 of the Civil Air Regulations, and in accordance with sections 3 and 4 of the Administrative Procedure Act, I hereby amend the Code of Federal Regulations, Title 14, Chapter I, Part 60, § 60.13-1, as follows:

1. The San Miguel, California, area is amended by changing the "Name and Location (Chart)" column to read: "San Miguel Island, Offshore California (San Francisco Chart)".

2. A Haven, Wisconsin, area is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Using agency
HAVEN (Milwaukee Chart)	Beginning at lat. 43°52'30" N, long. 87°44'00" W; NE to lat. 44°01'00" N, long. 87°28'00" W; SE to lat. 43°57'00" N, long. 87°24'00" W; due S to lat. 43°46'30" N; SW to lat. 43°42'15" N, long. 87°27'40" W; WNW to lat. 43°44'00" N, long. 87°34'00" W; NW to lat. 43°51'00" N, long. 87°44'00" W; due N to lat. 43°52'30" N, long. 87°44'00" W, point of beginning.	Surface to 85,000 feet.	0600 to 2000, daily, except Saturdays and Sundays, Apr. 1, thru Oct. 30, 1950.	Hdq., 5th Army, Chicago, Ill.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on April 1, 1950.

[SEAL] DONALD W. NYROP,
Acting Administrator of
Civil Aeronautics.

[F. R. Doc. 50-2640; Filed, Mar. 29, 1950; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade
[4th Gen. Rev. of Export Regs., Amdt. 90]

PART 371—GENERAL LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

MISCELLANEOUS AMENDMENTS

The following paragraphs of the Fourth General Revision of Export Regulations are hereby deleted:

1. Paragraph (c) *Certain steel commodities of § 371.7 Country Group General License GO.*

2. Paragraph (f) *Tin-mill black plate rejects and cold-rolled carbon steel sheets, rejects of § 373.2 Special provisions for iron and steel.*

3. Paragraph (a) *Blending agents, motor fuel, kerosene* (and the Note immediately following this paragraph) of § 373.15 *Special provisions for certain petroleum products.*

Parts 1 and 2 of this amendment shall become effective as of March 9, 1950, and Part 3 thereof as of March 16, 1950.

(63 Stat. 7; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1946, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Assistant Director,
Office of International Trade.

[F. R. Doc. 50-2659; Filed, Mar. 29, 1950; 8:51 a. m.]

[4th Gen. Rev. of Export Regs., Amdt. P. L. 30]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following commodities are deleted from the Positive List:

Dept. of Comm. Sched. B No.	Commodity
521700	Glass and products: Bullet-proof glass.
600100	Iron ore and concentrates: Iron ore.
	Steel mill products:
600700	Pig iron, all grades.
601100	Tin cans, old, crushed.
601300	Tinplate circles, strips, cobbles, and scroll-shear butts.
601500	Terneplate clippings and scrap. Steel ingots, blooms, billets, slabs, sheet bars, tinplate bars, and tube rounds (Armco iron, ingot iron, and other iron made in steel-making furnaces included): Carbon steel: Steel ingots. Steel billets, blooms, and slabs (rolled or forged). Steel sheet bars, and tinplate bars.
601605	Iron and steel bars and rods (include bar size shapes): Iron bars.
602100	Concrete reinforcement bars (deformed and twisted only). Other steel bars and rods (hot-rolled): Other carbon steel bars. ¹
602200	Plates, including boiler plate, except fabricated: Carbon steel: Hot-rolled. ² Cold-rolled. ²
603120	Skelp iron and steel.
603130	Iron and steel sheets, galvanized:
603200	Galvanized iron culvert sheets.
603350	

¹ Die steel bars, carbon steel, hot-rolled, Schedule B No. 602300, remain on the Positive List.
² Armor plate, classified in Schedule B Nos. 603120, 603130, 603170, and 603180, requires export authorization from the Department of State.

5. The processing code and related commodity group set forth opposite each of the commodities listed below in the column headed "Processing Code and Related Commodity Group" are amended to read as follows:

Dept. of Commerce Schedule B No.	Commodity	Processing code and related commodity group
621305	Ferromanganese	NONE
621306	Spiegelisen	NONE
622350	Ferrocobalt	NONE
622355	Ferromolybdenum	NONE
622357	Ferrovandium	NONE
622360	Ferrophosphorus	NONE
622362	Ferrosilicon	NONE
622365	Ferrotitanium and ferro-carbo-titanium	NONE
622366	Ferrosulphur	NONE
622368	Ferrocolumbium	NONE
622368	Ferrocobaltum	NONE
622368	Other ferro-alloys	NONE
622368	Automobile service appliances and parts:	
	Other automobile service appliances and parts:	
	Cylinder reboring machines and parts:	
	Reboring machines and parts:	
70158		TOOL
70158		TOOL

6. The dollar value limits in the column headed "GLV Dollar Value Limits" set forth opposite each of the commodities listed below are amended to read as follows:

Dept. of Commerce Schedule B No.	Commodity	GLV dollar value limits
711500	Engines, turbines, and parts, n. e. s.; Steam engines, boilers, and accessories; Locomotive parts, and accessories, except tubes, wheels, and wheel tires.	500
709100	Other industrial machinery:	
	Ball bearings, and parts, except balls. (Specify grade, manufacturer, and catalog number)	25
	Roller bearings, and parts, except rollers. (Specify grade, manufacturer, and catalog number)	25
	Balls for bearings. (Specify grade, manufacturer, and catalog number)	25
	Rollers for bearings. (Specify grade, manufacturer, and catalog number)	25
	Automobiles, parts, accessories, and service equipment:	
	Leaf springs, automotive, for replacement.	500
702120	Other vehicles and parts:	
	Parts for railway cars (report titles and wheels in 610515, 610518, 610528, 610535, and 610538) except car power units and parts; car rollers and parts; dashlights and parts, for railway motor cars; illuminating lights and parts; inspection car parts; maintenance car parts; track brakes and parts; push car parts; release handles and parts; sheet rollers; track inspection car parts; train parts, electric; trolley retrievers and parts; track part, railroad, gasoline; and telegraph railway parts.	500

7. The following commodities are deleted from the Positive List:

Dept. of Commerce Schedule B No.	Commodity
825200	Chemical specialties: Plastics and resin materials: Synthetic gums and resins in all unfinished forms, except laminated, laminated sheets, plates, strips, rods, and tubes in 826000): Polystyrene resins and copolymers, all types.
826060	Synthetic gums and resins, laminated (sheets, plates, rods, and tubes: Polystyrene resins and copolymers, all types, laminated:

By this amendment the description on the Positive List is revised to read: "Schedule B No. 826000, Synthetic gums and resins, laminated (sheets, plates, strips, rods, and tubes), n. e. s., except phenol formaldehyde and other tar-acid resins; urea and melamine resins; polystyrene resins and copolymers; and silicone resins."

Dept. of Commerce Schedule B No.

Motor trucks, busses, and chassis (used), commercial, except all Diesel-powered; all gasoline-powered over 14,000 G. V. W.; and gasoline-powered, 14,000 G. V. W. and under, with front and rear axle drive.¹
Passenger cars and chassis, new, except front and rear axle drive.²
Passenger cars and chassis, used, except front and rear axle drive.³

2. The following entries on the Positive List are amended by changing the commodity descriptions thereof, as set forth below:

The entry on the Positive List for Diamond bits for oil- or gas-well drilling, Schedule B No. 734240, and the entries for (a) Freons, 11 and 12, and (b) Other freons, Schedule B No. 839100, are amended to read as follows:

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required
734240	Petroleum field and refining equipment, and parts: Rock drill bits, detachable, when containing diamonds; Industrial chemicals (exclusive of medicinal chemicals, USP & N. F.): Gases, compressed, liquid, and solidified, except liquid petroleum gases: Chloroformethanes: Freons 11 and 12 only. Other chlorofluoromethanes (Freons)?	No	CONS	None	RO
839100		1b	SALT 1	100	RO
839100		1b	SALT 1	25	RO

¹ This amendment clarifies the commodity description "Diamond bits for oil- or gas-well drilling," without making substantive change.
² This amendment clarifies the commodity description without making substantive change.

3. The entry on the Positive List for aircraft training, ground handling, and maintenance equipment, Schedule B No. 794960, is revised as shown below by (a) separately listing certain of the commodities covered therein, (b) providing different processing codes for the separately listed commodities, and (c) providing separate GLV dollar-value limits for each of the three entries.

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required
794900	Aircraft, parts, and accessories: Test kits for aircraft instruments.		ELAME 1	100	R
794900	Test sets for ignition harnesses.		ELAME 1	100	R
794900	Other aircraft training, ground handling, and maintenance equipment. ¹		TRAN	100	R

¹ Link-type trainers and tow targets and parts require export authorization from the Department of State.

4. The entry on the Positive List for "Fathometers and depth recorders" is amended by changing the Schedule B number from 919098 to 949600.

¹ By this amendment the description on the Positive List is revised to read as follows: "Schedule B No. 790603, Motor trucks, busses, and chassis (used) commercial: all Diesel powered; all gasoline powered over 14,000 G. V. W.; and gasoline powered, 14,000 G. V. W. and under, with front and rear axle drive."

² By this amendment the description on the Positive List is revised to read as follows: "Schedule B No. 790750, Passenger car and chassis, new, front and rear axle drive only."

³ By this amendment the description on the Positive List is revised to read as follows: "Schedule B No. 791100, Passenger cars and chassis, used, front and rear axle drive only."

Parts 1 through 6 of this amendment shall become effective as of March 9, 1950, and Part 7 thereof as of March 10, 1950.

(63 Stat. 7; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Assistant Director,
Office of International Trade.

[F. R. Doc. 50-2660; Filed, Mar. 29, 1950;
8:51 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 1—GENERAL PROVISIONS

DISCLOSURES TO MEMBERS OF CONGRESS

Section 1.507 is amended as follows:

§ 1.507 *Disclosures to Members of Congress.* Members of Congress shall be furnished in their official capacity in any case such information contained in the Veterans' Administration files as may be requested for official use. However, in any unusual case, the request will be presented to the Administrator or assistant administrators for personal action. When the requested information is of a type which may not be furnished in a claimant, the Member of Congress shall be advised that the information is furnished to him confidentially in his official capacity and should be so treated by him. (See Veterans Regulation No. 11, 38 U. S. C. ch. 12.) Information concerning the beneficiary designation of a United States Government life insurance or National Service life insurance policy is deemed confidential and privileged and during the insured's lifetime shall not be disclosed to anyone other than the insured or his duly appointed fiduciary unless the insured or the fiduciary authorizes the release of such information.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016; 38 U. S. C. 11a, 426)

This regulation effective March 30, 1950.

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 50-2615; Filed, Mar. 28, 1950;
8:50 a. m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART A—REGISTRATION AND RESEARCH

1. In § 21.15, paragraph (g) is amended to read as follows:

§ 21.15 *Basic service requirements.*

(g) *Service with Allied armed forces* (section 1506, Public Law 346, 78th Congress as amended). (See §§ 21.20 and 21.21.)

2. New §§ 21.20 through 21.25 are added to read as follows:

§ 21.20 *Service requirements under section 1506, Title VI, Public Law 346, as amended.*

(a) Any person who served in the active military or naval service of a government allied with the United States in World War II on or after September 16, 1940, and on or prior to July 25, 1947, who served at least 90 days, or was discharged in less than 90 days by reason of an actual service-incurred injury or disability, and who was separated therefrom under conditions other than dishonorable, may be eligible to the benefits of Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12 note), provided the additional requirements of section 1506 Title VI, Public Law 346, 78th Congress, as amended, are met; that is that he was a citizen of the United States at the time of entrance into such active service, was a resident of the United States at the time of filing claim, and has not applied for and received the same or similar educational benefits from the Allied Government in whose active military or naval forces he served.

(b) Under Part VII, Veterans Regulation 1 (a), as amended, any person who served in the active military or naval service of any government allied with the United States in World War II, on or subsequent to September 16, 1940, and prior to July 26, 1947, who has a disability of compensable degree incurred in or aggravated by such service, and who is in need of vocational rehabilitation to restore the employability which has been lost by virtue of the handicap due to such disability, may be entitled to vocational rehabilitation, provided the requirements of section 1506 are met.

(c) To be eligible to benefits authorized by section 1506, the applicant must have served in the active military or naval service of a government which declared war or maintained a state of war against the common enemy and was allied with the United States in World War II. In other words, if the country was at war de facto, even though no formal declaration was made, the claimant if otherwise entitled, may be eligible to the benefits authorized by section 1506.

(d) Active service in the military or naval forces of the Allied Government between September 16, 1940, and July 25, 1947, assuming that government did not terminate the war prior to July 26, 1947, may be recognized as a basis in determining eligibility under section 1506. The period of active service between September 16, 1940, and July 25, 1947, must be at a time when his government was at war with the common enemies. In other words, if a government engaged in war with the common enemies subsequent to September 16, 1940, or terminated war prior to July 26, 1947, service before that country entered the war, or after that country terminated the war, is not to be considered in determining eligibility under section 1506.

(e) Any service by a citizen of the United States in the armed forces of a foreign government while such government was prosecuting war against the United States, or one or more of its Allies, is a bar to all benefits administered by the Veterans Administration

on the basis of section 4, Public Law 144, 78th Congress.

§ 21.21 *Determinations of active service in Allied armed forces.* (a) The question whether any particular service is "active military or naval service of any government allied with the United States in World War II," is a question of fact in the individual case which must be determined from an examination of the record and acceptable reports from the proper agency of the government of the nation with which the United States was allied in World War II.

(b) In the case of all Allied claims, other than Canadian, a verification of the active service will be obtained through the appropriate diplomatic channels of the Department of State from the Allied Government concerned.

(c) The armed forces of most Allied Governments are divided into an army, navy (including marines), and air force and many Allied Governments had active auxiliary units of women serving as component parts of these branches of their armed forces. In every instance where a question arises as to the active military or naval status of a unit in which a veteran alleges service, such a question will be resolved by verification from the foreign government concerned.

(d) In many instances there were certain paramilitary organizations attached to the regular military and naval establishments of Allied Governments which were in fact civilian organizations. Although service in these organizations was service with the armed forces of an Allied Government, it is not to be considered as service in the armed forces of an Allied Government, unless the veteran can furnish a regular discharge from one of the component branches of the Allied armed forces. In this category, there are also military or naval schools, attendance at which does not consist of active military service, and privately initiated guerrilla units which have not been at any time officially sponsored and recognized as active service in the armed forces of the Allied Government concerned.

(e) In computing the period of active service, credit is not to be given for time lost by reason of unauthorized absence for which pay has been forfeited. This includes time under arrest, in absence of acquittal; time for which pay was forfeited by reason of absence without leave; and time spent in desertion or while undergoing sentence of court martial.

(f) Service in the Canadian armed forces:

(1) In order to permit determination of eligibility and entitlement in the case of veterans who served in the Canadian armed forces, whenever possible without referral to central office, there is listed below the dishonorable discharges issued by the Canadian Army, the Royal Canadian Navy, and the Royal Canadian Air Force:

(i) *Army.* A dishonorable discharge is effected under Canadian Army Routine Order: No. 1029 (7)—having been convicted by a civil power during his service, or No. 1029 (8)—for misconduct,

or No. 1029 (9)—having been sentenced to be discharged with ignominy.

(ii) *Royal Canadian Navy*. A dishonorable discharge is effected under King's Regulations, Royal Canadian Navy (K. R.) (R. C. N.): Article 7.80—for misconduct, or article 14.44—dismissal with or without disgrace.

(iii) *Royal Canadian Air Force*. A dishonorable discharge is effected under King's Regulations (Air), K. R. (Air): Paragraph 150 (A)—release for misconduct, or paragraph 150 (B)—convicted by a civil power.

(2) All discharges issued under the conditions outlined in subparagraph (1) of this paragraph are to be considered as dishonorable discharges and a bar to entitlement. All other discharges are to be considered as being under conditions other than dishonorable, except where there is evidence to the contrary, which will be resolved by a verification from the Canadian Government.

(3) Each of the three services in the Canadian armed forces issues its own discharges; however, all are substantially the same; no color scheme is used, all discharge certificates being white. Where a Canadian discharge reads that the veteran "was embodied," "enlisted," "enrolled," or "attested" in the respective military or naval service, this indicates the date that the veteran entered active military service.

(4) Service in the following is to be considered "active service" within the meaning of the act:

(i) The Canadian Army, including the Canadian Woman's Army Corps.

(ii) The Royal Canadian Navy, the Royal Canadian Naval Reserve, the Royal Canadian Naval Volunteer Reserve, and the Women's Royal Canadian Naval Service.

(iii) The Royal Canadian Air Force, including the Royal Canadian Air Force (Women's Division).

(iv) Nurses have exactly the same status as commissioned officers in their respective services.

(5) Canada did not have college training programs similar to the ASTP or NCTP.

(6) Officers training schools were conducted in Canada similar to OCS in this country, and all time spent in such officers training schools was active service and included in the period of active duty indicated on the certificate of discharge or release.

(7) The Canadian Government terminated the war on December 31, 1946, for the purposes of the Canadian Veterans Rehabilitation Act. Therefore, only the period of active military or naval service between September 16, 1940, and December 31, 1946, inclusive, will be used in computing the length of active service of Canadian veterans for eligibility and entitlement to the benefits of section 1506, Public Law 346, 78th Congress, as amended.

(g) Evidence acceptable to substantiate active service: Since during World War II the forgery of documents was very common, extreme care will be taken to obtain the best evidence available.

(1) All veterans of Allied armed forces should be able to furnish some type of discharge certificate to substantiate

their active service. This certificate should give the date of entry into active duty, the date of discharge, the reason for discharge or character assessment, and the veteran's serial number. Some Allied discharges do not show the date of entry into active service. In such cases it will be necessary for the veteran also to furnish evidence of the date of his entry into active service. All Canadian discharges give the date of entrance into active service.

(2) In many cases the evidence submitted will be questionable, and such documents will require authentication by the foreign government concerned. Accordingly, all evidence submitted to substantiate active service must be photostatic copies of the original documents. Certified copies of such documents will not be acceptable.

(3) In all Allied claims, other than Canadian, the veteran's active duty dates will be verified by the foreign government concerned.

(h) A discharge from the Canadian armed forces for the purpose of enlisting in the United States armed forces will be considered merely as a change of status, and the veteran will not be entitled to educational benefits on the basis of his Canadian discharge unless he furnishes a subsequent honorable discharge from the United States armed forces. If such a veteran receives a dishonorable discharge from the United States armed forces, that discharge is a bar to receipt of benefits on the basis of his Canadian service.

§ 21.22 *Governments allied with the United States during World War II*. (a) The phrase "any government allied with the United States," appearing in section 1506, Public Law 346, 78th Congress, as amended, relates to any government which was capable of entering, and which did enter, into an association with the United States during World War II by league or by treaty for the joint prosecution of that war. Only sovereign governments having power to make treaties with sovereign governments are included.

(b) The Secretary of State has listed the governments which signed or adhered to the United Nations Declaration of which the United States was a signatory. However, before any of these countries may be recognized as allied with the United States in World War II, under the provisions of section 1506, it must be determined as a fact that the government of such country declared war or was in a state of war against the enemies of the United States in World War II. If a country is found to have been at war de facto even though no formal declaration was made, such a country would be considered as having declared war upon the enemies of the United States.

(c) The Republic of the Philippines is not to be considered as a government allied with the United States during World War II within the meaning of section 1506.

§ 21.23 *Citizenship—establishment of, in connection with active service in Allied armed forces*. (a) Section 1506, Public Law 346, 78th Congress, as

amended, provides that an Allied veteran must have been a citizen of the United States at the time of his enlistment in the Allied armed forces. The citizenship status of Allied veterans will be determined in accordance with Public Law 853, 76th Congress, as amended, commonly known as the Nationality Act of 1940.

(b) If a veteran establishes that he was a citizen of the United States at the time of his enlistment in the Allied forces, the fact that subsequent to his enlistment he expatriated himself by taking an oath of allegiance to a foreign state is immaterial.

(c) Evidence necessary to substantiate citizenship:

(1) Veterans born within the continental limits of the United States:

(i) Such a veteran will be required to furnish a photostatic or certified copy of the public record of his birth or church record of his baptism and an affidavit stating explicitly that he was a citizen of the United States at the time of his enlistment in the Allied armed forces.

(ii) If there is any evidence of record to indicate that this veteran had lost or renounced his American citizenship at any time prior to his enlistment in the Allied armed forces, it will be necessary for him to furnish further evidence to substantiate his claim of citizenship. Evidence acceptable in this regard will be the same as that necessary to support a claim for citizenship where the veteran is born outside the continental limits of the United States as given in subparagraph (2) (ii) of this paragraph.

(2) Veterans born outside the continental limits of the United States:

(i) Such a veteran will be required to furnish an affidavit stating explicitly that he was a citizen of the United States at the time of his enlistment in the Allied armed forces.

(ii) This affidavit must be substantiated with further evidence of his citizenship at the time of his enlistment in the Allied armed forces. Evidence acceptable in this regard is listed below:

(a) Certificate of citizenship. Such a certificate is issued to a person who acquired citizenship through the naturalization of his parents or by virtue of the United States citizenship of his parent or parents at the time of his birth outside the United States. Veterans concerned may obtain a certificate of citizenship on application to the Commissioner of Immigration and Naturalization, Department of Justice. When this evidence is presented, it should be screened to ascertain the date of the parents' naturalization in order to insure that the citizenship which the veteran acquired by his parents' naturalization was on or prior to the date of his enlistment in the Allied armed forces.

(b) Certificate of naturalization. The following statement will be accepted as evidence of citizenship by naturalization when prepared and certified to by a registration officer, contact representative, or notary public in event it is not practicable for the veteran to appear before a registration officer or contact representative: "I have this date reviewed the certificate of naturalization issued to

(Name of veteran) on (date) at (city), (State), by the United States District Court, (Judicial subdivision) of (State), Certificate No. _____ was issued in response to Petition No. _____.

(c) Department of State, Foreign Service Form 240, Report of Birth. This document is issued to the parents who as American citizens register the birth of their children when born in foreign countries with the appropriate American diplomatic or consular office. When this evidence is submitted, evidence of the parents' citizenship at the time of the child's birth will also be required, such as parents' birth certificates, the church record of their baptism, or their certificate of naturalization.

(d) Department of State, Foreign Service Form 346, Application To Resume Citizenship in the United States by a person who while a citizen of the United States lost his citizenship in order to perform military service during the second World War in the Army of a country at war with a country with which the United States is or was at war and the form of oath required to be taken to resume citizenship; or Form N-581, Certificate of Repatriation, issued by the immigration and naturalization service, Department of Justice, for the same purpose as State Department, Foreign Service Form 346.

(e) Passport issued by the Department of State.

(f) Parents' birth certificates, the church record of baptism, or certificate of naturalization.

(d) Any person born in the Canal Zone on or after February 26, 1904, whose father or mother, or both, at the time of birth of such person was, or is, a citizen of the United States, is declared to be a citizen of the United States (sec. 203 (a), Nationality Act of 1940).

(e) Any person born in the Republic of Panama on or after February 26, 1904, whose father or mother, or both, at the time of the birth of such person was, or is, a citizen of the United States, employed by the Government of the United States or by the Panama Railroad Company, is declared to be a citizen of the United States (sec. 203 (b), Nationality Act of 1940).

(f) All persons born in Puerto Rico on or after April 11, 1899, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty, and who are not citizens of the United States under any other act, are citizens of the United States (sec. 202, Nationality Act of 1940). Puerto Rican veterans should contact the officer-in-charge, immigration and naturalization service, San Juan, Puerto Rico, in order to obtain evidence of their American citizenship.

(g) A declaration of intention, or first citizenship papers, will not be accepted as evidence of citizenship. Veterans presenting such evidence to establish citizenship will automatically be barred since such evidence indicates that the veteran has merely commenced the naturalization process for citizenship but has not actually been naturalized.

(h) Where the evidence submitted by the veteran clearly shows that he was not a citizen of the United States at the time of his enlistment in the Allied armed forces, the regional office will take the appropriate action to disallow the claim without referral to central office.

(i) Where any question arises concerning a veteran's citizenship status, the case will be developed, and the necessary facts and evidence to substantiate the claim of citizenship will be referred to registration and research service, vocational rehabilitation and education, central office, for a determination, where, if necessary, the case will be presented to the immigration and naturalization service of the Department of Justice for an opinion.

§ 21.24 *Residency.* (a) The law provides that an Allied veteran must be a resident of the United States at the time of filing his application for benefits. Accordingly, no applications will be accepted from Allied veterans residing in foreign countries. Where the application or evidence indicates that an Allied veteran is residing outside the United States, eligibility should be denied until such time as he establishes a residence in the United States.

(b) Where an Allied veteran files a claim when residing outside the continental limits of the United States, the fact that he claims a legal residence or domicile in the United States or the fact that his application was filed through a United States diplomatic or consular office is immaterial. In order to establish eligibility, the record must clearly show that the veteran was in actual physical residence in the United States at the time of filing his application under either Part VII or Part VIII, Veterans Regulation 1 (a), as amended, (38 U. S. C. ch. 12 note), and shall include an affidavit which states explicitly that the veteran was a resident of the United States at the time of filing his application.

§ 21.25 *Benefits applied for and received.* (a) Under section 1506, Public Law 346, 78th Congress, as amended, education or training benefits are not to be extended to any person who has applied for and received the same or similar benefits from the government of the nation in whose active military or naval service he served. The mere fact that the benefits provided by the Allied Government may be greater or smaller than those provided by the United States does not have the effect of making the two benefits dissimilar.

(b) Repayment to the Allied Government of all funds paid for subsistence, tuition, etc., will not operate to remove the veteran from the classification of having received the same or similar benefits from the government under which he served so that his eligibility for training could be established under section 1506.

(c) Neither may the extent of educational benefits received from an Allied Government be deducted from the veteran's anticipated entitlement so as to establish eligibility under section 1506.

(d) If a veteran who is otherwise eligible, having served in both the Canadian

armed forces and the British armed forces, received benefits from the Canadian Government on the basis of his service in the Canadian armed forces only, the receipt of such benefits would not be a bar to receipt of benefits under section 1506 on the basis of his service in the British armed forces: *Provided*, That the Canadian Government did not extend their benefits on the basis of his service in the British armed forces.

(e) In the event that a veteran had dual service, that is, he served in the armed forces of an Allied Government, as defined, and also served in the United States armed forces, the receipt of education or training benefits from the Allied Government on the basis of his Allied service, would be a bar to receiving additional benefits under section 1506; however, the receipt of such benefits would not bar the veteran for eligibility under Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12 note), on the basis of his service in the United States armed forces.

(f) The benefits of the Canadian Veterans Rehabilitation Act are to be considered the same or similar benefits as those represented by education or training under Part VIII, and vocational rehabilitation under Part VII. Receipt of any such benefits from the Canadian Government by virtue of active service in their armed forces will serve as a bar to entitlement under section 1506. However, receipt by a veteran of the United States armed forces of education or training benefits from an Allied Government under its laws for Allied Veterans, would not affect his eligibility to further benefits under Part VIII to which he may be entitled by reason of his service in the United States armed forces.

(g) Evidence to establish nonreceipt of benefits:

(1) The veteran will furnish an affidavit stating explicitly that he has not applied for, or received any of, the same or similar benefits from the Allied Government with which he served during World War II.

(2) Where the veteran declares in his affidavit or states in a letter that he has applied for and received any education or training benefits from the Allied Government with which he served, this evidence is, by his own statement, sufficient to bar his entitlement to educational benefits under section 1506, and in such cases the claim will be disallowed without referral to central office.

(3) Where a question arises as to the receipt of benefits or the kind of benefits received, it will be resolved by verification.

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 504, 58 Stat. 293, as amended; 38 U. S. C. 11a, 694, 707. Interprets or applies 57 Stat. 43, secs. 300, 400, 500, 1500-1504, 58 Stat. 286, 287, 291, 300, 301, secs. 5, 6, 7, 10, 11, 59 Stat. 624, 626, 631, 542, 60 Stat. 124, 934, 61 Stat. 180, 449, 730, 791; 38 U. S. C. 693g, 697-697d, 697f, 697g, ch. 12 notes)

This regulation effective March 30, 1950.

[SEAL]

O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 50-2616; Filed, Mar. 28, 1950; 8:50 a. m.]

TITLE 46—SHIPPING

Chapter II—United States Maritime Commission

ubchapter F—Merchant Ship Sales Act of 1946
[Gen. Order 60, Supp. 21]

PART 299—RULES AND REGULATIONS, FORMS, AND CITIZENSHIP REQUIREMENTS

SUBPART C—CHARTER OF WAR-BUILT VESSELS TO CITIZENS

PROCEDURE TO BE FOLLOWED BY CHARTERERS IN RENDITION TO COMMISSION OF FINAL ACCOUNTINGS UNDER WARSHIPDEMISEOUT 203 AND SHIPSALEDEMISE 303 BAREBOAT CHARTER AGREEMENTS

The United States Maritime Commission, acting pursuant to the authority granted by the Merchant Marine Act, 1936, as amended, Public Law 101, 77th Congress, and the Merchant Ship Sales Act of 1946, adopted the following order and the "Procedure to be followed by Charterers in the Rendition to the Commission of final Accountings under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 Bareboat Charter Agreements" referred to in said order and annexed thereto. It is ordered as follows:

Sec.
299.37 Final accountings by charterers under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 bareboat charter agreements.

PROCEDURE TO BE FOLLOWED BY CHARTERERS IN RENDITION TO COMMISSION OF FINAL ACCOUNTINGS UNDER WARSHIPDEMISEOUT 203 AND SHIPSALEDEMISE 303 BAREBOAT CHARTER AGREEMENTS

- 299.37-1 Definitions.
299.37-2 Accounting requirements.
299.37-3 Capital necessarily employed.
299.37-4 Net voyage profit.
299.37-5 Statements required by the Commission.
299.37-6 Certifications and verifications.
299.37-7 Statement of purposes and reservations.

AUTHORITY: §§ 299.37 to 299.37-7 issued under sec. 204, 49 Stat. 1987, as amended, sec. 5, 55 Stat. 244, sec. 12, 60 Stat. 49; 46 U. S. C. 1114, 50 U. S. C., App., 1275, 1745.

§ 299.37 *Final accountings by Charterers under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 Bareboat Charter Agreements; Procedure.* (a) Every Charterer, under the form of bareboat charter agreement known as WARSHIPDEMISEOUT 203, and/or the form of bareboat charter agreement known as SHIPSALEDEMISE 303, shall within ninety (90) days after publication of this order in the FEDERAL REGISTER prepare and submit to the United States Maritime Commission, in the form and manner prescribed in the annexed "Procedure to be Followed by Charterers in the Rendition to the Commission of Final Accountings under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 Bareboat Charter Agreements" (§§ 299.37-1 to 299.37-7, inclusive), an accounting covering the entire period of operations under the WARSHIPDEMISEOUT 203 Agreement and accountings covering all operations under the SHIPSALEDEMISE 303 Agreement (including addenda thereto) through December 31, 1949: *Provided,*

however, That, upon application of the Charterer the Commission may extend, for such further period as in its judgment is warranted by the circumstances in any instance, the time limit prescribed in this paragraph for the submission of such accounting.

(b) Every Charterer, under the form of bareboat charter agreement known as SHIPSALEDEMISE 303, shall prepare and submit to the United States Maritime Commission a similar accounting for each subsequent annual or overall accounting period (as defined in the procedure mentioned in paragraph (a) of this section) within ninety (90) days after the expiration of such accounting period, as provided in the said agreement and addenda thereto: *Provided, however,* That, upon application of the Charterer the Commission may extend, for such further period as in its judgment is warranted by the circumstances in any instance, the time limit prescribed in this paragraph for the submission of such accounting.

PROCEDURE TO BE FOLLOWED BY CHARTERERS IN RENDITION TO COMMISSION OF FINAL ACCOUNTINGS UNDER WARSHIPDEMISEOUT 203 AND SHIPSALEDEMISE 303 BAREBOAT CHARTER AGREEMENTS

§ 299.37-1 *Definitions.* Except where the context clearly indicates otherwise, as used herein:

(a) "Commission" or "owner" refers to the United States of America acting by and through the United States Maritime Commission.

(b) "Charterer" refers to a person, firm, or corporation that has chartered vessels from the Commission under a bareboat charter agreement known as WARSHIPDEMISEOUT 203 and/or a bareboat charter agreement known as SHIPSALEDEMISE 303, and addenda thereto.

(c) "WARSHIPDEMISEOUT 203" refers to the form of bareboat charter agreement published in the FEDERAL REGISTER on April 25, 1946, 46 CFR 302.62a.

(d) "SHIPSALEDEMISE 303" refers to the form of bareboat-charter agreement published in the FEDERAL REGISTER on September 4, 1946, 46 CFR 299.82, and addenda thereto.

(e) "Other operations" refers to the operation by the charterer of vessels other than those chartered from the Commission, or the furnishing by the charterer of services and facilities to such other vessels, and all other business activities of the charterer.

(f) "Uniform System of Accounts" refers to the "Uniform System of Accounts for Operating-Differential Subsidy Contractors" prescribed by the Commission February 4, 1938 in General Order No. 22.

(g) "Allowable return" refers to the amount, at the rate of ten per centum per annum of "capital necessarily employed," which, to the extent earned, the charterer is permitted to deduct from the cumulative net voyage profit in the computation of additional charter hire.

(h) "Accounting period" or "other accounting period" refers to a period with respect to which a separate determination of additional charter hire due the Commission is required to be made

pursuant to the provisions of the applicable bare boat charter agreement, commencing with the first day of the calendar year, or the first day of the month during which the first vessel is delivered to the charterer under the agreement involved, or the first day of the month during which an addendum requiring a separate determination of additional charter hire becomes effective, and ending with the last day of the calendar year or the last day of the month in which the last vessel is redelivered to the Commission under the agreement (or addendum) involved.

(i) "Over-all accounting period" refers to a period from the earliest commencement of an accounting period to the latest termination of an accounting period during the same calendar year.

§ 299.37-2 *Accounting requirements—*

(a) *Contract provisions and applicable orders and instructions.* (1) Clause 13 of Part II of WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 prescribes the fundamental bases for the calculation and payment to the Commission of additional charter hire. These clauses provide, among other things, for preliminary payments by the Charterer to the Owner on account of additional charter hire, subject to adjustment upon completion of final audit by the Owner, at which time such payments will be made by or to the Owner as such final audit may show to be due.

(2) General Order 60, Supplement 8, and amendments thereto, prescribe the times at which and the manner and amounts in which such preliminary payments are required by the Owner to be made by the Charterer. To implement these provisions of General Order 60, on or about November 25, 1946, instructions were issued for the guidance of Charterers in the preparation of the statements required to accompany preliminary payments on account of additional charter hire, upon the express understanding that neither their issuance by the Commission nor their observance by the Charterer would prejudice the rights of either under the applicable agreement or otherwise, and that the Commission reserved the right to prescribe other bases for the determination of additional charter hire at the time of the annual or final accounting under the respective agreements. Such instructions have been supplemented from time to time.

(3) Clause 13 of Part II of WARSHIPDEMISEOUT 203 and Clause 28 of Part II of SHIPSALEDEMISE 303 provide, among other things, that the Charterer:

(i) Shall keep its books, records and accounts relating to the management, operation, conduct of the business of and maintenance of the vessels covered by the agreement in accordance with the "Uniform System of Accounts" and under such regulations as may be prescribed by the Owner; *Provided, however,* That, if the Charterer is subject to the jurisdiction of the Interstate Commerce Commission, the Owner shall not require the duplication of books, records, and accounts required to be kept in some other form by that Commission; and

(ii) Shall file, upon notice from the Owner, balance sheets, profit and loss

See VA
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statements, and such other statements of financial operations, special reports, memoranda of any facts and transactions, which in the opinion of the Owner affect the financial results in, the performance of, or transactions or operations under, the agreement.

(b) *Annual and final accountings.* (1) Pursuant to the applicable provisions of the bareboat charter agreements, the Commission hereby requires that each Charterer submit a separate final accounting of additional charter hire accrued to the owner during the entire period of operations under WARSHIPDEMISEOUT 203 and for each annual or overall accounting period under SHIPSALESEMISE 303 and addenda thereto. Each such accounting shall be submitted in sextuplicate and shall include the basic statements prescribed in § 299.37-5 *Statements required by the Commission.*

(2) With respect to each such accounting, if the amount of additional charter hire shown thereby to have accrued to the Owner is in excess of the total of the payments theretofore made to the Commission (less any refunds theretofore made by the Commission on account of such payments) on account of additional charter hire for the period involved, such accounting shall be accompanied by the Charterer's check payable to "Treasurer of United States for account of United States Maritime Commission" in the amount of such excess.

(3) If, conversely, in any instance the amount of additional charter hire shown by such accounting to have accrued to the Owner is less than the total of the payments theretofore made to the Commission (less any refunds theretofore made by the Commission on account of such payments) on account of additional charter hire for the period involved, the Charterer may apply to the Commission for refund of such overpayment and, if such application is found to be in order, the amount of the overpayment will be refunded by the Commission. The application should be made on a public voucher (Form 1034—Revised) in quintuplicate, bearing language substantially as follows:

Claim for refund of excess of preliminary payments made to the U. S. Maritime Commission, on account of additional charter hire, over the amount of such additional charter hire indicated to be due the Commission for the period from _____ to _____ under Bareboat Charter Agreement WARSHIPDEMISEOUT 203/SHIPSALESEMISE 303 [delete inapplicable reference] No. _____, as per accounting rendered pursuant to General Order No. 60, Supplement 21, which, by this reference, is incorporated in this claim for refund.

(4) The accounting comprising the statements and accompanying remittance or voucher required hereunder shall be submitted to the Commission through the local District (Area or Port) Auditor in the district, area, or port in which the home office of the Charterer is located, or (if there be no such auditor of the Commission in the district, area, or port in which the home office of the Charterer is located) to the Chief, Bureau of Finance, United States Maritime Commission, Washington 25, D. C.

(c) *Subsequent adjustments.* (1) In instances where operations under SHIP-

SALESEMISE 303 continue beyond December 31, 1949, at the time of the submission of the accounting for each succeeding annual or over-all accounting period as required hereunder, the Charterer shall submit also a revised accounting for the period ended December 31, 1949 under SHIPSALESEMISE 303 and addenda thereto, including all adjustments affecting that period that occurred subsequent to the rendition of the accounting therefor. Such revised accounting shall include also all such adjustments under SHIPSALESEMISE 303 and addenda thereto applicable to the period prior to January 1, 1949: *Provided, however,* That if such adjustments are substantial, a separate revised accounting shall be submitted with respect to such prior period, the Commission reserving the right to determine in each instance whether the amount of the adjustment involved shall be regarded to be substantial for this purpose.

(2) If, in any instance, at the time of the submission of an accounting for an annual or over-all accounting period, no adjustment affecting the preceding period has occurred subsequent to the submission of the accounting for such period, the Charterer shall submit to the Commission an appropriate certification to that effect, over the signature of a duly authorized officer.

§ 299.37-3 *Capital necessarily employed*—(a) *Fundamental bases.* The fundamental bases for the determination of "capital necessarily employed" are provided in Clause 23 (c) of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESEMISE 303.

(b) *Interim additions and deductions.* The definition of "capital necessarily employed" in SHIPSALESEMISE 303 provides, among other things, that additional capital in the form of cash or tangible property paid in during the charter period shall be included in the computation of "capital necessarily employed" from the date paid in and that any withdrawals of capital shall be deducted from the date withdrawn. Such interim adjustments are neither required nor permitted under WARSHIPDEMISEOUT 203. In the determination of "capital necessarily employed" under SHIPSALESEMISE 303, additional capital, in the form of cash or tangible property paid in, and any withdrawals of capital during an annual or overall accounting period thereunder shall be included or deducted (as the case may be), pro rata, on the basis of the proportion of such additions or withdrawals represented by the relation that the number of days from the date thereof to the end of the calendar year or overall accounting period involved bears to the total number of days within such period, such proportion to be allocated to or between "capital necessarily employed" under SHIPSALESEMISE 303 and "other operations" in the manner hereinafter prescribed. In any instance where such an adjustment affects the effective period of WARSHIPDEMISEOUT 203 the proportion of such adjustment otherwise allocable to operations under WARSHIPDEMISEOUT 203 shall be treated in the same manner as the

proportion allocable to "other operations".

(c) *Allocation among operations under bareboat charter agreements and "other operations".* The definition of "capital necessarily employed" in WARSHIPDEMISE 203 and in SHIPSALESEMISE 303 provides, among other things, that if the Charterer engages in other activities in addition to the operation of the vessels thereunder, the Owner shall determine the proper allocation of capital as between such activities. To implement this provision of the bareboat charter agreements, the following bases of allocation are prescribed:

(1) Wherever practicable and the result will not be disproportionate, assets (and applicable liabilities) shall be allocated directly to the operation in which they are employed. For example, such assets (and applicable liabilities) as

(i) Non-shipping inventories,
(ii) Replacement and similar special funds (including contractual and statutory reserve funds of subsidized operators),

(iii) Amounts on deposit under purchase contracts,

(iv) Investments in related companies,

(v) Advances and loans to related companies,

(vi) Non-current receivables from, and payables (not in excess of receivables) to, related companies,

(vii) Net book value of vessels and of non-shipping property and equipment, less the portion of any long-term debt arising from the acquisition of such assets due more than one year after the date of the balance sheet involved,

(viii) Vessels under construction,

(ix) Notes and accounts receivable from officers and employees,

(x) Good will and other intangible assets, and

(xi) Liability for recapture under operating-differential subsidy agreements, are not necessarily employed in operations under WARSHIPDEMISEOUT 203 or SHIPSALESEMISE 303 and, therefore, are not allocable to such operations.

(2) Except in instances involving (i) considerable non-shipping operations, (ii) the operation of passenger vessels, (iii) substantial dissimilarity between the operations of the vessels chartered from the Commission and those of vessels owned or chartered from others by the Charterer, or (iv) agency operations actually carried on as a separate and substantial business activity of the Charterer for its own account and not merely incidental to the operation of the chartered vessels, (with respect to which the Charterer shall submit for the consideration of the Commission, in advance of the accounting herein prescribed, its concept of a fair and reasonable formula, addressed in the manner prescribed in paragraph (b) (4) of § 299.37-2),

(a) Net current assets (excluding non-shipping inventories),

(b) Voyages in progress (unterminated voyage revenue, less untermi- nated voyage expenses, or vice versa),

(c) Advance ticket sales and deposits,

(d) Special and guaranty deposits (such as those made with utilities corporations),

(e) The net book value of furniture and fixtures and other property and equipment not included in subparagraphs (1) and (3) of this paragraph, less the portion of any long-term debt arising from the acquisition of such property and equipment due more than one year from the date of the balance sheet involved.

(f) Non-current receivables from, and payables to, others than related companies, officers, and employees.

(g) Long-term debt incurred in borrowing funds to provide working capital.

(h) Deferred charges, prepaid expenses, and deferred credits, and

(i) Other debits and credits,

if, and to the extent that, they are employed in the general conduct of the shipping business, shall be allocated between operations under the bareboat charter agreements with the Commission and "other operations" on the basis of the relation that the number of days (eliminating fractions by considering twelve hours or more a full day and omitting portions of days amounting to less than twelve hours) of operation or maintenance of vessels (1) under each SHIPSALESEMISE 303, (2) under each addendum to SHIPSALESEMISE 303 whereunder additional charter hire is required to be computed, accounted for, and paid separately, (3) under each WARSHIPDEMISEOUT 203, and (4) in "other operations" (including those under service agreements) during the annual or over-all accounting period involved individually bear to the total of such days: *Provided*, That, for the purposes of this calculation only, a vessel day shall be valued in the manner described in the following formula:

	Day
(a) Vessels owned and operated by the Charterer	1
(b) Vessels bareboat chartered from others and operated by the Charterer	1
(c) Vessels time chartered from others	1/2
(d) Vessels time chartered to others	1/2
(e) Vessels under Time Charter Agency Agreements	1/50
(f) Vessels under General Agency Agreements where General Agents act in dual capacity of General Agent and Berth Agent	1/10
(g) Vessels under General Agency Agreements where General Agent does not act in capacity of Berth Agent	1/10
(h) Vessels under Berth Agency Agreements where Berth Agent does not act in capacity of General Agent	1/50

Provided, That in instances where more than one Berth Agent act for the vessel on a single voyage, the number of days so calculated shall be divided between the Berth Agents involved on the basis of the relation that the number of days under the agency of each bears to the total number of days of the voyage.

In this calculation the expired days of voyages in progress at the commencement of the annual or over-all accounting period will be omitted and the expired days of voyages in progress at the termination of such period will be taken into account (in other words, only

the vessel days within the annual or over-all accounting period involved will be taken into account).

(3) The net book value of tugs, barges, scows, launches, lighters, cranes, and similar floating equipment; terminal property and equipment; stevedoring and other cargo-handling gear and equipment; and other property and equipment used exclusively in shipping and its auxiliary operations, less the portion of any long-term debt arising from the acquisition of such property and equipment due more than one year from the date of the balance sheet involved, shall be allocated between operations under the bareboat charter agreements with the Commission and "other operations" on the same basis as is the income derived from, and the expense incurred in, the operation and maintenance of such services or facilities as hereinafter prescribed in § 299.37-4 *Net voyage profit*.

(d) *Limitation of "capital necessarily employed"*. (1) If in any instance the amount allocated to "capital necessarily employed" under SHIPSALESEMISE 303, in accordance with the foregoing provisions of this section, is in excess of the greater of (a) the working capital requirements, or (b) the net worth requirements determined in the manner provided in paragraph (2) of Clause H—*Special provisions*, of Part I of SHIPSALESEMISE 303, such allocation shall be disregarded and "capital necessarily employed" shall be determined in accordance with such Special Provisions. In the application of this limitation, for the purpose of determining:

(1) The number of vessels involved in instances where they do not remain con-

stant throughout the accounting period, and

(2) The amount of the working capital requirements or the net worth requirements (whichever is the greater) in instances where more than one type of vessel is involved,

the following formula is prescribed:

(a) The number of vessels involved shall be deemed to be the result obtained by dividing into the total number of days covering which charter hire was paid for all vessels for the accounting period involved, the number of calendar days within such period, and

(b) The average working capital requirements or net worth requirements per vessel shall be determined by multiplying the greater of such requirements (as modified in sub-paragraphs (a) and (b) of paragraph (2) of Clause H of Part I of "SHIPSALESEMISE 303") for each type of vessel involved by the number of days covering which charter hire was paid for all vessels of that type for the accounting period involved, and dividing the sum of the results thus obtained for all types of vessels involved by the aggregate number of days covered by such payments for all types of vessels.

The amount to be deducted in the determination of additional charter hire (as ten per centum per annum on "capital employed") shall be that proportion of ten percent represented by the relation that the number of days within the accounting period involved bears to three hundred and sixty-five, the number of days within the year, as shown in the following example (in which the working capital requirements are assumed to exceed the net worth requirements and the accounting period is assumed to be 180 days).

Determination of average working capital requirements:	
<i>Vessels</i>	
Type "A" 11 for 150 days each= 1,650 days @ (a) \$90,000	\$148,500,000
Type "A" 5 for 180 days each= 900 days @ (a) \$90,000	81,000,000
Type "B" 2 for 120 days each= 240 days @ (a) \$100,000	24,000,000
Type "B" 1 for 180 days each= 180 days @ (a) \$100,000	18,000,000
Type "C" 1 for 180 days each= 180 days @ (a) \$140,000	25,200,000
	3,150 days..... 290,700,000
Total as above	290,700,000
Divided by—Total vessel days as above	3,150
Average working capital requirements per vessel	94,190.48
Determination of number of vessels for period:	
Total vessel days as above	3,150
Divided by total days in period	180
Total vessels for period	17½
Determination of "capital employed":	
(b) First to fifth vessel, inclusive (100% of \$94,190.48×5)	\$470,952.40
(b) Sixth to tenth vessel, inclusive (75% of \$94,190.48×5)	353,214.30
(b) Eleventh to fifteenth vessel, inclusive (50% of \$94,190.48×5)	235,476.20
(b) Excess of fifteen (2½ vessels) (25% of \$94,190.48×2½)	58,869.05
Total "capital employed"	1,118,511.95
"Allowable return" of 180/365 of 10% of "capital employed"	55,159.49

(1) Working capital requirements (as modified in subparagraph (a) of paragraph (2) of Clause H of Part I of "SHIPSALESEMISE 303") should be used for this purpose, if they exceed net worth requirements.

(2) Fractions resulting from the calculation of the number of vessels involved shall be taken into account, the 25% reduction being applicable to such fractions occurring between the fifth and sixth vessels, and the 50% reduction to those occurring between the tenth and eleventh vessels.

(e) *Accounting periods extending beyond end of calendar year*. (1) Clause 13 of Part II of WARSHIPDEMISEOUT 203, wherein is prescribed the fundamental basis for the calculation and payment to the Commission of additional charter hire, refers to the cumulative net voyage profits computed for the period of the agreement and makes no provision for an annual accounting. Accordingly, the calculation of "capital necessarily employed" for the entire period under WARSHIPDEMISEOUT 203 is required to be made on the basis of the adjusted

net worth of the Charterer as at the end of the month preceding the date of the delivery of the first vessel thereunder. To accomplish this,

(1) The formula prescribed in paragraph (c) (2) of this section shall cover the entire period from the beginning of the month in which the first vessel was delivered to the Charterer to the end of the month in which the last vessel was redelivered to the Commission under WARSHIPDEMISEOUT 203, and

(i) After the amount of "capital necessarily employed" has been determined, pursuant to the provisions of this section, the "allowable return" thereon shall be calculated at the rate of 10 per centum per annum on the basis of the relation that the number of calendar days between the beginning of the month in which the first vessel was delivered to the Charterer and the end of the month in which the last vessel was redelivered to the Commission under WARSHIPDEMISEOUT 203 bears to 365, the number of days in a calendar year. (See Exhibit "A" for 1946 contained in the illustrative examples of statements to be supplied by the Bureau of Finance, United States Maritime Commission.)

(2) In any instance where operations under WARSHIPDEMISEOUT 203 extended beyond December 31, 1946, in the calculation of the "allowable return" under SHIPSALEDEMISE 303 (and, to the extent involved, any addendum thereto with respect to which additional charter hire is required to be computed, accounted for, and paid separately) for such succeeding period, the number of vessel days applicable to WARSHIPDEMISEOUT 203 in such period shall be taken into account in the formula prescribed in paragraph (c) (2) of this section and shall be treated in the same manner as those applicable to "other operations". (See Exhibit "A" for 1947 contained in the illustrative examples of statements to be supplied by the said Bureau of Finance.)

§ 299.37-4 *Net voyage profit*—(a) *Fundamental bases.* (1) The fundamental bases for the determination of "net voyage profit" are provided in Clause 23 (a) of Part II of WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303.

(2) The fundamental bases for the determination of "fair and reasonable overhead expenses" (which are deductible from gross income in the determination of "net voyage profit") are prescribed in Clause 23 (b) of Part II of WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303.

(b) *Allocation among operations under bareboat charter agreements and "other operations".* The definitions of "net voyage profit" in WARSHIPDEMISEOUT 203 and in SHIPSALEDEMISE 303 provide, in effect, among other things, that, in instances where the Charterer engages in other activities in addition to the operation of the vessels thereunder, income and expenses other than those directly and exclusively allocable to the operation of such vessels shall be prorated between these activities on such basis as the Owner may determine to be fair and reasonable. To

implement this provision of the bareboat charter agreements, the following bases of allocations are prescribed:

(1) Wherever practicable and the result will not be disproportionate, income and expenses (including, but not necessarily limited to, operating revenues and expenses on terminated voyages, inactive vessels expense, operating-differential subsidy, collections from and contributions to pools for the purpose of equalizing revenue in accordance with pooling agreements) shall be allocated directly to the operation from which they are derived or in which they are incurred.

(2) The Uniform System of Accounts provides, among other things, that Accounts Nos. 645—Income from Terminal Operations, 650—Income from Cargo Handling Operations, 655—Income from Tug and Lighter Operations, and 660—Income from Other Shipping Operations (in instances where such services or facilities are maintained by the Operator) shall be credited with "agreed amounts" for the use of such services or facilities by vessels owned by the "Operator", with corresponding charges to Vessel Operating Expense. In instances where the Charterer maintains such services or facilities and they are used by the chartered vessels and if it is impracticable to determine the actual cost of such use, the Charterer may charge in the Vessel Operating Expense Accounts of the chartered vessels fair and reasonable amounts for the use of such services or facilities (but at not in excess of (i) the "going rates" for the services or facilities at the ports involved, or (ii) the rates at which such services or facilities could be obtained from independent suppliers, or (iii) the rates charged all other vessels using them), provided similar charges are made in the accounts of all other vessels operated by the Charterer. If the sum of the gross income derived from the use of such services or facilities by vessels (i) under WARSHIPDEMISEOUT 203, (ii) under SHIPSALEDEMISE 303, (iii) owned by the Charterer, and (iv) chartered from others by the Charterer, exceeds the gross income derived from the use of such services or facilities by other vessels,

(a) The expense of maintaining such services or facilities shall be allocated among the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services or facilities, except that income derived from the furnishing of such services or facilities to vessels neither owned, nor chartered from the Commission or others, by the Charterer shall not be included in the above calculation but shall be prorated between the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 and "other operations" in the same manner as is the expense of maintaining such services or facilities as thus determined, and

(b) The amounts credited to the income accounts shall be allocated directly to the operation of the vessels under

WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 and "other operations" on the same basis as are the corresponding charges to the Vessel Operating Expense Accounts.

If, conversely, the sum of the gross income derived from the use of such services or facilities by vessels (i) under WARSHIPDEMISEOUT 203, (ii) under SHIPSALEDEMISE 303, (iii) owned by the Charterer, and (iv) chartered from others by the Charterer, is less than the gross income derived from the use of such services or facilities by other vessels,

(a) The amounts credited to the income accounts corresponding to charges in the Vessel Operating Expense Accounts of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 shall be allocated directly to the operation of such chartered vessels and the amounts credited to the income accounts corresponding (1) to charges in the accounts of vessels, owned, or chartered from others than the Commission, by the Charterer, and (2) to charges against others for the use of such services or facilities shall be allocated to "other operations," and

(b) The expense of maintaining such services or facilities shall be allocated between the operation of vessels under WARSHIPDEMISEOUT 203 and SHIPSALEDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services or facilities.

(3) Compensation (other than liquidation fees) earned under Berth Agency, General Agency and Time Charter Agency Service Agreements and sub-agency fees and commissions paid or payable from such compensation shall be allocated direct to "other operations".

(4) Except in instances involving (i) considerable nonshipping operations, (ii) the operation of passenger vessels, (iii) substantial dissimilarity between the operations of the vessels chartered from the Commission and those of vessels owned or chartered from others by the Charterer, or (iv) agency operations actually carried on as a separate and substantial business activity of the Charterer for its own account and not merely incidental to the operation of the chartered vessels (with respect to which the Charterer shall submit, for the consideration of the Commission, in advance of the accounting herein prescribed, its concept of a fair and reasonable formula, addressed in the manner prescribed in § 299.37-2 (b) (4)), overhead expenses (if they are not susceptible to direct allocation), including administrative and general expense, less (a) agency fees, commissions, and brokerage earned, (b) except in instances where the Charterer, through the maintenance of actual cost records or other sound accounting methods, can demonstrate to the satisfaction of the Commission the actual application of costs incurred against such fees, a minimum of 50% of liquidation fees accrued during the over-all accounting period involved, the remaining percentage of such fees to be deferred to the

next succeeding period, and (c) accounting fees earned by United States principals of supervisory foreign agents; management and operating commissions; advertising expense; and taxes, other than Federal income tax, shall be allocated between operations under the bareboat charter agreements with the Commission and "other operations" on the basis of the relation that the number of days (eliminating fractions by considering twelve hours or more a full day and omitting portions of days amounting to less than twelve hours) of operation of maintenance of vessels (i) under each SHIPSALESDEMISE 303, (ii) under each addendum to SHIPSALESDEMISE 303 whereunder additional charter hire is required to be computed, accounted for, and paid separately, (iii) under each WARSHIPDEMISEOUT 203, and (iv) in "other operations" (including those under service agreements) during the annual or over-all accounting period involved individually bear to the total of such days; *Provided*, That, for the purposes of this calculation only, a vessel day shall be valued in the manner described in the following formula:

	Day
(a) Vessels owned and operated by the Charterer.....	1
(b) Vessels bareboat chartered from others and operated by the Charterer.....	1
(c) Vessels time chartered from others.....	1/2
(d) Vessels time chartered to others.....	2/3
(e) Vessels under Time Charter Agency Agreements.....	1/2
(f) Vessels under General Agency Agreements where General Agents act in dual capacity of General Agent and Berth Agent.....	1
(g) Vessels under General Agency Agreements where General Agents do not act in capacity of Berth Agent.....	2/3
(h) Vessels under Berth Agency Agreements where Berth Agent does not act in capacity of General Agent.....	1/2

Provided, That in instances where more than one berth agent act for the vessel on a single voyage the number of days so calculated shall be divided between the berth agents involved on the basis of the relation that the number of days under the agency of each bears to the total number of days of the voyage.

In this calculation the expired days of voyages in progress at the commencement of the annual or over-all accounting period will be omitted and the expired days of voyages in progress at the termination of such period will be taken into account (in other words, only the vessel days within the annual or over-all accounting period involved will be taken into account).

If, in any instance, the amount of overhead expenses allocated against operations under General Agency, Time Charter Agency, and Berth Agency Agreements, in accordance with the foregoing formula, exceeds the amount of compensation earned under such Agreements for the period involved, less sub-agency fees and commissions paid or payable from such compensation, the amount of such excess shall be reallocated among the other operations of the Charterer (including, but not limited to, those under the bareboat charter agreements) on the basis of the relation that the amount of overhead expenses other-

wise allocated to each such operation bears to the total of the overhead expenses otherwise allocated to all such operations.

Subject to the conditions prescribed in paragraph (b) of § 299.37-6, in any instance where the statements required to be submitted to the Commission hereunder are certified by an independent certified public accountant or a firm of independent certified public accountants, such fair and reasonable payments as the Commission determines to have been made by the Charterer for the certification of such statements by such certified public accountants may be allocated directly to operations under the bareboat charter agreements involved on the basis of the relation that the number of vessel days applicable to each accounting period under each agreement (or addendum with respect to which a separate determination of additional charter hire is required to be made) bears to the total vessel days under all such agreements (or addenda) for all such periods covered by such statements.

The salaries of any additional personnel which the Charterer demonstrates to the satisfaction of the Commission to have been necessarily employed for the exclusive purpose of preparing such statements (irrespective of whether or not they are certified by an independent certified public accountant or a firm of independent certified public accountants) shall be allocated over the entire period covered by such statements on the basis of the relation that the total vessel days applicable to each annual or overall accounting period involved bears to the total vessel days for all such periods, and the proportion of such salaries so determined to be allocable to each such period shall be distributed between operations under the bareboat charter agreements with the Commission and "other operations" in accordance with the formula prescribed in this subparagraph (4).

Post redelivery expenses, to the extent hereafter determined by the Commission to have been reasonably and necessarily incurred in connection with the conduct of the operation of the chartered vessels, will be made the subject of a supplement hereto.

(5) In instances where branch offices of the Charterer act as agents for the chartered vessels and if it is impracticable to determine the actual cost of such services, the Charterer may charge in the vessel operating expense accounts of the chartered vessels fair and reasonable amounts for such services (but at not in excess of (i) the "going rates" for the services at the ports involved, or (ii) the rates at which such services could be obtained from independent agents, or (iii) the rates charged all other vessels for such services), provided similar charges are made in the accounts of all other vessels operated by the Charterer. If the sum of the gross income derived from the furnishing of such services to vessels (i) under WARSHIPDEMISEOUT 203, (ii) under SHIPSALESDEMISE 303, (iii) owned by the Charterer, and (iv) chartered from others by the Charterer, exceeds the gross income

derived from the furnishing of such services to other vessels,

(a) The expense of maintaining such branch offices shall be allocated among the operation of vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services, except that income derived from the furnishing of such services to vessels neither owned, nor chartered from the Commission or others, by the Charterer shall not be included in the above calculation but shall be prorated between the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" in the same manner as is the expense of maintaining such services as thus determined, and

(b) The amounts credited to Agency Fees, Commissions, and Brokerage Earned shall be allocated directly to the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the same basis as are the corresponding charges to the Vessel Operating Expense Accounts.

If, conversely, the sum of the gross income derived from the furnishing of such services to vessels (i) under WARSHIPDEMISEOUT 203, (ii) under SHIPSALESDEMISE 303, (iii) owned by the Charterer, and (iv) chartered from others by the Charterer, is less than the gross income derived from the furnishing of such services to other vessels,

(a) The amounts credited to the income accounts corresponding to charges in the Vessel Operating Expense Accounts of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 shall be allocated directly to the operation of such chartered vessels and the amounts credited to the income accounts corresponding (i) to charges in the accounts of vessels owned, or chartered from others than the Commission, by the Charterer, and (ii) to charges against others for the furnishing of such services, shall be allocated to "other operations", and

(b) The expense of maintaining such branch offices shall be allocated between the operation of vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels in each such operation bears to the total gross income derived from the furnishing of such services.

(6) Depreciation expense shall be allocated between the operation of the chartered vessels and "other operations" on the same basis as the net book value of the property involved is allocated in the determination of "capital employed", except depreciation on general office furniture and fixtures, which shall be allocated on the same basis as that prescribed with respect to overhead expenses in subparagraph (4) of this paragraph.

(7) Income in the form of interest earned and dividends shall be allocated

between the operation of the chartered vessels and "other operations" on the same basis as the value of the investments and securities from which such income is derived is allocated in the determination of "capital employed".

(8) Interest expense shall be allocated between the operation of the chartered vessels and "other operations" on the same basis as the liabilities in connection with which such expense was incurred are allocated in the determination of "capital employed".

(9) Miscellaneous operating income, miscellaneous operating expense, miscellaneous other income, and miscellaneous other deductions from income, if, and to the extent that they are not susceptible to direct allocation, but are derived from, or incurred in, the general conduct of the shipping business shall be allocated on the same basis as that prescribed with respect to overhead expenses in subparagraph (4) of this paragraph.

(10) Income derived from, and expenses incurred in, nonshipping operations shall be allocated directly to "other operations".

(c) *Calculation of net voyage profit on cumulative basis.* In providing for the calculation of additional charter hire based on the cumulative net voyage profit of the Charterer, Clause 13 of Part II of SHIPSALESDEMISE 303 provides also that such cumulative net profit so accounted for shall not be included in the calculation of cumulative net profit in any subsequent year or period. Pursuant to these provisions of the bareboat charter agreements, only deficiencies in net voyage profits may be carried forward, and then only under the following conditions:

(1) In any instance where a net voyage loss is sustained as a result of operations under SHIPSALESDEMISE 303 during any accounting period terminating at the end of a calendar year and a net voyage profit is realized thereunder in the next succeeding accounting period, the net voyage loss and the net voyage profit for the respective periods may be combined and additional charter hire may be computed on the basis of the net result using the number of days consumed on terminal voyages during the combined period (together with the number of days during which any of the chartered vessels were inactive during that period) in determining the applicable percentages in accordance with the table set forth in Clause 13 of Part II of the said form of charter.

(2) In any instance where the net voyage profit realized as a result of operations under SHIPSALESDEMISE 303 during any accounting period terminating at the end of a calendar year is less than 10 per centum per annum of "capital necessarily employed" during that period and the net voyage profit realized thereunder in the next succeeding accounting period is in excess of 10 per centum per annum of "capital necessarily employed" during such succeeding period, the net voyage profits for the respective periods may be combined and additional charter hire may be computed on the basis of the combined result, using the number of days consumed on terminated voyages during the combined

period (together with the number of days during which any of the chartered vessels were inactive during that period) in determining the applicable percentages in accordance with the table set forth in Clause 13 of Part II of the said form of charter.

Provided, however, That in any such instance involving any addendum to SHIPSALESDEMISE 303 whereunder additional charter hire is required to be computed, accounted for, and paid separately, the net voyage profits and net voyage losses thereunder likewise shall be treated separately for these purposes and shall not be combined with those under SHIPSALESDEMISE 303 or any other addendum thereto.

§ 299.37-5 *Statements required by the Commission.* The separate final accountings required hereunder, as referred to in § 299.37-2 (b) (1), shall include the following statements (There will be supplied by the Bureau of Finance illustrative examples of such statements for the period from inception to December 31, 1946, and for the calendar year 1947, based on hypothetical figures and upon the assumption that the Charterer shall have executed an addendum amending the agreement involved to provide for the described alternative method of determining "capital necessarily employed" in instances where, within a calendar year or other accounting period, the Charterer has entered into more than one charter agreement with the Owner, or has agreed that, for accounting purposes, the operation of certain vessels during prescribed periods shall be treated as though they were under a separate charter. If, in any instance, such an addendum is not executed, it will be necessary that the Charterer submit a balance sheet as at the close of the month preceding the commencement of each accounting period with respect to which a separate determination of additional charter hire is required to be made.):

EXHIBIT A—ANALYSIS OF NET WORTH AND ALLOCATION OF "CAPITAL NECESSARILY EMPLOYED" FOR THE PURPOSE OF DETERMINING "ADDITIONAL CHARTER HIRE"

The procedure for the preparation of this statement contemplates:

1. That a balance sheet is required to be prepared only (a) as at the end of the month preceding the date of delivery of the first vessel under either WARSHIPDEMISE-OUT 203 or SHIPSALESDEMISE 303, even though more than one such agreement became effective during the calendar year involved, and (b) at the end of that and each succeeding calendar year;

2. That the assets and liabilities reflected in such balance sheet, adjusted as required pursuant to Clause 23 (c) of WARSHIPDEMISE-OUT 203 and SHIPSALESDEMISE 303, shall be allocated among operations under such bareboat charter agreements and "other operations" on the bases prescribed in § 299.37-3 (c);

3. That the net worth as reflected in each such balance sheet as adjusted shall be further adjusted to ascertain the net worth at the commencement of each succeeding agreement (or addendum thereto) whereunder additional charter hire is required to be computed, accounted for, and paid separately, whereunder delivery of the first vessel is made during the calendar year involved, by taking into account (a) addi-

tions to capital, (b) withdrawals of capital, and (c) net profits (or losses) after additional charter hire and after provision for Federal income tax occurring (i) during the period between the end of the month preceding the date of delivery of the first vessel under the first agreement and the end of the month preceding the date of delivery of the first vessel under the second agreement, (ii) during the period between the end of the month preceding the date of delivery of the first vessel under the second agreement and the end of the month preceding the date of delivery of the first vessel under the third agreement, and (iii) during each similar intervening period preceding each succeeding agreement whereunder delivery of the first vessel is made during the calendar year involved. In computing such adjustment, the net profit earned (or loss sustained) during such periods shall be ascertained by allocating the proportion of the total net profit earned (or loss sustained) under each bareboat charter agreement (or addendum thereto, whereunder additional charter hire is required to be computed, accounted for, and paid separately) and in "other operations" to such periods, on the basis of the relation that the number of vessel days (valued in accordance with the formula prescribed in § 299.37-4 (b) (4)) expired under each such agreement (or addendum) and in "other operations" during the period from the beginning of the calendar year involved or from the end of the month preceding the date of delivery of the first vessel under the first bareboat charter agreement with the Commission (whichever later occurs) to the commencement of the period with respect to which the determination of net worth is required to be made, separately, bears to the total of such vessel days under each such agreement (or addendum) and in "other operations" during the over-all accounting period involved;

4. That, in the determination of "capital necessarily employed" under SHIPSALESDEMISE 303 only, additional capital in the form of cash or tangible property paid in and any withdrawals of capital during an annual or over-all accounting period thereunder shall be included or deducted (as the case may be) in the manner prescribed in § 299.37-3 (b). Such interim adjustments are neither required nor permitted under WARSHIPDEMISE-OUT 203;

5. That the "capital necessarily employed" as thus determined, separately, with respect to each bareboat charter agreement (or addendum thereto, whereunder additional charter hire is required to be computed, accounted for, and paid separately) shall be compared with any limitations thereon prescribed in § 299.37-3 (d), and that the "allowable return" (at the rate of 10 per centum per annum) of the Charterer under each such agreement (or addendum) shall be calculated on the basis of the lesser of the two; and

6. That the "allowable return" as thus determined shall be deducted from the net voyage profit earned under the corresponding agreement (or addendum) during the accounting period involved and that the balance shall be divided between the Charterer and the Commission in accordance with the applicable provisions of the respective agreements;

Provided, That, in any instance where the income sheet covering operations under the bareboat charter agreement involved from the commencement of an accounting period shows a cumulative net voyage loss, it will not be necessary for the Charterer to submit a statement reflecting its calculation of "capital necessarily employed" unless income sheets covering a previous portion of such period reflected a net voyage profit with respect to which the Charterer made preliminary payment on account of additional charter hire and seeks a refund thereof.

EXHIBIT B—COMPARATIVE BALANCE SHEET

The procedure for the preparation of this statement contemplates:

1. That, for each annual or overall accounting period, there shall be submitted, in comparative form, a balance sheet as at the end of the month immediately preceding the date of the beginning of such accounting period and as at the end of the last month within such accounting period;
2. That, with respect to the first accounting period of the Charterer, the initial balance sheet shall reflect the financial position of the Charterer as at the end of the month preceding the date of delivery of the first vessel under the initial bareboat charter agreement with the Commission;
3. That, in instances where additional agreements become effective during an annual or overall accounting period, it will not be necessary that the Charterer prepare a separate balance sheet to cover such additional agreements, since the net worth at the commencement of each such agreement, will be determined by adjusting the Net Worth reflected in the balance sheet at the commencement of the annual or overall accounting period in the manner prescribed in paragraph 3 of the procedure hereinbefore set forth for the preparation of Exhibit "A";
4. That the accounts reflected in each such balance sheet shall be those prescribed in the Uniform System of Accounts and none other. (In any instance where the Charterer is subject to the jurisdiction of the Interstate Commerce Commission and is required to keep its books, records, and accounts in the form prescribed by that Commission, the statements prepared from such books, records, and accounts should be conformed for this purpose to the illustrative example included among those to be supplied by the Bureau of Finance); and
5. That the assets reflected in each such balance sheet shall be stated at true, fair, and reasonable values and, to the extent applicable, on the basis prescribed in paragraph (c) of Clause 23 of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303; that adequate reserves shall be shown for accounts receivable doubtful of collection and for such other items as require valuation reserves to reflect their true value; and that there shall be included an adequate statement of all known and ascertainable liabilities.

EXHIBIT C—INCOME SHEET

The procedure for the preparation of this statement contemplates:

1. That there shall be submitted income sheets which accurately reflect the results of all operations (a) during the entire period commencing with the first day of the calendar month during which the first vessel is delivered under the initial bareboat charter agreement with the Commission and terminating at the end of that calendar year, and (b) for each succeeding calendar year;
2. That the income and expenses reflected on such income sheets shall be allocated among operations under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the bases prescribed in § 299.37-4 (b); and
3. That the items of income and expense reflected in each such income sheet shall be those prescribed in the Uniform System of Accounts and none other. (In any instance where the Charterer is subject to the jurisdiction of the Interstate Commerce Commission and is required to keep its books, records, and accounts in the form prescribed by that Commission, the statements prepared from such books, records, and accounts should be conformed for this purpose to the illustrative example included among those to be supplied by the Bureau of Finance.)

EXHIBIT D—FORMULAE FOR THE ALLOCATION OF ASSETS AND LIABILITIES, INCOME AND EXPENSE

There shall be submitted for each period with respect to which a separate income sheet is required hereunder a separate statement reflecting the formulae by which the assets and liabilities and income and expenses are distributed among the various operations during each such period in accordance with § 299.37-3 (c) in the determination of "capital necessarily employed" and in accordance with § 299.37-4 (b) in the determination of Net Voyage Profit.

EXHIBIT E—WORKING TRIAL BALANCE

The procedure for the preparation of this statement contemplates:

1. That there shall be prepared a working trial balance as at each date with respect to which a separate balance sheet is required hereunder;
2. That the balances reflected in the general ledger at the respective dates shall be listed by accounts and distributed to the appropriate columns provided therefor in the illustrative example included among those to be supplied by the Bureau of Finance;
3. That each asset and liability account shall be thoroughly analyzed to determine that all items included therein have been properly classified and adjusted, that the balances are correct, and do not contain items of income or expense applicable to either a prior or current accounting period;
4. That each income and expense account shall be thoroughly analyzed to determine that the items included therein have been properly classified and adjusted, that the balances are correct, and that such balances are entirely applicable to the accounting period involved;
5. That the balance in each clearance account shall be thoroughly analyzed and proper accounting disposition made thereof;
6. That all adjustments to the accounts listed in the working trial balance shall be accomplished by posting thereto journal entries, prepared in numerical sequence and containing a complete description as to the reasons for the adjustment, copies of such journal entries to be made available to the Owner upon request; and
7. That the Charterer may change or vary the design of this working trial balance to suit its particular needs, provided that the statement substituted will produce the same results and reflect all of the information required, but in this respect it is emphasized that the Owner has found the illustrative example included among those to be supplied by the Bureau of Finance to be satisfactory and particularly well adapted to its use in conducting audits of charter operations.

SCHEDULE A-1—FORMULA FOR LIMITATION OF "CAPITAL NECESSARILY EMPLOYED"

This schedule shall reflect the calculation of the limitation of "capital necessarily employed" in accordance with § 299.37-3 (d) separately for each accounting period with respect to which a determination of "capital necessarily employed" is required hereunder.

SCHEDULE B-1—ANALYSIS OF SURPLUS

The procedure for the preparation of this statement contemplates:

1. That there shall be submitted an analysis of surplus in support of each balance sheet required hereunder;
2. That such analysis in support of the beginning balance sheet pertaining to the first bareboat charter agreement with the Commission (WARSHIPDEMISEOUT 203 or SHIPSALESDEMISE 303) shall reflect (i) surplus (or deficit) as at December 31, 1945, (ii) net profit (or loss) during the period from January 1, 1946, to the end of the month preceding the date of delivery of the first vessel thereunder, (iii) direct adjustments

to surplus during such period, and (iv) the balance as at the end of such period;

3. That, in addition to 2 above, such analysis shall reflect also (i) profit or loss during the period from the first day of the calendar month during which the first vessel was delivered under the first bareboat charter agreement with the Commission (WARSHIPDEMISEOUT 203 or SHIPSALESDEMISE 303) to December 31, 1946, (ii) direct adjustments to surplus during such period and (iii) the balance as at December 31, 1946; and

4. That such analyses for subsequent annual or overall accounting periods shall be prepared in a similar manner to reflect separately changes in surplus during each period with respect to which a separate determination of "capital necessarily employed" is required.

SCHEDULE E-1—ANALYSIS OF PROFIT AND LOSS

The procedure for the preparation of this statement contemplates:

1. That there shall be submitted in support of each working trial balance required hereunder an analysis of profit and loss for the calendar year or overall accounting period involved and that such analysis shall be grouped by accounts in the manner indicated in the illustrative example included among those to be supplied by the Bureau of Finance;
2. That such analysis shall include all adjustments effected by the Charterer and, as part of the working trial balance, shall be the basis upon which the Income Sheet (Exhibit "C") is prepared; and
3. That all items of income and expense reflected in the analysis of profit and loss shall be those prescribed in the Uniform System of Accounts and none other. (In any instance where the Charterer is subject to the jurisdiction of the Interstate Commerce Commission and is required to keep its books, records, and accounts in the form prescribed by that Commission, the statements prepared from such books, records, and accounts should be conformed for this purpose to the illustrative example included among those to be supplied by the Bureau of Finance.)

§ 299.37-6 Certifications and verifications. (a) The accounting required hereunder shall be submitted under cover of an affidavit, executed by the corporate officer responsible for the accuracy and maintenance of the books of account and financial records of the Charterer, if a corporation, or by a general partner so responsible, if a partnership, which affidavit shall be substantially as follows:

AFFIDAVIT

STATE OF _____
 COUNTY OF _____ ss:
 _____, being first duly sworn on his [her] oath, states:
 That I am _____ of the _____
 (Title)

(Name of charterer)

Charterer under bareboat charter agreement(s) with the United States Maritime Commission known as "WARSHIPDEMISEOUT 203" (WSA _____) / "SHIPSALESDEMISE 303" (MCC _____); that, as such, I am responsible for the accuracy and maintenance of the books of account and financial records of the Charterer and am thoroughly familiar with such books and records and with the terms and conditions of the aforesaid bareboat charter agreement(s) and with the orders, rules, regulations, and instructions appertaining thereto as issued by the United States Maritime Commission; that I have carefully examined the statements comprising the accounting annexed hereto

¹ Show only applicable contract references.

covering the period from _____ to _____ under the aforesaid bareboat charter agreement(s); and that, to the best of my knowledge and belief, the said accounting reflects a true and complete statement of the additional charter hire accrued to the United States Maritime Commission under the aforesaid bareboat charter agreement(s) during the period from _____ to _____ under the terms and conditions thereof and in accordance with the orders, rules, regulations, and instructions issued by the United States Maritime Commission appertaining thereto; the balance sheets included in the annexed accounting fairly present the financial position of the Charterer as at the dates thereof, including (but not limited to) an adequate statement of all known and ascertainable liabilities, and the income sheet included in the annexed accounting correctly states the operating results of the Charterer for the period covered by such accounting.

Subscribed and sworn to before me, a Notary Public, in and for the aforesaid County and State, this ____ day of _____, 195__.

My commission expires _____

(Notary Public)

(b) If an independent certified public accountant or a firm of independent certified public accountants is employed by the Charterer for the purpose of certifying the statements required hereunder, the review and settlement by the Owner of additional charter hire determinations thereby may be facilitated. If, therefore, at the option of the Charterer, the statements required hereunder are certified by an independent certified public accountant or a firm of independent certified public accountants, fair and reasonable payments made by the Charterer to such professional accountants for services and incidental expenses relating to such certification may be allocated directly to operations under the bareboat charter agreements involved on the basis prescribed in § 299.37-4 (b) (4): *Provided*, That the following minimum conditions are observed:

(1) Such certified public accountants will undertake to make their working papers available for examination by the Owner's auditors upon request and to permit the Owner's auditors to make copies of such papers to the extent they deem necessary;

(2) Such certified public accountants are independent in fact (An accountant will not be considered independent with respect to any person in whom he has any substantial interest, direct or indirect, or with whom he is, or was during

the period of the bareboat charter agreements involved, connected as an officer, director, executive, or employee. As used in this subparagraph, the term "any person" shall include the Charterer, and any holding company, subsidiary, affiliate, or associate of the Charterer); and

(3) The statements submitted are accompanied, in addition to the affidavit required of the Charterer, by a signed opinion of the independent certified public accountant in the following or substantially similar form:

We [I] have examined the statements comprising the accounting annexed hereto, and have found the statements to have been prepared by the Charterer in accordance with the terms and conditions of the applicable bareboat charter agreement(s) and with the applicable orders, rules, regulations, and instructions issued by the United States Maritime Commission. Our [my] examination of the statements included examination of the underlying books of account and records for the period from _____ to _____. Our [my] examination was made in accordance with generally accepted auditing standards and included all procedures which we [I] considered necessary in the circumstances [state exceptions if any]. In our [my] opinion the annexed statements fairly present the proper determination of additional charter hire (in the aggregate amount of \$_____) accrued to the account of the United States Maritime Commission under bareboat charter agreement(s) _____ No.(s) _____ for the period from _____ to _____

(Independent certified public accountant(s))

Upon receipt of statements certified by an independent certified public accountant or a firm of independent certified public accountants under the conditions prescribed in this paragraph, the Owner will take into consideration the scope of the audit conducted of the Charterer's accounts in determining and settling additional charter hire accounts.

§ 299.37-7 *Statement of purposes and reservations.* The purpose of this procedure is to establish rules and regulations for uniform application to expedite and facilitate the rendition by Charterers to the Owner of final accountings under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303.

The receipt and consideration of such accountings by the Owner shall be subject to the following reservations:

(a) That all working papers (irrespective of by whom prepared) in support of the various statements comprising such

accountings, shall be available for examination by the Owner's auditors upon request and that the Owner's auditors shall be permitted to make copies of such papers to the extent they deem necessary;

(b) That the Owner reserves the right to conduct such audits, examinations, or checks of the Charterer's accounts as it may deem necessary before approving final settlement of additional charter hire for any period under the bareboat charter agreements;

(c) That the examples to be supplied by the said Bureau of Finance of the statements required by the Commission are for illustrative purposes only and are based on hypothetical figures; that no implications should be drawn from the relative magnitude of the figures used in these examples; and that if, in any instance, an example should conflict with the text of this procedure, the latter shall govern;

(d) That the establishment of the rules and regulations prescribed in this procedure is without prejudice to the right of the Commission to determine upon the employment of other bases for allocation and calculation in any instance where, upon the completion of any annual or final accounting, the results produced by the application of the rules and regulations prescribed herein do not, in the judgment of the Commission, produce fair and reasonable results;

(e) That if, in any instance, the rules and regulations prescribed herein should conflict with the provisions of an applicable statute or agreement, such provisions shall govern;

(f) That if, in any instance, the rules and regulations prescribed herein should conflict with any General Order issued by the Commission, the question as to which shall take precedence should be referred to the Commission for decision; and

(g) That nothing contained herein shall be construed as a waiver of any right reserved to the Commission by statute or under WARSHIPDEMISE-OUT 203 or SHIPSALESDEMISE 303.

By order of the United States Maritime Commission,

[SEAL] A. J. WILLIAMS,
Secretary.

FEBRUARY 21, 1950.

[F. R. Doc. 50-2654; Filed, Mar. 29, 1950; 8:49 a. m.]

PROPOSED RULE MAKING

UNITED STATES MARITIME COMMISSION

[46 CFR, Part 243]

COMMERCIAL FORWARDING OF CERTAIN EXPORTS FOR FOREIGN RELIEF AND REHABILITATION

NOTICE OF PROPOSED RULE MAKING

The United States Maritime Commission gives notice pursuant to section 14

of the Administrative Procedure Act that it proposes to further amend its General Order 70 (14 F. R. 2854) as amended by Amendment I (14 F. R. 3123) as hereinafter set forth. The principal reason for such amendment is to liberalize the conditions upon which foreign-owned freight forwarders may participate in handling cargo shipped or financed by the U. S. Government for relief and rehabilitation of foreign nations. The proposed amendment also effects a

clerical correction, and changes slightly the statement of policy as to the use of private freight forwarders.

Interested persons may submit written comment on the proposed amendment on or before April 14, 1950, addressed to The Secretary, U. S. Maritime Commission, Washington 25, D. C. The amendment, if and as adopted, will be published in the FEDERAL REGISTER, and will specify its effective date.

The proposed amendment is as follows:

Sections 243.2 (b), 243.2 (e) and 243.3 (a) (11) are amended to read as follows:

§ 243.2 Regulations. * * *

(b) *Use of private freight forwarders.* The aforementioned agencies and persons shall use the services of private freight forwarders for the forwarding of such supplies in accordance with ordinary commercial practice, except where existing conditions make such use unreasonable or impracticable.

(e) *Foreign-owned forwarders.* Any person (as above defined) engaged in freight forwarding not a citizen of the United States within the definition of citizen of the United States contained in U. S. Code, Title 46, section 802, shall be designated as a "foreign-owned" freight forwarder. Foreign-owned freight forwarders shall not receive or collect brokerage or forwarding fees on cargoes shipped pursuant to the Foreign Assistance Act of 1948, or other relief and rehabilitation statutes, to any country receiving assistance under such statutes, aggregating in any period of three successive calendar months a larger percentage of the forwarder's gross revenues received for forwarding services during such period than the percentage represented by the ratio between the forwarder's gross revenues from forwarding shipments to the same country and his gross revenues from forwarding to all countries received during the year ended March 31, 1948: *Provided, however,* That there may be substituted in lieu of and as an alternative for the aforementioned percentages, at the election of the foreign-owned forwarder and upon written notice to the Maritime Commission prior to the end of any such three month period, a dollar limitation on gross revenue from relief and rehabilitation cargo to any particular country for any three month period, representing one half the amount of gross revenue actually received from shipments of relief and rehabilitation cargo to such country under such statutes for the last six months of the calendar year 1949, but in no event less than \$500.00. Foreign-owned freight forwarders who, or whose predecessors, were established in the United States subsequent to September 3, 1939, shall not be permitted to service cargoes shipped under the Foreign Assistance Act of 1948, and other relief and rehabilitation statutes, and shall not receive brokerage or other forwarding fees for services to such cargoes.

Example: Between March 31, 1947, and March 31, 1948, a foreign-owned forwarder received \$1,000 in fees and brokerage on cargo forwarded to Belgium, and his gross revenues during the same period from all forwarding services was \$10,000. The ratio is 10%. He may not hereafter, during any three-month period, receive more than 10% of his gross income during such period on relief cargo forwarded to Belgium. However, if his gross income from relief cargo forwarded to Belgium during the six months ended December 31, 1949, aggregated \$7,200, then as an alternative to said 10% of his gross income, he may receive up to \$3,600 of gross income on relief cargo forwarded to Belgium during the three month period.

§ 243.3 Registration. (a) * * *

(11) If the answer to question 10 is in the negative, the forwarder shall furnish the Commission a statement of its total gross revenue from all forwarding services received during the period from March 31, 1947, to March 31, 1948, showing separately the gross revenue received from forwarding cargoes shipped during that period to each nation now receiving aid under the Foreign Assistance Act of 1948 and other relief and rehabilitation statutes. The foreign-owned forwarder shall also submit every three months a statement of its total gross revenue received during such three month period from all forwarding services, showing separately (i) the gross revenue received from forwarding cargoes to each of the nations now receiving aid under the Foreign Assistance Act of 1948 and other relief and rehabilitation statutes; and (ii) as to each such nation, the amount of revenue derived from forwarding "commercial" or non-U. S. Government financed cargo and revenue derived from forwarding U. S. Government financed cargo. Such statements shall be furnished not later than the 15th day of January, April, July and October for the preceding 3 calendar months.

Dated: March 14, 1950.

By the Commission.

[SEAL] R. L. McDONALD,
Assistant Secretary.

[F. R. Doc. 50-2656; Filed, Mar. 29, 1950; 8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 901]

[Docket AO-207]

HANDLING OF IRISH POTATOES GROWN IN DELAWARE AND CERTAIN DESIGNATED COUNTIES IN MARYLAND

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of Irish potatoes grown in Delaware and in the counties of Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Annes, Kent and Cecil in Maryland, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051), hereinafter called the "act." Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the tenth day after publication of this recommended decision in

the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and the proposed marketing order (Hereinafter called the "order") were formulated, was held at Salisbury, Maryland, on January 18-20, 1950, pursuant to notice thereof which was published in the FEDERAL REGISTER (14 F. R. 7527). Such notice set forth a proposed marketing agreement and order which was submitted to the Secretary of Agriculture by the Maryland-Delaware Potato Committee (composed of producers and shippers of Irish potatoes in the proposed production area) with a petition for a hearing thereon.

Material issues. The material issues presented on the record of the hearing are as follows:

- (1) The existence of the right to exercise Federal jurisdiction;
- (2) The need for the proposed regulatory program to accomplish the declared objectives of the act;
- (3) The identity of the persons and transactions to be regulated;
- (4) The definition of the commodity and determination of the smallest regional production area to be affected by the proposed regulatory program;
- (5) The specific terms and provisions of the proposed marketing agreement and order necessary and incidental to attain the declared objectives of the act, including, among others, those applicable to:

- (a) The establishment of, maintenance, composition, powers, duties, and operation of the administrative agency;
- (b) The method for limiting shipments of Irish potatoes grown in the production area;
- (c) The establishment of minimum standards of quality and maturity;
- (d) The handling under special regulations, under certain circumstances, and the procedure applicable thereto, of specified shipments of Irish potatoes grown in the production area;
- (e) The relaxation of regulations in hardship cases and the procedure applicable thereto; and
- (f) The requirement that all handling of Irish potatoes grown in the production area must be in accordance with the provisions of the marketing agreement and order, and that inspection and certification of shipments of such potatoes and the payment of assessments must be accomplished in connection therewith.

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

- (1) A large percentage of the Irish potatoes grown in the State of Delaware and in the counties of Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Annes, Kent, and Cecil in the State of Maryland, hereinafter called the "production area", normally enters the current of interstate or foreign commerce, and virtually all of the remainder of such potatoes are consumed as table stock potatoes within the

production area or used for so-called diversionary purposes. The market for potatoes grown in the production area is regional in scope and prices for such potatoes at markets both within and outside the States of Maryland and Delaware are closely related to each other and to f. o. b. shipping point prices in the production area. Every movement and sale of such potatoes, whether to a market within or outside of the state of production, or the production area, affects the price structure for all potatoes grown in the production area. The mere availability of a surplus of such potatoes in the production area, which could move or be sold to satisfy market demands, tends to decrease the prices in all markets for all potatoes grown in the production area.

Shipments and sales of potatoes grown in the Maryland counties of the production area or in the State of Delaware may be scheduled originally for delivery to markets within such counties or state, respectively, and then be diverted en route to markets outside of the States of Maryland and Delaware. Conversely, such potatoes, destined originally for markets outside of such states, may be diverted en route to markets within such states or to markets within the production area. The movement and sale of such potatoes to markets within the production area, to markets within the States of Maryland and Delaware, and to markets outside of the States of Maryland and Delaware are, therefore, inextricably intermingled.

It is concluded, therefore, that (i) all transportation and sale (except retail sales) of Irish potatoes grown in the production area are either in the current of interstate or foreign commerce, or directly burden, obstruct, or affect such interstate or foreign commerce, and (ii) it is impractical to regulate effectively the transportation and sale of such potatoes without regulating all transportation and sale thereof.

(2) For the 19 seasons, 1930-1948, inclusive, seasonal average farm prices per bushel of Irish potatoes grown in the production area were below parity for 13 seasons and above parity in only six, four of which were during the late war. Seasonal average farm prices were below parity in 1946, 1947, and 1948.

Effective January 1, 1950, parity prices for potatoes are to be computed in accordance with the provisions of the Agricultural Act of 1948 and the Agricultural Act of 1949. It is hereby determined that the applicable parity price for potatoes in 1950 will be 95 percent of the parity price determined in the manner used prior to January 1, 1950.

On the basis of information now available, seasonal average farm prices for the 1949 crop of Irish potatoes grown in the production area are not expected to exceed the aforesaid effective parity price level. Based on the level of United States current potato production, the prospective acreage of Irish potatoes in the production area and in competing areas, the level of support prices for the 1950 crop of potatoes, and the relationship which has existed in a majority of the past 19 seasons between seasonal average farm prices and parity for pota-

toes, it is also to be anticipated that seasonal average farm prices received by growers in the production area for Irish potatoes harvested in 1950 will not exceed the aforesaid parity price level.

The availability of supplies of Irish potatoes in excess of all market demand therefor tends to decrease the grower's average returns from all of such potatoes. Withholding the poorer grades, undesirable quality and sizes of such potatoes from such markets tends to equalize the supply and demand therefor, and tends to increase the growers' average returns for all Irish potatoes. Poor grades, undesirable quality, and undesirable sizes of Irish potatoes available for sale at retail to the consumers in any market, sell at appreciable discounts from the sale price of the better grades, and desirable quality and sizes of such potatoes, and the former not only displace the latter to a considerable extent, but the former give poor consumer satisfaction, resulting in an over-all decreased consumption of Irish potatoes. Grade, quality, and size discounts in retail sales of Irish potatoes are reflected in similar discounts in grower returns therefor. Similarly, decreased consumer consumption of Irish potatoes of all grades, qualities, and sizes, decreases grower returns from such potatoes.

Poorer grades, undesirable qualities, and undesirable sizes of Irish potatoes are frequently marketed in a manner designed to indicate that such potatoes are of desirable grades, qualities, and sizes, which results in consumer dissatisfaction, confusion relevant to Irish potato values, and generally chaotic marketing conditions.

Therefore, it is concluded that a marketing agreement and order is necessary to regulate the transportation and sale of Irish potatoes grown in the production area, to establish and maintain such orderly marketing conditions therefor as will tend to establish prices to farmers at the level declared to be the policy of Congress to establish. The marketing agreement and order should contain provisions for the establishment and maintenance of such minimum standards of quality and maturity and such grading and inspection requirements for Irish potatoes grown in the production area as will effectuate orderly marketing thereof in the public interest, because, even though prices received by farmers for such potatoes exceed parity, some immature potatoes of poor quality do not, under any circumstances, represent value to the consumers thereof, because of immaturity, poor quality, or both, and the returns to the farmers therefrom are negligible.

(3) (a) The act authorizes the regulation of such handling of Irish potatoes grown in the production area as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. (Such handling is hereinafter called "in commerce".) The marketing agreement and order should regulate such handling solely to effectuate the declared policy of the act. It is essential, as a basis for such regulation, that the marketing agreement and order define a "handler,"

so that persons to be regulated thereunder will have notice thereof.

Common or contract carriers transporting Irish potatoes (grown in the production area and owned by another person) to market are performing a normal handling function in commerce but such handling should not be regulated under the marketing agreement and order for the reason that such carriers are not responsible for the grade, quality, and size of the commodity so transported, are not responsible for the introduction of such commodity in commerce, and their sole interest in such commodity is to transport it to destinations selected by others for a service charge. The responsibility for the grade, quality, and size of the commodity delivered to such common and contract carriers should be borne solely by the person or persons responsible for delivering such commodity to such carriers.

Other normal handling functions with respect to such potatoes, which should be regulated under the marketing agreement and order, are hereinafter considered in connection with a definition of "ship", and the definition of "handler" should be synonymous with "shipper" because regulation of the handler performing each of such functions is necessary under the marketing agreement and order to effectuate the declared policy of the act. Therefore, the term "handler" should be defined to be synonymous with shipper (except a common or contract carrier of potatoes owned by another person) and to mean any person who ships potatoes.

(b) Packing, washing, grading, and other processing of Irish potatoes are normal handling functions in commerce. However, it would be impracticable, if not impossible, to require persons engaged in washing, packing, and grading Irish potatoes, grown in the production area, to meet minimum grade, quality, and size requirements in connection with such potatoes, under regulations issued pursuant to the marketing agreement and order, prior to such grading. Therefore, such handling activities should be exempt from regulation under the marketing agreement and order. After the grading has been accomplished in connection with such potatoes, the handling activity of transporting them to market should be subject to regulation, under the marketing agreement and order, because the grade, quality, and size of such potatoes are determined by the grading process accomplished prior to such transportation and such transportation in commerce can then be limited, on a practical basis, to such grades, qualities, and sizes of such potatoes as will tend to effectuate the declared policy of the act.

Sales of Irish potatoes, grown in the production area, in commerce are normal handling transactions which should be subject to regulation under the marketing agreement and order because such sales can be restricted to the grades, qualities, and sizes of such potatoes as will meet the requirements of regulations issued under such marketing agreement and order and because such sales introduce or continue such potatoes in commerce. Therefore, if such

sellers fail to meet such requirements, they should be responsible, except as hereinafter indicated, for the introduction or continuation of Irish potatoes in commerce which fail to meet such requirements. However, if a producer of Irish potatoes, grown in the production area, sells such potatoes to a recognized packer in his immediate area of production within the production area on a grade-out basis, such sale by the producer does not constitute a normal handling transaction in commerce because such sale does not place such potatoes in commerce and because such producer relies on the recognized packer handling such potatoes in accordance with such grade, quality, and size regulations as may be in effect at the time such potatoes are actually placed in commerce. Under such state of facts, the sale from the producer to the recognized packer does not place the potatoes in commerce and the customary contemplation of the parties is that such potatoes will be prepared for market prior thereto, i. e., washed, graded, etc. It is necessary to restrict the scope of this producer-packer sale exception to packers operating processing facilities in the production area because such restriction conforms to customary practice in the production area and because enlarging the exception would serve no useful purpose.

However, if a producer of Irish potatoes, grown in the production area, sells potatoes grown by him to an itinerant truck, or any other person for transportation to market without prior processing, such potatoes are thereby placed in commerce at the time of such sale and the producer, under such circumstances, is the first handler of such potatoes. Such producer intended, under such circumstances, that the potatoes would be placed in commerce at the time of such sale and, therefore, he should be held responsible for any failure of the commodity so sold to meet such grade, quality, and size requirements as might be in effect under the marketing agreement and order at the time of such sale.

Irish potatoes grown in the production area and consigned or otherwise placed in commerce are in the same category as similar potatoes sold in commerce because all of such potatoes must at least meet the minimum grade, quality, and size requirements in effect under the marketing agreement and order at the time they are placed in commerce to effectuate the declared policy of the act. The consignor or individual otherwise placing such potatoes in commerce should be required, therefore, to meet such grade, quality, and size requirements.

Irish potatoes grown in the production area are frequently transported, sold, or otherwise placed or continued in commerce by more than one person. Each of such persons is responsible for introducing or continuing such potatoes in commerce and, therefore, each of such persons should be required to conduct such normal handling activities in accordance with applicable grade, quality, and size regulations, under the market-

ing agreement and order, to effectuate the declared policy of the act.

It is concluded, therefore, that "ship" should be defined in the marketing agreement and order to include all of the normal handling functions which must be subject to regulation to effectuate the declared policy of the act, that such definition should be synonymous with "handle", and that "ship" should mean to transport, sell, or in any other way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof.

(4) (a) It is necessary to define the commodity to be regulated by the marketing agreement and order, so that persons handling such commodity will know that their handling activities relevant thereto are subject to regulation thereunder. The act authorizes marketing agreements and orders applicable to potatoes, or to any regional or market classification thereof. Irish potatoes of all varieties grown in the production area is a regional classification of potatoes and regulation of the handling thereof will tend to effectuate the declared policy of the act. It is concluded, therefore, that "potatoes" should be defined to mean all varieties of Irish potatoes grown in the production area.

(b) A definition of "production area" is incorporated in the marketing agreement and order to specify and delineate the area in which potatoes must be grown before the handling thereof is subject to regulation. Potatoes are produced for market in every county included within the production area. Although commercial production tends to be concentrated within certain counties therein it would be impractical to exclude the counties of lesser commercial importance from the production area. The exclusion of any county, or portion thereof, from the area would create enforcement problems of such magnitude as to jeopardize the successful operation of the marketing agreement and order. It is desirable, insofar as possible, to fix the boundaries of the production area to coincide with natural boundaries such as rivers or large bodies of water in order to minimize the number of available routes for moving potatoes from the area by rail or truck. The production area, together with the counties of Accomack and Northampton in Virginia, which are included under a separate marketing agreement and order, forms a peninsula with a minimum of contact with other Irish potato production areas by land and, therefore, approaches the ideal situation for checking compliance with and enforcement of the provisions of the marketing agreement and order. To exclude any county, or portion thereof, from the production area would increase the number of routes by which potatoes could move out of the area and correspondingly would increase the difficulties and expense of enforcement.

Production, harvesting, and marketing conditions and methods are essentially the same throughout the production area. Such differences in these factors as do exist are relatively minor and would not justify, on the basis of reasons stated herein, the exclusion

of any portion of the production area from regulation under the marketing agreement and order. The same or similar varieties of potatoes are grown throughout the production area and potatoes from each part thereof compete in markets both within and outside the area during each season. For example, potatoes grown in Delaware are shipped to market during the same period that shipments are being made from the Maryland portion of the production area. Potatoes from both States are sold in and compete in the same markets during each season. The trend toward increased potato production in Delaware will intensify competition with potatoes grown in the Maryland portion of the production area, which is an added reason for including the State of Delaware therein. Exclusion of any portion of the production area from regulation under the marketing agreement and order would make the operation of such program unreasonably difficult and impractical. Therefore, the production area, hereinafter defined, constitutes the smallest practicable regional production area.

(5) It is necessary to define the terms hereinafter set forth so that their applicability and meaning may be established and to preclude the necessity for redefining them when they are later used in the marketing agreement and order. The definitions of Secretary, act, person, producer, and varieties, as set forth in the notice of hearing, were not in controversy at the hearing. These terms are generally understood by members of the potato industry in the production area and the use of such terms in the marketing agreement and order is essential as the basic framework thereof.

A definition of "fiscal year" is incorporated in the marketing agreement and order to establish the beginning and end of an operating period. The establishment of such period, which should comprise a full twelve months, is necessary for businesslike administration of the marketing agreement and order and is desirable as a basis for establishing the terms of office of committee members and alternates. The date marking the end of one fiscal year and the beginning of the new should fall at a time of relative inactivity in the marketing of the potato crop and should allow sufficient time for the committee to organize and be prepared to function prior to the start of the new marketing season. Marketing of the potato crop grown in the proposed production area begins about July 1 of each year and is largely completed by December 31 of the same year. January 1 of each year is, therefore, an appropriate date for establishing the end of one fiscal year and the beginning of the new. Fiscal year should be defined therefore, as hereinafter set forth.

A definition of "committee" is incorporated in the marketing agreement and order to identify the administrative body which acts as agent of the Secretary. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, minimizes the use of words in the marketing agreement and order.

Definitions of "seed potatoes," "table stock potatoes," "wholesale pack" and "consumer pack" are incorporated in the marketing agreement and order because regulation is provided, under certain circumstances, differently for each. Special regulation for seed potatoes is justified because such potatoes are produced for a specialized use and the requirements of the seed market differ, in some respects, from that of the table stock market. For example, potatoes of small size are ordinarily discounted in the table stock market but may bring a premium in the seed market. The term "seed potatoes" should be defined to include such potatoes as are certified, tagged, or otherwise appropriately identified by the official seed certifying agency of the respective State or such other seed certifying agency as the Secretary may recognize. Table stock potatoes should be defined as all potatoes other than seed potatoes. The sum total of the table stock and seed potatoes so defined will equal "potatoes", otherwise defined in the marketing agreement and order.

The definition of "consumer pack" should include all potato packs which are prepared for ultimate sale by the retailer to the consumer in the original container. The definition of "wholesale pack" should include all potatoes which are normally dumped into bins at the retail store. In practice, the distinction between the two types of packs rests on the capacity of the package. Consumer packs commonly in use in the production area consists of 5, 10, and 15 pound bags, while wholesale packs consist of 50 and 100 pound bags. The demarcation between consumer and wholesale packs should be drawn at a specified weight rather than by naming the individual container which should fall in each category. The possible introduction of containers differing in size from those now in use makes the latter approach impractical. A net weight of 50 pounds of potatoes appears to be an appropriate dividing line between the two types of packs. Consumer pack and wholesale pack should be defined, therefore, as hereinafter set forth.

Definitions of "grade" and "size" are incorporated in the marketing agreement and order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently regulations issued pursuant thereto. Grade and size, the essential terms in which regulations are issued, should be defined as comprehending the equivalents of the meanings assigned to these terms in the official standards for potatoes issued by the United States Department of Agriculture, or to modification or amendment thereof and variations based thereon. Official inspectors are qualified to certify to the grade and size of potatoes grown in the proposed production area in terms of any one of such standards.

A definition of "export" is incorporated in the marketing agreement and order because different regulations thereunder are authorized for export shipments than for domestic shipments. Export markets have certain require-

ments which differ from the domestic market and special regulations are, therefore, justified. Export should be defined to include all shipments of potatoes outside of the continental United States.

A definition of "district" is incorporated in the marketing agreement and order to delineate the geographical divisions of the production area for the purpose of electing nominees for membership on the committee. The production and marketing problems within each of the established districts are similar and election of committee nominees on such basis will afford equitable representation to all producers in the production area. District should be defined, therefore, as hereinafter set forth.

(a) The marketing agreement and order should provide for the selection by the Secretary of an administrative committee, called the Maryland-Delaware Potato Marketing Committee, composed of seven members. Establishment of this committee is desirable and necessary to aid the Secretary in carrying out the declared policy of the act and such committee is authorized by the act.

Provision is made for an alternate for each member of the committee. Circumstances may arise when it is impossible for a member, or members, to attend particular meetings of the committee and where positions are vacant because of death, resignation, or for other reasons. In such situations it is desirable for the respective alternate to act in lieu of the member, so that there will be no interruption of committee operations and to assure producers in all districts of the production area representation in the conduct of all committee business. Such alternates should have the same qualifications as the members in order that the interests of all producers will be adequately considered at all times in the administration of the marketing agreement and order.

A committee of seven members will be sufficiently small to permit it to operate in an efficient manner and at the same time, on the basis of the division of the production area into districts and representation therefrom, will be of sufficient size to give adequate representation to all producers in the production area.

Members and alternates selected to represent each district should be producers of potatoes, or officers or employees of a corporate producer, in such district and residents therein. Persons with such qualifications will be intimately acquainted with the particular problems of producing and marketing potatoes grown in such district and for that reason can be expected to present accurately the views, problems, and economic conditions of producers in such district with respect to committee actions.

A nomination procedure is provided for in the marketing agreement and order to assure the Secretary that the names of appropriate prospective members and alternates will be brought to his attention. The nomination of prospective members and alternates by producers at producer meetings in their respective districts is a practical method

of providing the Secretary with names of such members and alternates. Such procedure will insure that the Secretary has available a list of nominees whose qualifications have been reviewed by and acted upon by members of the industry.

The Secretary may appropriately select initial committee members and alternates from nominations which may be made by producers or groups thereof. The Maryland-Delaware Potato Marketing Committee, however, does not come into existence until selection by the Secretary of the initial committee; therefore, the marketing agreement and order should provide for the selection of said initial committee in the absence of nominations.

Nomination meetings for the purpose of nominating succeeding members of the committee and their alternates should be held or caused to be held by the Maryland-Delaware Potato Marketing Committee prior to November 1 of each year. Such date is approximately sixty days prior to the end of the fiscal year. By holding, or causing to be held, nomination meetings prior to such date, the committee would have adequate time to prepare and submit nominee list to the Secretary in time for the Secretary to select the members and alternates to take office at the beginning of the new fiscal year, and, in the event a selectee declines to serve, for the Secretary to make another appointment.

At least two nominees should be designated for each position as member, and each position as alternate member so that the Secretary will have a choice in making his selection and, in the event a selectee declines to serve, so that he will have the names of other prospective members or alternates from which to make another appointment.

Nominee lists should be supplied to the Secretary in the manner and form prescribed by him to establish administrative uniformity in the handling of such matters. Such nominations should be presented to the Secretary at least thirty days prior to the end of the fiscal year so that the selection of the members and alternates for the new term of office which begins with the new fiscal year may be made prior to such date.

A producer should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates, or representatives, in designating nominees for committee members and alternates regardless of the number of districts in which he produces potatoes. Voting on any other basis would not provide for equitable representation. If a producer could cast more than one vote by reason of operating in more than one district, such producer would have an advantage in selecting nominees over producers operating in only one district. Likewise, if more than one vote was permitted, a few large producers could dominate the elections and nominate producers not favored by a majority of producers. The producer who operates in more than one district should be permitted to elect from among the districts in which he produces potatoes, the district in which he shall vote in order that he may cast his ballot for nominees for committee members and alternates where he believes his main

interest lies. The one-vote limitation applies to any one position to be filled at a nomination meeting. Each producer is allowed one vote for each such position as a committee member and each such position as a committee alternate to be filled at a nomination meeting.

In order that there will be an administrative agency in existence at all times to administer the marketing agreement and order, the Secretary should be allowed to select committee members and alternates without regard to nominations should the committee for some reason fail to carry out the nomination procedure prescribed herein. Such selection, however, should be on the basis of the representation provided in the marketing agreement and order to insure that all portions of the production area are fairly and adequately represented.

Any person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of willingness and intention to serve in such capacity. Each person selected as a committee member or alternate should follow this procedure so that the Secretary will have a means of determining if the selectee intends to serve. This is sound operating procedure and is necessary and desirable to avoid delays in the composition of the committee. For this same reason each member and alternate should file his acceptance within a definite time period after receiving notice of his selection. The ten-day period prescribed is reasonable for qualification and will not unduly retard composition of the committee.

Provision is made for the Secretary to fill any committee vacancies in order to maintain continuity of committee operation. The marketing agreement and order provides several alternative procedures which may be followed by the Secretary in making such selections. The administrative flexibility thus prescribed is desirable so that the Secretary will not be forestalled in making such selections and so that he may choose the most practical of the alternative means of obtaining the names of qualified persons to fill such vacancies. The Secretary should have authority to select persons to fill committee vacancies from nominations made at meetings of producers. Practical considerations, however, may preclude the holding of special nomination meetings for this purpose. For example, a vacancy might occur during the height of the potato planting or harvesting season when it would be difficult for the committee to secure an adequate and representative attendance at meetings. It is, therefore, appropriate that the Secretary should be authorized to make selections to fill vacancies from the nominee list last submitted by the committee prior to the occurrence of the vacancy.

It is also desirable and necessary that the Secretary should be authorized to fill committee vacancies without regard to nominations if the names of nominees to fill any such vacancy are not made available to the Secretary within thirty days after such vacancy occurs. The Secretary should have recourse to such means of filling vacancies in order

to maintain continuity of committee operation and to insure that all portions of the production area are adequately represented in the conduct of committee business.

The term of office of committee members and alternates, except for initial members and alternates, should be for two years. A two-year term is desirable so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service in assisting the Secretary in carrying out the declared policy of the act. A term of two years is also the minimum term that can be established if provision is to be made for staggered terms of office which the proponents desire. A term of more than two years should not be established since producers should have an opportunity to vote for a change in their representation at more frequent intervals.

Provision is made in the marketing agreement and order for staggered terms of office of committee members and alternates. Under this provision, about one-half of the committee in office at the end of a fiscal year will continue in office through the next fiscal year. The establishment of such staggered terms will promote administration of the program in the most effective and efficient manner. By having staggered terms of office, the new members and alternates, constituting about one-half of the committee membership, selected to serve at the beginning of each fiscal year will benefit from the guidance of the experienced members who carry over. This provision for the carry-over of experienced members will help insure continuity in the policies and procedures relating to the administration of the marketing agreement and order. Such continuity is an essential ingredient in the successful administration of the marketing agreement and order.

To facilitate the establishment of staggered terms of office the marketing agreement and order provides that the terms of office of three members and alternates of the initial committee shall be for one year and the terms of office of four members and alternates shall be for two years. Such provision is fair and equitable and will permit the establishment, on a practical basis, of a committee with the members and alternates thereon holding office for staggered terms.

A quorum of the Maryland-Delaware Potato Marketing Committee should consist of five members, and five concurring votes should be necessary for passing any motion or approving any action of the committee. These requirements are reasonable and are necessary to insure that any action of the committee will be representative of more than a bare majority of the committee. To require more than five members to be present at meetings of the committee and to concur in committee actions might result in a stalemate if one or two members, as the case may be, refused to attend meetings or to approve actions favored by the remainder of the members.

Only members present at an assembled meeting of the committee, or alternate

members acting for members, should be entitled to vote. This requirement will encourage greater attendance at meetings and will promote fuller discussion of committee actions. Provision is made, however, for meetings of the committee by telephone, telegraph, or other means of communication to meet practical situations where rapid decision with respect to committee actions is necessary. Such emergency situations occur quite frequently in the marketing of potatoes grown in the production area. Any votes cast at such meetings should be promptly confirmed in writing to provide a record of the action taken.

The apportionment and selection of producer members and alternate members of the committee by districts in the manner set forth in the marketing agreement and order will provide fair and equitable representation of all producers in the production area. The representation provided gives weight, on as fair and equitable basis as possible, to the various factors, such as acreage, number of producers, and size of district, necessary to establish assurance of a fair and equitable representation of all portions of the production area on the committee.

Committee members and alternates should be compensated at a rate not to exceed \$5.00 per day, or portion thereof, and should be reimbursed for expenses necessarily incurred when acting on committee business. Since such members and alternates will be serving in the interest of potato industry, they should not be required to bear such expenses as they incur in attending to committee business. Compensation at not to exceed the rate prescribed herein will offset, to some extent, the losses which such members and alternates will sustain through committee service.

The powers of the committee, as set forth in the notice of hearing, should be granted to the committee because such powers are authorized by the act and are essential to the committee in order for it to discharge its responsibilities under the marketing agreement and order.

Each and all of the duties set forth in the notice of hearing should be given to the committee because such duties are necessary and essential to the accomplishment of the declared policy of the act and for the committee to discharge its obligations to the Secretary. These duties are similar to duties given to other administrative committees under other marketing agreement and order programs.

(b) The declared policy of the act is to establish and maintain such orderly marketing conditions for potatoes, among other commodities, as will tend to establish parity prices for such potatoes. The regulation of shipments of potatoes by grade, size, or quality, authorized in the marketing agreement and order, provides a means of carrying out such policy.

The procedures which are outlined in the marketing agreement and order for the development and institution of marketing policies relating to grade, size, or quality regulations provide a practical basis for the committee to obtain ap-

propriate and adequate information regarding marketing problems. In turn, members of the industry are also provided an appropriate and adequate means of being informed regarding the policies and regulations the committee recommends and, if issued, the regulations that are effective. The factors which the committee should take into consideration in developing its marketing policy are the ones commonly or usually taken into account by growers and handlers in marketing potatoes.

In order that the Secretary may most effectively carry out his responsibilities in connection with the marketing agreement and order, it is provided that the committee should prepare and submit to the Secretary a report on its proposed policy, or amendments thereto, for the marketing of potatoes during each fiscal year. Further provision is made for the committee to make available the contents of such reports to producers and handlers in the production area.

In making recommendations for regulation, it is provided that the committee shall investigate enumerated relevant factors of supply and demand for potatoes. This requirement is necessary so that the committee will be in the best position to develop sound and practical recommendations for regulation and to advise the Secretary with respect to such supply and demand conditions. The committee will be well qualified to determine marketing conditions for potatoes produced in the production area and to recommend specific regulations which will tend to effectuate the declared policy of the act.

The limitation of shipments of the poorer grades, qualities, and less desirable sizes of potatoes grown in the production area will tend to increase the prices of the more desirable grades, qualities, and sizes, and to increase the returns to producers therefrom. Less desirable sizes include not only small potatoes but also excessively large potatoes. Such limitation of shipments will also help to improve the long-run demand for and competitive position of potatoes grown in the production area.

It is necessary and desirable exercise of the authority granted by the act for the committee to recommend and the Secretary to establish grade, size, or quality regulations for any or all portions of the production area; and different grade, size, or quality regulations for different packs, for different time periods within the shipping season, for different varieties, or any combination of the foregoing. Such administrative flexibility is needed in the marketing agreement and order to effectuate the declared policy of the act through the issuance of appropriate regulations adopted to different and changing circumstances encountered in the marketing of potatoes.

Authority to issue different regulations applicable to different portions of the production area is necessary because a particular portion or portions of such area may have adverse growing conditions which cause an abnormally high percentage of the potatoes grown therein to fall within restricted grades, sizes, or qualities. Such authority would

greatly simplify the administrative problems of meeting a situation of this kind.

Supply and demand conditions for potatoes are subject to frequent and substantial changes during the course of a particular marketing season. For this reason, it is absolutely essential that the committee have authority to recommend different regulations at any time during the season in order to carry out the declared policy of the act.

Different regulations should be authorized for different varieties of potatoes because varieties differ in particular characteristics such as shape and in susceptibility to certain defects. For these reasons, an appropriate grade and size regulation for one variety might not be appropriate for another. Moreover, a new variety may be introduced in the area which should be regulated differently than the varieties now being grown.

It is necessary to provide for different regulations, under appropriate circumstances, for consumer packs than for wholesale packs to improve and maintain consumer acceptance for potatoes grown in the production area. Consumer packs of potatoes require different size composition than wholesale packs; authority should be provided, therefore, to establish regulations with respect to minimum or maximum sizes of potatoes, or both, differently for consumer packs than for wholesale packs. Consumer acceptance of potatoes is more adversely affected by inferior grades and undesirable sizes in consumer packs than in wholesale packs. In the case of consumer packs, the consumer accepts the package relatively "sight unseen" and does not have an adequate opportunity of making a selection of individual potatoes. The consumer, however, can make the desired selection from bulk displays made up by dumping the contents of wholesale packs into a bin, as is standard procedure in the retail grocery business. Consumers demand a better and more uniform grade, size, and quality of potatoes in consumer packs, than in wholesale packs and failure to maintain such grade, size, and quality in consumer packs will disproportionately decrease the total returns of growers of potatoes in the production area.

The Secretary, upon the recommendation of the committee, or other available information, should be authorized to modify, suspend, or terminate grade, size, or quality regulations with respect to shipments outside of the normal commercial markets for table stock potatoes. The committee should be well qualified, because of the experience and knowledge of individual members, to recommend such modifications, suspensions, or terminations as will be in the best interests of the potato industry in the production area and which will tend to effectuate the declared policy of the act. Shipments of potatoes to the noncompetitive outlets, hereinafter set forth, which otherwise could not be marketed under the regulations, would tend to increase the total returns of potato growers in the production area.

The nature of the demand for seed potatoes differs from the demand for table stock in that small sizes are pre-

ferred for seed whereas the same sizes are discounted in the table stock market. Moreover, certain characteristics which constitute grade defects in table stock potatoes do not necessarily detract from the value of seed potatoes. It is desirable, in order to promote more orderly marketing conditions for potatoes, to authorize the committee to recommend and the Secretary to modify grade, size, or quality regulations with respect to seed potatoes or to suspend or terminate regulations relating to such seed shipments.

In recent years, export outlets have been an insignificant factor in the demand for potatoes grown in the production area. Such outlets, however, were once important and may again come to be a substantial factor. In view of this possible development and since certain export markets offer premium prices for certain grades, sizes, or qualities of potatoes which usually sell at a discount in the domestic market, it is desirable that the committee be authorized to recommend, and the Secretary to establish, modifications, suspensions, or terminations of regulations applicable to export shipments. Such shipments to export would tend to increase returns to producers in the production area and result in added increment to the value of the crop, thereby tending to effectuate the declared policy of the act.

Substantial shipments of potatoes to the Federal Government have been made in recent years in carrying out price support obligations administered by the Secretary. It is necessary, therefore, to authorize the committee to recommend and the Secretary to modify, suspend, or terminate regulations to facilitate such shipments, which will increase grower returns from potatoes grown in the production area and thereby tend to effectuate the declared policy of the act.

The committee should be authorized to recommend and the Secretary to modify, suspend, or terminate regulations with respect to potatoes shipped for manufacture or conversion into specified products because such shipments, such as glucose, alcohol, etc., reduce the supply of such potatoes available for shipment to the table stock market and, therefore, such shipments tend to increase the total value of the entire crop of potatoes. The committee should be given authority to recommend which shipments should be classed as being for manufacture or for conversion into specified products because committee members are in an advantageous position to know whether and when such end products constitute outlets that are not competitive with table stock potatoes. It is concluded that the committee should have authority to specify such products because some products compete on a basis virtually equal to table stock potatoes and, further, because new end products may be developed from time to time, some of which may, and some of which may not be competitive with table stock potatoes.

The committee should be authorized to recommend that shipments of potatoes for livestock feed, or for other specified purposes, should not be regulated, or to recommend modification or suspension

of regulations governing such shipments. Livestock feed provides an outlet for potatoes that is not competitive with the table stock market. When such outlets are available it will tend to promote objectives sought under regulation to exempt shipments for this purpose from grade, size, and quality regulations. The committee should be authorized to recommend that shipments of potatoes for a particular purpose or type of utilization should not be regulated, or to recommend modification or suspension of regulations with respect to such shipments, when it is found that such shipments are not competitive with tablestock shipments in commerce. The Secretary, on the basis of such recommendations, or other available information, should be authorized to modify, suspend, or terminate regulations with respect thereto, when such action will tend to effectuate the declared policy of the act.

The aforesaid authorizations for the modification, suspension, or termination of regulations, with respect to shipments of potatoes for each special purposes, should permit the modification, suspension, or termination of one or more regulatory provision and the simultaneous retention of other regulatory provisions because such shipments may require expenditures of administrative funds to police and they may compete, to some extent, with shipments of potatoes for table stock purposes.

The administrative difficulties of regulating small shipments, under some circumstances, may make it uneconomical, undesirable, and impractical to attempt to do so under the marketing agreement and order. Under such circumstances, which can be readily determined by the committee, regulation of such small shipments would not tend to effectuate the declared policy of the act. It is concluded that the committee should be authorized to recommend and the Secretary to establish the minimum quantities which should not be subject to any or all regulations issued under the marketing agreement and order. It is necessary to permit the maintenance of one or more regulatory requirements, while relieving such minimum quantities from other regulatory requirements. It may be desirable, for example, for the inspection requirement to be waived on small shipments but that handlers be required to pay assessments or comply with grade, size, or quantity regulations with respect to such shipments. This provision provides authority to arrange flexible operation of the marketing agreement and order to meet unusual situations in a practical way. Such authority will tend to assure equitable regulation and promote more orderly marketing under the marketing agreement and order.

The requirement that the Secretary shall notify the committee of any regulations, or of any modifications, suspensions, or terminations of regulations, is appropriate and necessary to enable the committee to be informed of such actions. The committee's obligation to give reasonable notice (which shall be given through newspapers, radio, mail, or such combinations thereof as may be

deemed desirable by the committee) of orders issued by the Secretary is appropriate and necessary for proper and efficient administration of the marketing agreement and order.

Authority should be provided for the committee to recommend and the Secretary to prescribe adequate safeguards to prevent any potatoes, including seed potatoes, which may be subject to special modified, suspended, or terminated regulation, from entering the current of commerce contrary to the provisions hereof. Such safeguards, among others, may include inspection to provide the committee with an accurate record of the grade, size, or quality of such shipments. In order to maintain appropriate identification of such shipments of potatoes, the committee should be authorized to issue Certificates of Privilege to handlers thereof and to require that such handlers obtain such certificates on all such shipments. Certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary, on the basis of committee recommendations, or other available information, so that the issuance of such certificates may be handled in an orderly and efficient manner.

The committee also should be authorized to deny or rescind Certificates of Privilege when such action is necessary to prevent abuse of the privileges conferred thereby. The committee should be authorized to take such rescinding or denial action upon evidence satisfactory to the committee that a handler to whom a Certificate of Privilege has been issued has handled potatoes contrary to the provisions thereof. Action by the committee denying a handler such certificates should be in terms of a specified time period. Handlers affected by the aforesaid rescinding or denial action should have the right of appeal to the committee for reconsideration.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificates of Privilege issued by the committee in order that the Secretary may retain all rights necessary to carry out the declared policy of the act. The Secretary should give prompt notice to the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The committee should maintain detailed records relevant to Certificates of Privilege and should submit, when requested to do so, reports thereon to the Secretary to supply pertinent information requisite for him to discharge his duties under the act and the marketing agreement and order.

(c) The committee should be authorized to recommend and the Secretary to establish such minimum standards of quality and maturity and such grading and inspection requirements during any and all periods of marketing, and even when potato prices are above parity, as will be in the public interest. Some potatoes are of such defective quality that they do not give consumer satisfaction at any time because of the great waste and time involved in their preparation. The cost of such potatoes to the

consumer per edible unit is frequently greater than the cost per edible unit of potatoes of better quality.

The shipment of immature potatoes causes an adverse consumer reaction to potatoes from the production area and tends to demoralize the market for later shipments of mature potatoes. There is a tendency for immature potatoes to deteriorate in transit and to develop undesirable cooking properties. Limitation of shipment of such potatoes would be in the interests of both consumers and of the potato industry in the production area. Continued shipments of low quality and immature potatoes may result in a permanent reduction in demand for potatoes grown in the production area.

(d) Provision is made in the marketing agreement and order for inspection by the Federal-State Inspection Service of all shipments of potatoes grown in the production area. Inspection certificates issued by this service are a common and usual means of specifying the grade, size, and quality of potatoes and are generally used and recognized in the production area. Such certificates constitute prima facie evidence of the grade, size, and quality of the commodity to which they apply and they are accepted in court as such evidence. It is necessary to provide the handler, the committee, or any other interested party with a means of determining whether a shipment or shipments, of potatoes complies with the requirements of any particular grade, size, and quality regulation which may be in effect under the marketing agreement and order. Inspection certificates provide such a means. The Federal-State Inspection Service can provide reasonably prompt inspection at all points within the production area at a reasonable fee. Effective regulation of the handling of potatoes grown in the production area requires that, at all times, the grade, size, and quality of each shipment thereof can be authoritatively established. Accordingly, the marketing agreement and order should provide that no handler shall ship potatoes unless, prior thereto, such shipment was inspected by the aforesaid Service. A copy of the inspection certificate issued pursuant thereto should be supplied to the committee promptly, so that it may promptly discharge its administrative responsibilities with respect to such shipment. In instances where potatoes previously inspected are regraded, resorted, or in any other way subjected to further preparation for market, such potatoes should be and are required to be inspected and a copy of the inspection certificate should be furnished to the committee because such further preparation for market destroys the validity of the original inspection certificate as evidence of the grade, size, and quality of the potatoes involved. All of the aforesaid requirements are necessary for proper administration and enforcement of the provisions of the marketing agreement and order.

(e) Certain hazards are incidental to the production of potatoes grown in the production area, which are beyond the control or reasonable expectation of the producer of such potatoes. Because of these circumstances and to prevent un-

due hardship among producers, with respect to any regulations which may be issued under the marketing agreement and order, the committee should be authorized to issue exemption certificates to producers to permit such producers to ship their equitable proportion of all potatoes shipped from the production area. In determining such equitable proportion the committee should be authorized to estimate the average percentage of production which has been and will be shipped by all producers in the producer's immediate area of production under a given regulation (which will be such equitable proportion). For such purpose, the committee would need a representative sample of the grade, size, and quality composition of the total crop in such area, a part of which, at any given time during the shipping season, may have been harvested and marketed and another part unharvested.

The committee, by reason of its knowledge of the conditions and problems applicable to the production of potatoes in the production area and the information which it will have available in each case, will be well qualified to judge each producer-applicant's case in a fair and equitable manner and to fix the quantity of exempted potatoes which each such applicant may ship.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in transferring such certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary are necessary to the orderly and equitable operation of the marketing agreement and order and they should, therefore, be incorporated in the marketing agreement and order.

Provision should be made for the Secretary to modify, change, alter, or rescind the procedure established by the committee for granting of exemptions and of exemptions granted pursuant to such procedure. This is necessary to guard against inequities in the granting of exemptions and to preclude the issuance of exemption certificates in unjustifiable cases.

(f) The operation of the committee and the marketing agreement and order require funds for payment of necessary administrative expenses. The committee is the logical agency to recommend what expenses are necessary and appropriate for operation of the program. It is also necessary that assessments be levied on the handlers to meet such expenses since no other source of funds is authorized under the act for defraying such expenses. The committee should be required, each year, to prepare and submit to the Secretary a budget showing its estimated expenses and a proposed rate of assessment. This is desirable in order that the Secretary will have the best possible information on probable expenses of the committee and the proper rate of assessment to be levied to meet such expenses.

Assessments should be levied against each handler who first ships potatoes, herein called the first handler, to establish an appropriate basis for each

handler paying his pro rata share of necessary administrative expenses. Each first handler is required to pay assessments to the committee, at its request, to conform with normal business procedures and to preclude multiple assessments in connection with individual shipments of potatoes. Each first handler's pro rata share of such expenses shall be a percentage of such expenses equal to the percentage his total season's first handling of potatoes subject to regulation is of the total season's handling of potatoes subject to regulation by all first handlers. The budget of expenses and revenue should include a rate of assessment which the Secretary can consider, and, if he approves, fix as the rate per given unit of shipment which first handlers must pay to establish the basis for appropriate and equitable sharing of the expenses of administering the program.

The Secretary should be authorized to increase the rate of assessment which first handlers should pay if he finds, during the course of a given season, that the then current rate of assessment is insufficient to cover expenses. Such increased rate should apply on a retroactive basis to all assessable potatoes previously handled during that season to preclude inequities among handlers.

Revenues collected through assessments in excess of expenses for any fiscal year should, at the end of such fiscal year, be credited pro rata to each contributing handler's account, or, upon demand, refunded to any handler.

The committee should be authorized to maintain, with the approval of the Secretary, suits in its own name, or in the name of its members, against any handler for collection of such handler's pro rata share of the committee's expenses. Such authority is contained in the act.

The committee should be permitted to make such expenditures during the applicable fiscal year as are authorized and are necessary for effective administration and proper functioning of the marketing agreement and order program, within the limitations of the budget submitted by the committee and approved by the Secretary.

Any committee member or alternate responsible for or having in his custody any of the property, funds, records, or any other possessions of the committee should be required to transfer it to his successor or to such person as may be designated by the Secretary, and to execute such instruments as may be necessary to effect such transfers. The committee, and such members and alternates, should be required to give an accounting for all committee receipts and disbursements and for all committee property whenever requested by the Secretary and whenever, in the case of members and alternates, they cease to be such members or alternates. These transfer and accounting requirements represent sound business procedure and are necessary in order that there will be an unbroken succession in committee possessions.

(g) For proper and efficient administration of the marketing agreement and order, the committee needs information

on potatoes with respect to supplies, movement, prices, and sundry other relevant factors which are best obtainable from handlers. The committee should be authorized to request, with the approval of the Secretary, and every handler should be required to maintain records of such facts and furnish to the committee upon request, with the approval of the Secretary, such information therefrom as may be required for the committee to exercise its powers and perform its duties under the marketing agreement and order. The committee should be authorized to audit such records to verify reports submitted as aforesaid. The Secretary should retain the right to modify, change, alter, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports.

(h) The provisions of sections 8 through 20, as published in the FEDERAL REGISTER of December 16, 1949 (14 F. R. 7527) are common to marketing agreements and orders now operating. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the marketing agreement and order. These provisions are incidental to, and not inconsistent with section 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the marketing agreement and order and to effectuate the declared policy of the act. Such provisions, therefore, should be included in the marketing agreement and order exactly as set forth in the notice of hearing.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The order, as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) Such order regulates the handling of potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The said order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the said area.

(5) All handling of potatoes, as defined in said order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Rulings on proposed findings and conclusions. Interested parties were allowed until February 15, 1950, to file briefs with respect to findings of facts and conclusions based on evidence intro-

duced at the hearing. No such brief was filed; hence, no ruling is necessary.

Recommended marketing agreement and order. The following marketing agreement and order are recommended as the detailed means by which the aforesaid conclusions may be carried out.

DEFINITIONS

§ 901.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture, who is, or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 901.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051).

§ 901.3 *Person.* "Person" means an individual, partnership, corporation, association, or any organized group or business unit.

§ 901.4 *Production area.* "Production area" means all territory included within the State of Delaware and the counties of Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Annes, Kent, and Cecil in the State of Maryland.

§ 901.5 *Potatoes.* "Potatoes" means all varieties of Irish potatoes grown within the production area.

§ 901.6 *Handler.* "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

§ 901.7 *Ship.* "Ship" or "handle" means to transport, sell, or in any other way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof; *Provided*, That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of potatoes to a recognized dealer or packer within the production area for the purpose of having such potatoes prepared for market.

§ 901.8 *Producer.* "Producer" means any person engaged in the production of potatoes for market.

§ 901.9 *Fiscal year.* "Fiscal year" means the period beginning on January 1 of each year and ending December 31 following.

§ 901.10 *Committee.* "Committee" means the administrative committee, called the Maryland-Delaware Potato Marketing Committee, established pursuant to § 901.22.

§ 901.11 *District.* "District" means each of the geographic divisions of the production area established pursuant to § 901.24.

§ 901.12 *Varieties.* "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or

hereafter recognized by the United States Department of Agriculture.

§ 901.13 *Seed potatoes.* "Seed potatoes" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under supervision of the official seed potato certifying agency of the respective state where grown, or other seed certification agencies which the Secretary may recognize.

§ 901.14 *Table stock potatoes.* "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes."

§ 901.15 *Wholesale pack.* "Wholesale pack" means a unit of fifty pounds net weight or more of potatoes contained in a bag, crate, or any other type of container.

§ 901.16 *Consumer pack.* "Consumer pack" means a unit of less than fifty pounds net weight of potatoes contained in a bag, crate, or any other type of container.

§ 901.17 *Grade and size.* "Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(a) United States Standards for Potatoes issued by the United States Department of Agriculture (14 F. R. 1955, 2161), or amendments thereto, or modifications thereof, or variations based thereon; and

(b) United States Consumer Standards for Potatoes issued by the United States Department of Agriculture (12 F. R. 7281), or amendments thereto, or modifications thereof, or variations based thereon.

§ 901.18 *Export.* "Export" means shipment of potatoes beyond the boundaries of continental United States.

ADMINISTRATIVE COMMITTEE

§ 901.22 *Establishment and membership.* (a) The Maryland-Delaware Potato Marketing Committee consisting of seven members is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Persons selected as committee members or alternates shall be individuals who are producers in the respective district for which selected, or officers or employees of a corporate producer in such district, and such persons shall be residents of the respective district for which selected.

§ 901.23 *Term of office.* The term of office of committee members and alternates shall be for two years beginning on the first day of January and continuing until the end of the succeeding fiscal year, and until their successors are selected and have qualified; *Provided, However*, That the terms of office of the initial committee shall be determined by the Secretary so that the terms of office of three initial members and their alternates shall be for one year and that the terms of office of four initial members and their alternates shall be for two years. Committee members and alternates shall serve during

the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 901.24 *Districts.* For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby established:

District No. 1. The county of Worcester in Maryland;

District No. 2. The counties of Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Annes, Kent, and Cecil in Maryland; and

District No. 3. The State of Delaware.

§ 901.25 *Selection.* The Secretary shall select three members of the committee, with their respective alternates, from District No. 1, two members, with their respective alternates, from District No. 2, and two members, with their respective alternates, from District No. 3.

§ 901.26 *Nomination.* The Secretary may select the members of the committee, with their respective alternates, from nominations which may be made in the following manner:

(a) Nominations for initial members of the committee and their respective alternates may be submitted by producers, or groups thereof, and such nominations may be by virtue of elections conducted by groups of producers.

(b) In order to provide nominations for succeeding committee members and alternates:

(1) The committee shall hold, or cause to be held, prior to November 1 of each year, after the effective date hereof, a meeting or meetings of producers in each of the districts designated in § 901.24;

(2) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(3) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the committee;

(4) Nominations for committee members and alternate members shall be supplied to the Secretary, in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal year;

(5) Only producers may participate in designating nominees for committee members and their alternates; and

(6) Regardless of the number of districts in which a person produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates; *Provided*, That in the event a person is engaged in producing potatoes in more than one district, such person shall elect the district within which he may participate in designating such nominees; *Provided further*, That an eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one

vote for each position to be filled in the district in which he elects to vote.

§ 901.27 *Failure to nominate.* If nominations are not made within the time and in the manner specified in § 901.26, the Secretary may, without regard to nominations, select the committee members and alternates, which selection shall be on the basis of the representation provided for in § 901.25.

§ 901.28 *Acceptance.* Any person selected as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 901.29 *Vacancies.* To fill any vacancy occasioned by the failure or any person selected as a committee member or as an alternate to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected from nominations made in the manner specified in § 901.26, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in § 901.25.

§ 901.30 *Alternate members.* An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 901.31 *Procedure.* (a) Five of the seven committee members shall be necessary to constitute a quorum and a like number of concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing: *Provided*, That all votes shall be cast in person at assembled meetings.

§ 901.32 *Expenses and compensation.* Committee members and their respective alternates shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their duties hereunder, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed \$5.00 for each day, or portion thereof, spent in attending meetings of the committee.

§ 901.33 *Powers.* The committee shall have the following powers:

(a) To administer the provisions hereof in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions hereof;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions hereof; and

(d) To recommend to the Secretary amendments hereto.

§ 901.34 *Duties.* It shall be the duty of the committee:

(a) At the beginning of each fiscal year, to meet and organize, select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

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

(e) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and upon approval of the Secretary, to engage in such research and service activities as may be necessary and incidental to the operation of the marketing agreement and order;

(f) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(g) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(h) At the beginning of each fiscal year, to prepare a budget of its expenses for such fiscal year, together with a report thereon;

(i) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant hereto; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(j) To consult, cooperate, and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives hereunder.

BUDGET, EXPENSES AND ASSESSMENTS

§ 901.40 *Budget.* The committee shall prepare a budget for each fiscal year showing its anticipated expenses and a proposed rate of assessment to cover such expenses. The committee shall transmit such budget to the Secretary, together with a report showing the basis for its calculation of expenses and the proposed rate of assessment.

§ 901.41 *Expenses.* The committee is authorized to incur such expenses as

the Secretary, upon the basis of the aforesaid budget and other available information, finds may be necessary during each fiscal year to perform its functions hereunder and for such other purposes as may be appropriate pursuant to the provisions hereof.

§ 901.42 *Rate of assessment.* The funds to cover such expenses shall be acquired by the levying on handlers of assessments. The assessment rate shall be fixed by the Secretary upon the basis of the committee recommendation and other available information applicable thereto. Each handler who first ships potatoes shall pay assessments to the committee, upon demand, which will be appropriately incurred by the committee during each fiscal year. Such handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year.

§ 901.43 *Increasing rate of assessment.* Upon recommendation of the committee, or on the basis of a later finding relative to the committee's expenses or revenue, the Secretary may increase the rate of assessment to cover expenses which shall be appropriately incurred. Such increase shall be applicable to all potatoes handled during the given fiscal year.

§ 901.44 *Refunds.* If at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

§ 901.45 *Accounting.* All funds received by the committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(a) The Secretary may at any time require the committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be a committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, or in such designated person, the right to all the property, funds, or claims vested in such member or alternate.

§ 901.46 *Collection of funds.* (a) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

(b) In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

REGULATION

§ 901.50 *Marketing policy preparation.* At the beginning of each fiscal year the committee shall consider and prepare a proposed policy for the marketing of potatoes during such fiscal year. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations the committee shall give appropriate consideration to the following:

(a) Market prices for potatoes, including prices by grade, size, and quality, in wholesale or in consumer packs, or any other shipping unit;

(b) Supply of potatoes, by grade, size, and quality, in the production area and in other production areas;

(c) The trend and level of consumer income; and

(d) Other relevant factors.

§ 901.51 *Marketing policy report.* (a) The committee shall submit to the Secretary a report setting forth the aforesaid marketing policy; a copy of such report shall be made available to producers and handlers.

(b) In the event it becomes advisable to deviate from such marketing policy, because of changed supply and demand conditions, the committee shall formulate a new marketing policy in the manner outlined in § 901.50. The committee shall submit a report on such new marketing policy to the Secretary and make a copy thereof available to producers and handlers.

§ 901.52 *Recommendation for regulation.* (a) The committee shall recommend regulation to the Secretary whenever it finds that such regulation, as provided in § 901.53, will tend to effectuate the declared policy of the act.

(b) The committee also may recommend modification, suspension, or termination of any regulation in order to facilitate shipments of potatoes for the specified purposes set forth in § 901.54.

§ 901.53 *Issuance of regulations.* The Secretary shall limit the shipment of potatoes whenever he finds, from the recommendations and information submitted by the committee or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitations may:

(a) Regulate, in any or all portions of the production area, the shipment of particular grades, sizes, or qualities of any or all varieties of potatoes during any period; or

(b) Regulate the shipment of particular grades, sizes, or qualities of potatoes differently, for different varieties, for different portions of the production area, for consumer or wholesale packs, or any combination of the foregoing during any period; or

(c) Regulate the shipment of potatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity.

§ 901.54 *Modification, suspension, or termination.* Upon the basis of the recommendation and information submitted by the committee, or other available information, the Secretary shall modify, suspend, or terminate regulations issued pursuant to §§ 901.42, 901.43, 901.53, 901.65, or any combination thereof, in order to facilitate shipments of potatoes for the following purposes, whenever he finds that it will tend to effectuate the declared policy of the act:

(a) For seed;

(b) For export;

(c) For distribution by the Federal government;

(d) For manufacture or conversion into specified products;

(e) For livestock feed; and

(f) For other purposes which may be specified.

§ 901.55 *Minimum quantity regulation.* The Secretary may establish, upon the basis of a committee recommendation, or other available information, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to §§ 901.42, 901.43, 901.53, 901.65, or any combination thereof.

§ 901.56 *Notification of regulation.* The Secretary shall notify the committee of any regulations issued, or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 901.57 *Safeguards.* (a) The committee may recommend and the Secretary, upon the basis of such recommendation, or other available information, may prescribe adequate safeguards to prevent shipments pursuant to § 901.54 and § 901.55 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to § 901.54 and § 901.55;

(2) Handlers shall obtain inspection provided by § 901.65, or pay the pro rata share of expenses provided by § 901.42, or both, in connection with potato shipments effected under the provisions of § 901.54 and § 901.55; *Provided,* That such inspection or payment of expenses may be required at different times than otherwise specified by the aforesaid sections; and

(3) Handlers shall obtain Certificates of Privilege from the committee for shipments of potatoes effected or to be effected under the provisions of § 901.54 and § 901.55.

(b) The committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that potatoes shipped by him for the purposes stated in § 901.54 were handled contrary to the requirements applicable thereto.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 901.65 *Inspection and certification.* During any period in which shipments of potatoes are regulated pursuant to the provisions of §§ 901.42, 901.43, 901.53, or any combination thereof, a handler shall ship potatoes unless, prior thereto, such shipment was inspected by an authorized representative of the Federal-State Inspection Service. Each handler procuring inspections pursuant to this section shall make arrangements with the inspecting agency to forward promptly to the committee a copy of the inspection certificate; *Provided, however,* That the regrading, resorting, repacking, or other further preparation of inspected potatoes for market shall invalidate prior inspection thereon and subsequent shipment of such regraded, resorted, repacked, or potatoes otherwise prepared for market shall not be effected unless, prior thereto, such shipment is inspected as provided herein.

EXEMPTIONS

§ 901.70 *Procedure.* The committee may adopt, with approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers.

§ 901.71 *Granting exemptions.* The committee may issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee that, by reason of a regulation issued pursuant to § 901.53, he will be prevented from handling, or causing to be handled, as large a proportion of his production as the average proportion of production handled, or caused to be handled, during the entire season (or such portion thereof as may be determined by the committee) by all producers in said applicant's immediate area of production, and that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to handle, or cause to be handled, the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at the time of transportation or sale. The committee shall be permitted, at any time, to make a thorough investigation of any producer's claim pertaining to exemptions.

§ 901.72 *Appeal.* If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee

for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 901.73 *Records and reports.* The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes handled under exemption certificates, a record of appeals for reconsideration of applications, and such other information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

MISCELLANEOUS PROVISIONS

§ 901.80 *Reports.* Upon the request of the committee, with approval of the Secretary, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties hereunder. Handlers shall maintain records from which such reported information can be verified by the committee. The Secretary shall have the right to modify, change, or rescind any requests for reports made pursuant to this section.

§ 901.81 *Compliance.* Except as provided herein, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions hereof, and no handler shall ship potatoes except in conformity to the provisions hereof.

§ 901.82 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, 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 said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 901.83 *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways hereinafter specified.

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

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

(c) The Secretary shall terminate the provisions hereof at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers, who, during the preceding fiscal year, have been engaged in the production for market of potatoes; *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such determination shall be effective only if announced on or before November 30 of the current fiscal year.

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

(e) The Secretary shall terminate the provisions hereof at the end of any fiscal year, upon the written request of handlers signatory hereto who submit evidence satisfactory to the Secretary that they handled not less than sixty-seven percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced on or before November 30 of the then current fiscal year.¹

§ 901.85 *Proceedings after termination.* (a) Upon the termination of the provisions hereof, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of, or under control of, the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, 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 shall, upon 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 by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 901.86 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof, or of any regulation issued pursuant hereto, or the issuance of any

¹Applicable only to the proposed marketing agreement.

amendments 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 hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or of any regulations issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 901.87 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 901.88 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 901.89 *Derogation.* Nothing contained herein is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 901.90 *Personal liability.* No member or alternate member of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty.

§ 901.91 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 901.92 *Amendments.* Amendments hereto may be proposed, from time to time, by the committee or by the Secretary.

§ 901.93 *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.¹

§ 901.94 *Additional parties.* After the effective date hereof, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof 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 benefits, privileges, and immunities conferred by this agreement

shall then be effective as to such new contracting party.¹

§ 901.95 *Order with marketing agreement.* Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.¹

Done at Washington, D. C., this 27th day of March 1950.

[SEAL] ROY W. LENNARTSON,
Acting Assistant Administrator.

[F. R. Doc. 50-2674; Filed, Mar. 29, 1950;
8:54 a. m.]

[7 CFR, Part 920]

[AO 221]

HANDLING OF IRISH POTATOES GROWN IN MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW HAMPSHIRE, AND VERMONT

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR 900.1 et seq.), notice is hereby given of a public hearing to be held at the Hampden County Improvement League, Fairgrounds, West Springfield, Massachusetts, beginning at 9:30 a. m., e. s. t., April 17, 1950, with respect to a proposed marketing agreement and order regulating the handling of Irish potatoes grown in the States of Massachusetts, Rhode Island, Connecticut, New Hampshire and Vermont. 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 economic and marketing conditions which relate to the provisions of the proposed marketing agreement and order hereinafter set forth.

Growers and shippers in the States of Massachusetts, Rhode Island, Connecticut, and New Hampshire as represented by The Potato Advisory Committees of the respective States, drafted and requested a hearing on the following proposed marketing agreement and order regulating the handling of potatoes in the proposed production area.

§ 920.1 *Definitions.* As used herein the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture, who is, or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted

and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051).

(c) "Person" means an individual, partnership, corporation, association, or any organized group or business unit.

(d) "Production area" means all territory included within the States of Massachusetts, Rhode Island, Connecticut, and New Hampshire.

(e) "Potatoes" means all varieties of Irish potatoes grown within the aforesaid production area.

(f) "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

(g) "Ship" or "handle" means to transport, sell, or in any other way to place potatoes in the current of commerce within the production area or between the production area and any point outside thereof.

(h) "Producer" means any person engaged in the production of potatoes for market.

(i) "Fiscal year" means the period beginning on July 1 of each year and ending June 30 following.

(j) "Committee" means the administrative committee, called the New England Potato Committee, established pursuant to § 920.2.

(k) "District" means, describes, and refers to each of the geographic divisions of the production area established pursuant to § 920.2 (c).

(l) "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

(m) "Seed potatoes" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under supervision of the official seed potato certifying agency of the respective state or other seed certification agencies which the Secretary may recognize.

(n) "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes."

(o) "Wholesale pack" means a unit of fifty pounds net weight or more of potatoes contained in a bag, crate, or any other type of container.

(p) "Consumer pack" means a unit of less than fifty pounds net weight of potatoes contained in a bag, crate, or any other type of container.

(q) "Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(1) United States Standards for Potatoes issued by the United States Department of Agriculture (14 P. R. 1955, 2161), or amendments thereto, or modifications thereof, or variations based thereon;

(2) United States Consumer Standards for Potatoes issued by the United States Department of Agriculture (12 F. R. 7281), or amendments thereto, or modifications thereof, or variations based thereon; and

(3) Standards for potatoes issued by the State from which the potatoes are shipped, or amendments thereto, modifications thereof, or variations based thereon.

(r) "Export" means shipment of potatoes beyond the boundaries of continental United States.

§ 920.2 *Administrative Committee—*

(a) *Establishment and membership.* (1) The New England Potato Committee consisting of 16 members, of whom at least 12 shall be producers and not more than 4 may be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(2) Persons selected as committee members or alternates shall be individuals who are producers or handlers in the respective district for which selected, or officers or employees of a corporate producer or handler in such district.

(b) *Term of office.* The term of office of committee members and alternates shall be for two years beginning on the first day of July and continuing until the end of the succeeding fiscal year, and until their successors are selected and have qualified; *Provided, however,* That the terms of office of the initial committee shall be determined by the Secretary so that the terms of office of one half of the initial members and alternates shall be for one year and that the terms of office of one half of the initial members and alternates shall be for two years. Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the term of office and continuing until the end thereof, and until their successors are selected and have qualified.

(c) *Districts.* For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby established:

District No. 1. The State of Massachusetts;
District No. 2. The State of Rhode Island;
District No. 3. The State of Connecticut;
and

District No. 4. The State of New Hampshire.

(d) *Selection.* The Secretary shall select four members of the committee, with their respective alternates, from each of the districts designated in paragraph (c) of this section, which members and alternates shall represent the respective district from which they are selected; *Provided,* That at least three members, with their respective alternates, from each district, shall be producers, and not more than one member, with his respective alternate, may be a handler.

(e) *Nomination.* The Secretary may select the members of the New England Potato Committee, with their respective alternates, from nominations which may be made in the following manner:

(1) Nominations for initial members of the committee and their respective alternates may be submitted by producers, or groups thereof, and such nominations may be by virtue of elections conducted by groups of producers.

¹ Applicable only to the proposed marketing agreement.

(2) In order to provide nominations for succeeding committee members and alternates:

(i) The New England Potato Committee shall hold or cause to be held prior to May 1 of each year, after the effective date hereof, a meeting or meetings of producers in each of the districts designated in paragraph (c) of this section;

(ii) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(iii) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the committee;

(iv) Nominations for committee members and alternate members shall be supplied to the Secretary in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal year;

(v) Only producers may participate in designating nominees for committee members and their alternates; and

(vi) Regardless of the number of districts in which a person produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates: *Provided*, That in the event a person is engaged in producing potatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees: *Provided further*, That an eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

(f) *Failure to nominate*. If nominations are not made within the time and in the manner specified in paragraph (e) (2) of this section, the Secretary may, without regard to nominations, select the committee members and alternates which selection shall be on the basis of the representation provided for herein.

(g) *Acceptance*. Any person selected as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

(h) *Vacancies*. To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected from nominations made in the manner specified in paragraph (e) (2) of this section, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for herein.

(i) *Alternate members*. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

(j) *Procedure*. (1) A majority of the committee members shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee action.

(2) The committee may provide for meeting by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing; *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

(k) *Expenses and compensation*. Committee members or their respective alternates shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in exercise of their powers hereunder, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed \$5.00 for each day, or portion thereof, spent in attending meetings of the committee.

(l) *Powers*. The committee shall have the following powers:

(1) To administer the provisions hereof in accordance with its terms;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violation of the provisions hereof; and

(4) To recommend to the Secretary, amendments hereto.

(m) *Duties*. It shall be the duty of the committee:

(1) At the beginning of each fiscal year, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(2) To act as intermediary between the Secretary and any producer or handler;

(3) To furnish to the Secretary such available information as he may request;

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

(5) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and, upon approval of the Secretary, to engage in such research and service activities which may be necessary and incidental to the operation of the marketing agreement and order;

(6) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(7) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(8) At the beginning of each fiscal year, to prepare a budget of its expenses for such fiscal year, together with a report thereon;

(9) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant hereto; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(10) To consult, cooperate, and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives hereunder.

§ 920.3 Expenses and assessments—

(a) *Budget*. (1) The committee shall prepare a budget for each fiscal year showing its anticipated expenses and a proposed rate of assessment to cover such expenses. The committee shall also transmit to the Secretary a report accompanying the budget showing the basis for its calculation of expenses and the proposed rate of assessment.

(2) The committee is authorized to incur such expenses as the Secretary, upon the basis of the aforesaid budget and other available information, finds may be necessary during each fiscal year to perform its functions hereunder and for such other purposes as may be appropriate pursuant to the provisions hereof.

(3) The funds to cover such expenses shall be acquired by the levying on handlers of assessments which shall be at a rate recommended by the committee and fixed by the Secretary. Each handler who first ships potatoes shall pay assessments to the committee upon demand, which assessments shall be such handler's pro rata share of the expenses which will be appropriately incurred by the committee during each fiscal year. Such handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year.

(4) Upon recommendation of the committee and upon a later finding relative to the committee's expenses or revenue, the Secretary may increase the rate of assessment to cover expenses which shall be appropriately incurred. Such increase shall be applicable to all potatoes handled during the given fiscal year.

(b) *Accounting*. (1) If at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund

against the operations of the following fiscal year.

(2) The committee may, with the approval of the Secretary maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

(c) *Funds.* (1) All funds received by the committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(i) The Secretary may at any time require the committee and its members to account for all receipts and disbursements; and

(ii) Whenever any person ceases to be a committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member or alternate.

(2) In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

§ 920.4 *Regulation* — (a) *Marketing policy*—(1) *Preparation.* At the beginning of each fiscal year the committee shall consider and prepare a proposed policy for the marketing of potatoes during such fiscal year. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations the committee shall give appropriate consideration to the following:

(i) Market prices for potatoes, including prices by grade, size, and quality in wholesale or in consumer packs, or any other shipping unit;

(ii) Supply of potatoes, by grade, size, and quality, in the production area and in other production areas;

(iii) The trend and level of consumer income; and

(iv) Other relevant factors.

(2) *Reports.* (i) The Committee shall submit to the Secretary a report setting forth the aforesaid marketing policy. The committee also shall notify producers and handlers of the contents of such reports.

(ii) In the event it becomes advisable to deviate from such marketing policy, because of changed supply and demand conditions, the committee shall formulate a new marketing policy in accordance with the manner previously outlined. The committee also shall submit a report thereon to the Secretary and notify producers and handlers of such revised or amended marketing policy.

(b) *Committee recommendations.* (1) The committee shall recommend regulation to the Secretary whenever it finds that such regulation, as provided in paragraph (c) of this section will tend to effectuate the declared policy of the act.

(2) The committee also may recommend modification, suspension, or ter-

mination of any regulation in order to facilitate shipments of potatoes for the specified purposes set forth in paragraph (c) (2) of this section.

(c) *Issuance of regulations.* (1) The Secretary shall limit the shipment of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitation may:

(i) Regulate, in any or all portions of the production area, the shipment of particular grades, sizes, or qualities of any or all varieties of potatoes during any period; or

(ii) Regulate the shipment of particular grades, sizes, or qualities of potatoes differently, for different varieties, for different portions of the production area, for consumer or wholesale packs, or any combination of the foregoing during any period; or

(iii) Regulate the shipment of potatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity.

(2) Upon the basis of the recommendation and information submitted by the committee, the Secretary shall modify, suspend, or terminate regulations issued pursuant to § 920.3, § 920.5, subparagraph (1) of this paragraph, or any combination thereof, in order to facilitate shipments of potatoes for the following purposes whenever he finds that it will tend to effectuate the declared policy of the act:

(i) For grading;

(ii) For seed;

(iii) For export;

(iv) For distribution by the Federal government;

(v) For manufacture or conversion into specified products;

(vi) For livestock feed; and

(vii) For other purposes which may be specified.

(3) The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to §§ 920.3, 920.5, subparagraph (1) of this paragraph, or any combination thereof.

(4) The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination of regulations pursuant to this section. The committee shall give reasonable notice thereof to handlers.

(d) *Safeguards.* (1) The committee, with the approval of the Secretary, may prescribe (i) adequate safeguards to prevent shipments pursuant to paragraph (c) (2) of this section from entering channels of trade for other than the specific purpose authorized therefor, and (ii) rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee.

(2) Safeguards, as prescribed herein, may include requirements that:

(i) Handlers shall file applications with the committee to ship potatoes pursuant to paragraph (c) (2) of this section;

(ii) Handlers shall obtain inspection provided by § 920.5 or pay the pro rata share of expenses provided by § 920.3 or both, in connection with potato shipments effected under the provisions of paragraph (c) (2) of this section: *Provided*, That such inspection or payment of expenses may be required at different times than otherwise specified by the aforesaid sections; and

(iii) Handlers shall obtain Certificates of Privilege from the committee for shipments of potatoes effected or to be effected under the provisions of paragraph (c) (2) of this section.

(3) The committee may rescind or deny Certificates of Privilege to any shipper if proof is obtained that potatoes shipped by him for the purposes stated in paragraph (c) (2) of this section were handled contrary to the provisions hereof.

(4) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(5) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested.

§ 920.5 *Inspection and certification.* During any period in which shipments of potatoes are regulated pursuant to the provisions of §§ 920.3 or 920.4, or both, each handler who first ships potatoes shall, prior to making shipment, cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service or such other inspection service as the secretary shall designate. Each such handler shall make arrangements with the inspecting agency to forward promptly to the committee a copy of such inspection certificate: *Provided, however*, That (a) each handler making a shipment of potatoes during such period shall, prior to making such shipment, determine if such shipment has been inspected, and if such shipment has not been so inspected and is not covered by an inspection certificate, each handler making such a determination shall have such potatoes inspected and shall arrange for a copy of the inspection certificate to be forwarded to the committee as aforesaid, and (b) each handler who first ships potatoes after such potatoes are regraded, resorted, repacked, or in any other way further prepared for market shall have each shipment of such potatoes inspected as provided herein.

§ 920.6 *Exemptions.* (a) The committee may adopt, with approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers.

(b) The committee may issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee:

(1) That by reason of a regulation issued pursuant to § 920.4 he will be pre-

vented from shipping as large a proportion of his production as the average proportion of production shipped during the entire season, or such portion thereof as may be determined by the committee, by all producers in said applicant's immediate production area; and (2) that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to ship the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of sale.

(c) The committee shall be permitted at any time to make a thorough investigation of any producer's claim pertaining to exemptions.

(d) If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

(e) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes shipped under exemption certificates, a record of appeals for reconsideration of applications, and such information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

§ 920.7 *Reports.* Upon the request of the committee, with approval of the Secretary, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties hereunder. The Secretary shall have the right to modify, change, or rescind any request for reports pursuant to this section.

§ 920.8 *Compliance.* Except as provided herein, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions hereof, and no handler shall ship potatoes except in conformity to the provisions hereof.

§ 920.9 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, 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 said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 920.10 *Effective time and termination—(a) Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions hereof whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers, who during the preceding fiscal year, have been engaged in the production for market of potatoes; *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced on or before May 31 of the then current fiscal year.

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

(5) The Secretary shall terminate the provisions hereof at the end of any fiscal year, upon the written request of handlers signatory hereto who submit evidence satisfactory to the Secretary that they handled not less than sixty-seven percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced on or before May 31 of the then current fiscal year.¹

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) The said trustees shall continue in such capacity until discharged by the Secretary; shall, 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

¹ Applicable only to the proposed marketing agreement.

person as the Secretary may direct; and shall upon 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 thereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 920.11 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendments 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 hereof or any regulation issued hereunder or (b) release or extinguish any violation hereof or of any regulations issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 920.12 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 920.13 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 920.14 *Derogation.* Nothing contained herein is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 920.15 *Personal liability.* No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 920.16 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 920.17 *Amendments.* Amendments hereto may be proposed, from time to time, by the committee or by the Secretary.

§ 920.18 *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.¹

§ 920.19 *Additional parties.* After the effective date hereof, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof 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 benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

§ 920.20 *Order with marketing agreement.* Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.¹

The Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington, D. C., has proposed the following provisions as amendments of the aforesaid proposed marketing agreement and order:

1. Amend § 920.1 (d) to read as follows:

(d) "Production area" means all territory within the States of Massachusetts, Rhode Island, Connecticut, New Hampshire, and Vermont.

2. Amend § 920.2 (a) (1) to read as follows:

(1) The New England Potato Committee consisting of 20 members, of whom at least 15 shall be producers and not more than 5 may be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

3. Amend § 920.2 (c) to read as follows:

(c) *Districts.* For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby established:

- District No. 1.* The State of Massachusetts;
- District No. 2.* The State of Rhode Island;
- District No. 3.* The State of Connecticut;
- District No. 4.* The State of New Hampshire; and
- District No. 5.* The State of Vermont.

Copies of this notice of hearing may be procured from the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., or may be there inspected.

¹ Applicable only to the proposed marketing agreement.

Issued at Washington, D. C., this 27th day of March 1950.

[SEAL] ROY W. LENNARTSON,
Acting Assistant Administrator.

[F. R. Doc. 50-2869; Filed, Mar. 29, 1950; 8:52 a. m.]

[7 CFR, Part 921]

[Docket AO-222]

HANDLING OF MILK IN SPRINGFIELD, MO.,
MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), notice is hereby given of a public hearing to be held at Greene County Courthouse, Springfield, Missouri, beginning at 9:30 a. m., c. s. t. April 17, 1950. This public hearing is for the purpose of receiving evidence with respect to a proposed marketing agreement and order, regulating the handling of milk in the Springfield, Missouri, marketing area the provisions of which are hereinafter set forth, and any modifications thereof. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture, and at the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposed marketing agreement and order and any modification thereof. The provisions of the proposals for a marketing agreement and order, heretofore filed with the undersigned, are as follows:

Marketing agreement and order proposed by the Greene County, Missouri, Milk Producers Association, Springfield, Missouri:

DEFINITIONS

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

§ 921.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

§ 921.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in §§ 921.40 through 921.42 and 921.55 through 921.62.

§ 921.4 *Springfield, Missouri, marketing area.* "Springfield, Missouri, marketing area," hereinafter called "marketing area," means the City of Springfield and all the territory in Greene County, Missouri.

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

§ 921.6 *Producer.* "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at the approved plant of a handler, provided such milk is approved under the applicable health regulation of the City of Springfield, Missouri, or of the State of Missouri for distribution as Grade A milk, or, if delivered to an approved plant which is supplying milk or cream to any agency of the United States Government located within the marketing area, is acceptable to the United States Government for fluid consumption in its institutions or bases. This definition shall include any person who produces milk approved by the applicable health authority for distribution as Grade A milk which is diverted by a cooperative association from an approved plant to an unapproved plant.

§ 921.7 *Handler.* "Handler" means (a) any person in his capacity as the operator of an approved plant, or (b) any cooperative association with respect to the milk or any producer which is diverted from an approved plant to an unapproved plant for the account of such cooperative association.

§ 921.8 *Approved plant.* "Approved plant" means any milk plant or portion thereof which (a) is approved by the health authorities of the City of Springfield, Missouri, or of the State of Missouri, for the handling of milk for consumption as Grade A milk, and from which Class I or Class II milk is disposed of in the marketing area on wholesale and retail routes (including plant stores), or (b) is supplying milk or cream to any agency of the United States Government located within the marketing area.

§ 921.9 *Unapproved plant.* "Unapproved plant" means any milk processing, distributing, or manufacturing plant which is not an approved plant.

§ 921.10 *Producer - handler.* "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers: *Provided,* That (a) the maintenance, care, and management of the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person in his capacity as a producer, and (b) the processing, packaging, and distribution of milk are the personal enterprise of and at the personal risk of such person in his capacity as a handler. A producer who processes and packages milk of his own production shall not be considered a producer-handler if his entire output is disposed of to other handlers who purchase or receive milk in bulk from producers.

§ 921.11 *Producer milk.* "Producer milk" means all milk produced by a producer, other than a producer-handler, which is purchased or received by a handler either directly from such producers or from other handlers.

§ 921.12 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in milk and milk products other than producer milk.

§ 921.13 *Milk product.* "Milk product" means any product manufactured from milk or milk ingredients except those which are disposed of in the form in which received without further processing or packaging by the handler.

§ 921.14 *Market administrator.* "Market administrator" means the person designated pursuant to §§ 921.20 through 921.22 as the agency for the administration hereof.

§ 921.15 *Delivery period.* "Delivery period" means a calendar month or the portion thereof during which this order is in effect.

§ 921.16 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," (b) to have full authority in the sale of milk of its members, and (c) to be engaged in making collective sales or marketing milk or its products for its members.

MARKET ADMINISTRATOR

§ 921.20 *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 921.21 *Powers.* The market administrator shall:

(a) Administer the terms and provisions hereof;

(b) Report to the Secretary complaints of violations of the provisions hereof;

(c) Make rules and regulations to effectuate the terms and provisions hereof; and

(d) Recommend to the Secretary amendments hereto.

§ 921.22 *Duties.* The market administrator shall:

(a) Within 45 days following the date upon which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay, out of the funds provided by § 921.64:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses except those incurred under §§ 921.65 and 921.66, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein and submit such books and records to examination by the Secretary as requested;

(f) Furnish such further information and such verified reports as the Secretary may request;

(g) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation hereof as do not reveal confidential information;

(h) Publicly disclose to handlers and to producers, unless otherwise directed by the Secretary, the name of any handler who, within 15 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to § 921.25, or (2) payments pursuant to §§ 921.55 through 921.62.

(i) Verify all reports and payments of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) Publicly announce the prices and butterfat differentials determined for each delivery period as follows:

(1) On or before the 5th day after the end of such delivery period, the prices and butterfat differentials for each class of milk computed pursuant to §§ 921.40 through 921.42, and

(2) On or before the 10th day after the end of such delivery period, the uniform price computed pursuant to § 921.51 for each handler with the butterfat differential applicable pursuant to § 921.57 in the payment for milk to producers.

REPORTS, RECORDS, AND FACILITIES

§ 921.25 *Periodic reports.* On or before the 5th day after the end of each delivery period, each handler who purchased or received milk from sources other than his own production or other handlers shall, with respect to all producer milk and other source milk which was purchased, received, or produced by such handler during the delivery period, report to the market administrator in the detail and form prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in all receipts at each of his approved plants within such delivery period of:

(1) Milk from producers (including his own farm production),

(2) Milk, skim milk, cream, and milk products from other handlers, and

(3) Other source milk;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including a separate statement of the disposition of Class I and Class II milk outside the marketing area;

(c) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(d) The name and address of each producer who discontinues deliveries of milk, and the date on which such milk was last received.

§ 921.26 *Reports of payments to producers.* On or before the 20th day after the end of each delivery period, upon the request of the market administrator, each handler who purchased or received milk from producers shall submit to the market administrator his producer pay roll for such delivery period which shall show for each producer:

(a) The total pounds of milk delivered and the average butterfat content thereof, and

(b) The net amount of such handler's payments to such producers with the prices, deductions, and charges involved.

§ 921.27 *Reports of producer-handlers and handlers whose sole source of supply is from other handlers.* Producer-handlers and handlers whose sole source of supply is from other handlers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

§ 921.28 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available for such examination of the market administrator or his representative all records, facilities, operations, and equipment as the market administrator deems necessary to:

(a) Verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures;

(b) Weigh, sample, and test for butterfat and other content all milk and milk products handled; and

(c) Verify payments to producers.

CLASSIFICATION

§ 921.30 *Basis of classification.* All skim milk and butterfat received by a handler at his approved plant(s) in (a) milk from producers (including milk of his own production); (b) milk, skim milk, cream, and other milk products from other handlers; and (c) other source milk, shall be classified by the market administrator in the classes set forth in § 921.31.

§ 921.31 *Classes of utilization.* Subject to the conditions set forth in § 921.32 the classes of utilization of milk shall be as follows:

(a) Class I milk shall be all skim milk and butterfat:

(1) Disposed of in fluid form as milk, buttermilk, milk drinks (whether plain or flavored), and

(2) Not specifically accounted for as Class II or Class III milk.

(b) Class II milk shall be all skim milk and butterfat disposed of as cream whether fresh or sour, and shall include products of cream that are required by the appropriate health authority to be made from approved cream.

(c) Class III milk shall be all skim milk and butterfat accounted for:

(1) As having been used or disposed of in any product other than those specified in Class I and Class II milk,

(2) As actual plant shrinkage of skim milk and butterfat in milk received from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and

(3) As actual plant shrinkage of skim milk and butterfat in other source milk.

§ 921.32 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk or skim milk, or Class II milk if in the form of cream, to the approved plant of another handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the delivery period within which such transaction occurred: *Provided*, That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 921.35 (a) (2) and (b) and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next higher-priced available utilization: *And provided further*, That in no event shall skim milk or butterfat so transferred or diverted be so classified that other source milk is assigned to any higher class in the plant of the transferring handler than the lowest class to which producer milk (other than allowable shrinkage) is assigned to the plant of the transferee-handler, after application of the allocation provisions of § 921.35.

(b) As Class I milk if transferred or diverted to a producer-handler in the form of milk or skim milk and Class II if in the form of cream.

(c) As Class I milk if transferred or diverted in bulk in the form of milk, skim milk, or Class II if in the form of cream, to an unapproved plant unless, except as provided in paragraph (d) of this section:

(1) The handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the buyer and seller on or before the 8th day after the end of the delivery period within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification; and

(3) Such buyer's plant had actually used not less than an equivalent amount of skim milk and butterfat in the use indicated in such statement: *Provided*, That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of skim milk and butterfat in such indicated use, the remaining pounds shall be classified on the basis of the next higher-priced available use in accordance with the classes set forth in § 921.31.

(d) As Class I milk if transferred or diverted in the form of milk or skim milk, and as Class II if so disposed of

in the form of cream, to an unapproved plant located 100 miles or more from the marketing area, by shortest highway distance as determined by the market administrator.

§ 921.33 *Responsibility of handlers in establishing the classification of milk.* In establishing the classification as required in § 921.31 of any milk received by a handler from producers, the burden rests upon the handler who received the milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

§ 921.34 *Computation of skim milk and butterfat in each class.* For each delivery period the market administrator shall correct mathematical and other obvious errors in the delivery period report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 921.35 *Allocation of skim milk and butterfat classified.* After computing the classification of all skim milk and butterfat received by a handler pursuant to § 921.34, the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk determined pursuant to § 921.31 (c) (2).

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest priced class in which the handler has use, the pounds of skim milk contained in other source milk.

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in milk, skim milk, cream, and other milk products received from a city plant of another handler and assigned to such class: *Provided*, That if the pounds of skim milk to be subtracted from a class is greater than the pounds of skim milk remaining in such class, the balance shall be subtracted from the pounds of skim milk remaining in the next higher priced class.

(4) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes, in series beginning with the lowest priced class.

(b) Determine the pounds of butterfat in each class to be allocated to milk received from producers in the same manner prescribed for skim milk in paragraph (a) of this section.

§ 921.36 *Determination of producer milk in each class.* Add the pounds of skim milk and the pounds of butterfat allocated to milk received from producers in each class, respectively, as computed pursuant to § 921.35 and determine

the percentage of butterfat in each class.

MINIMUM PRICES

§ 921.40 *Class prices.* Subject to the differential set forth in § 921.42 each handler shall pay producers at the time and in the manner set forth in §§ 921.55 through 921.62 not less than the following prices for milk purchased or received from them:

(a) *Class I milk.* The price per hundredweight for Class I milk during each delivery period shall be the highest of the following:

(1) The price computed under § 921.41 plus the following amount per hundredweight: \$1.05 for the delivery periods of July through December; \$0.80 for the delivery periods of January through March; and \$0.60 for the delivery periods of April through June;

(2) Not more than 30 cents less than the Class II price for Grade A milk, f. o. b. St. Louis, Missouri, for the delivery period as computed by the market administrator of Federal Order Number 3; or

(3) The price determined by the market administrator to have been the posted price for inspected milk of 3.5 percent butterfat content by the M. F. A. (Missouri Farmers Association) plant in Springfield, Missouri.

(b) *Class II milk.* The price per hundredweight for Class II milk during each delivery period shall be the price computed under § 921.41 plus the following amounts per hundredweight: \$0.80 for the delivery periods of July through December; \$0.55 for the delivery periods of January through March; and \$0.35 for the delivery periods of April through June.

(c) *Class III milk.* The price per hundredweight for Class III milk during each delivery period shall be the average price ascertained by the market administrator to have been paid for ungraded milk of 3.5 percent butterfat content received during such delivery period at the following plants: The Swift and Company at its plant at Springfield, Missouri, the Armour Creamery at its plant at Springfield, Missouri, the Carnation Company at its plant at Mt. Vernon, Missouri, the Wilson Company at its plant at Nixa, Missouri, and the Merchants Creamery at its plant at Springfield, Missouri.

§ 921.41 *Basic formula price to be used in determining Class I and Class II prices.* The basic formula price to be used in determining the Class I and Class II milk prices shall be the higher of the prices calculated pursuant to paragraphs (a), (b), or (c) of this section.

(a) The arithmetical average of the price per hundredweight reported to the United States Department of Agriculture as being paid all farmers for milk of 3.5 percent butterfat content, received during the delivery period at the following plants and places:

Concern and Location

Carnation Co., Ava, Mo.
Carnation Co., Mount Vernon, Mo.
Carnation Co., Seymour, Mo.
Pet Milk Co., Noshoville, Mo.
Borden Co., Mount Pleasant, Mich.

Carnation Co., Sparta, Mich.
 Pet Milk Co., Hudson, Mich.
 Pet Milk Co., Wayland, Mich.
 Pet Milk Co., Coopersville, Mich.
 Borden Co., Greenville, Wis.
 Borden Co., Black Creek, Wis.
 Borden Co., Orfordville, Wis.
 Carnation Co., Chilton, Wis.
 Carnation Co., Berlin, Wis.
 Carnation Co., Richland Center, Wis.
 Carnation Co., Oconomowoc, Wis.
 Carnation Co., Jefferson, Wis.
 Pet Milk Co., New Glarus, Wis.
 Pet Milk Co., Belleville, Wis.
 Borden Co., New London, Wis.
 White House Milk Co., Manitowoc, Wis.
 White House Milk Co., West Bend, Wis.

(b) The price calculated by the market administrator as follows:

(1) Multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture for the delivery period, and add 20 percent; and

(2) Add $3\frac{1}{2}$ cents for each full one-half cent that the price of nonfat dry solids suitable for human consumption is above $5\frac{1}{2}$ cents per pound, or subtract $3\frac{1}{2}$ cents for each full one-half cent that the price of such nonfat dry milk solids is below $5\frac{1}{2}$ cents per pound. The price per pound of nonfat dry milk solids to be used shall be the arithmetical average of the carlot prices, both spray and roller process, suitable for human consumption, f. o. b. manufacturing plants in the Chicago area, as reported by the United States Department of Agriculture for the delivery period, including in such average, the quotations for any part of the preceding delivery period which were not published and available for the determination of the price of such nonfat dry milk solids for the previous delivery period. In the event that the United States Department of Agriculture does not publish carlot prices for nonfat dry milk solids suitable for human consumption, f. o. b. manufacturing plants, the average of the carlot prices for nonfat dry milk solids, suitable for human consumption delivered to Chicago shall be used, and $3\frac{1}{2}$ cents shall be added or subtracted for each full one-half cent that the latter price is above or below $7\frac{1}{2}$ cents per pound.

(c) The price per hundredweight as ascertained by the market administrator to have been the posted price for milk of 3.5 percent butterfat content purchased during the delivery period by the M. F. A., Springfield, Missouri, plant for uninspected milk.

§ 921.42 *Butterfat differentials to handlers.* The butterfat differentials to handlers for all classes of milk shall be computed according to § 921.57.

APPLICATION OF PROVISIONS

§ 921.45 *Producer-handler.* The provisions of §§ 921.30 through 921.36, 921.40 through 921.42, 921.50 through 921.52, 921.55 through 921.62, 921.64, 921.65 through 921.66, 921.70, 921.75 through 921.77, 921.80, and 921.85 shall not apply to a producer-handler or a handler whose sole source of supply is from other handlers.

§ 921.46 *Interhandler transfers.* Milk which is caused to be diverted by a handler directly from producers' farms to an

approved plant of another handler for not more than 15 days during any delivery period shall be considered an interhandler transfer of milk and shall be considered as having been received by the handler who caused the milk to be diverted.

§ 921.47 *Handlers subject to other Federal orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I and Class II milk in another marketing area regulated by another milk marketing order issued pursuant to the act, the provisions of this order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts and utilization of milk, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with the provisions of § 921.27.

(b) If the prices which such handler is required to pay under the other order to which he is subject for milk which would be classified as Class I or Class II milk under this order, are less than the respective prices provided pursuant to § 921.40 of this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all milk disposed of as Class I milk or Class II milk within the marketing area) an amount equal to the difference between the value of such milk as computed pursuant to paragraphs (a) and (b) of § 921.40 of this order, and its value as determined pursuant to the other order to which he is subject.

DETERMINATION OF UNIFORM PRICES

§ 921.50 *Computation of net obligation of handler.* The value of producer milk received during each delivery period by each handler shall be the sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period, by the applicable class prices, and adding together the resulting amounts; *Provided*, That if a handler, after subtracting other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his report for the delivery period pursuant to § 921.25 has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to § 921.35 (a) (4) and (b) by the applicable class prices.

§ 921.51 *Computation and announcement of the uniform price.* The market administrator shall compute and announce the uniform price per hundredweight for milk purchased or received from producers during each delivery period in the following manner:

(a) Combine into one total the net pool obligations computed pursuant to § 921.50 of all handlers who made the reports prescribed in §§ 921.25 through 921.28 and made the payments prescribed in §§ 921.55 through 921.62 for the previous delivery period;

(b) Add the unobligated balance in the producer-settlement fund;

(c) Deduct, if the average butterfat content of all milk purchased or received from producers is more than 3.5 percent, and add, if the average butterfat content of all milk purchased or received from producers is less than 3.5 percent the total value of the butterfat differential applicable pursuant to § 921.57;

(d) Divide by a figure equal to the total hundredweight of milk received by handlers from producers and included in those computations; and

(e) Subtract from the figure computed pursuant to paragraph (d) of this section not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the uniform price for such delivery period for the milk of producers containing 3.5 percent butterfat.

§ 921.52 *Notification of handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing:

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

(b) The uniform price for producers pursuant to § 921.51 and the butterfat differentials computed pursuant to § 921.57; and

(c) The amount to be paid by each handler pursuant to §§ 921.55 through 921.62, 921.64, 921.65, through 921.66.

PAYMENT FOR MILK

§ 921.55 *Time and method of payment.* On or before the 15th day after the end of each delivery period, each handler, after deducting the amount of the payment made pursuant to § 921.56, and subject to the differential set forth in § 921.57, shall make payment to producers at the uniform price per hundredweight computed pursuant to § 921.51 for the total quantity of milk received from producers: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this section, on or before the 12th day after the delivery period.

§ 921.56 *Half-delivery-period payments.* On or before the 28th day of each delivery period, each handler shall make payments to each producer for milk received from him during the first 15 days of the delivery period at not less than the Class III price for the previous delivery period: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this section.

§ 921.57 *Butterfat differential.* If, during the delivery period, any handler has purchased or received from any producer milk having an average butterfat content other than 3.5 percent, such handler, in making the payments prescribed in § 921.55 shall add to the prices per hundredweight for such producer for each one-tenth of 1 percent of average butterfat content in milk above 3.5 percent not less than, or shall subtract from such prices for such producer for each one-tenth of 1 percent of average butterfat content in milk below 3.5 percent not more than an amount computed as follows: to the average price of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture (or such other Federal agency as may hereafter be authorized to perform this price reporting function) for the delivery period during which such milk was received, add 20 percent and divide the resulting sum by 10.

§ 921.58 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 921.57 and 921.61 and out of which he shall make all payments to handlers pursuant to §§ 921.60 and 921.61: *Provided*, That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform price for each delivery period, the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the sum required to be paid producers by such handler pursuant to §§ 921.55 through 921.62 and shall enter such amount on such handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

§ 921.59 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each delivery period, each handler shall make full payment to the market administrator of any pool debit balance shown on the account rendered pursuant to § 921.58 for such delivery period.

§ 921.60 *Payments out of the producer-settlement fund.* (a) On or before the 13th day after the end of each delivery period, the market administrator shall pay to each handler the pool credit balance shown on the account rendered pursuant to § 921.58 for such delivery period, less any unpaid obligations of the handler. If at such time the balance in the producer-settlement fund is insufficient to make payment pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 13th day after the end of each delivery period, has not received the balance of the payment due him from the market administrator shall be deemed to be in violation of § 921.55 if he reduces his total payments uniformly to all producers by not

more than the amount of the reduction in payments not later than the time of making payments to producers next following after receipt of the balance from the market administrator. Nothing in this section shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

§ 921.61 *Adjustment of errors in payment.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to the producer-settlement fund pursuant to § 921.59, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 921.60, the market administrator shall, within 5 days, make such payment to such handler or offset any such payment due any handler against payments due from such handler. Whenever verification by the market administrator of the payment by a handler to any producer, for milk purchased or received by such handler discloses payment to such producer of less than is required by §§ 921.55 through 921.62, the handler shall make up such payment to the producer not later than the time of making payments to producers next following such disclosure.

§ 921.62 *Statements to producers.* In making payments to producers so prescribed in § 921.55, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer which shall show:

- (a) The delivery period and the identity of the handler and of the producer;
- (b) The total pounds of milk delivered by the producer and the average butterfat test thereof, and the pounds per shipment if such information is not furnished to the producer each day;
- (c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 921.55 and 921.57;
- (d) The rate which is used in making the payment if such rate is other than the applicable minimum rate;
- (e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under §§ 921.56, 921.65, and 921.66 together with a description of the respective deductions; and
- (f) The net amount of payment to the producer.

MARKETING SERVICES

§ 921.65 *Deductions for marketing services.* Except as set forth in § 921.66 each handler shall deduct 5 cents per hundredweight from the payments made to each producer other than himself pursuant to § 921.55 with respect to all milk of each producer purchased or received by such handler during the delivery period and shall pay such deductions to the market administrator on or before

the 12th day after the end of such delivery period. Such moneys shall be expended by the market administrator for market information to, and for the verification of weights, sampling, and testing of milk received from said producers.

§ 921.66 *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in § 921.65, each handler shall make deductions from the payments to be made pursuant to § 921.55 which are authorized by such producers, and, on or before the 12th day after the end of each delivery period 5 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe.

EFFECTIVE TIME

§ 921.70 *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 921.75.

SUSPENSION OR TERMINATION

§ 921.75 *Suspension or termination.* The Secretary may suspend or terminate any or all of the provisions hereof, whenever he finds that they obstruct or do not tend to effectuate the declared policy of the act. This order shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 921.76 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which require further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(a) The market administrator, or such other person as the Secretary may designate, shall:

(1) Continue in such capacity until removed by the Secretary;

(2) From time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary may direct; and

(3) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person thereto.

§ 921.77 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions

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

SEPARABILITY OF PROVISIONS

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

AGENTS

§ 921.85 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

By Benage Dairy Company, Lebanon, Missouri, and Purity Dairy Company, Springfield, Missouri:

§ 921.4 *Springfield, Missouri marketing area.* "Springfield, Missouri marketing area," hereinafter called "marketing area," means the City of Springfield, and the Counties of Greene, Laclede, and Webster in the State of Missouri.

By the Dairy Branch, Production and Marketing Administration:

REPORTS, RECORDS, AND FACILITIES

§ 921.29 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such three year period, the market administrator notifies the handler in writing that the retention

of such books and records or of specified books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the books and records are no longer necessary in connection therewith.

TERMINATION OF OBLIGATIONS

§ 921.90 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose.

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

- (1) The amount of the obligation;
- (2) The delivery period during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator all books and records required by this order to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin

to run until the first day of the calendar month following the delivery period during which all such books and records pertaining to such obligation are made available to the market administrator.

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

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

EXPENSE OF ADMINISTRATION

§ 921.64 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 921.22 (d) each handler shall pay the market administrator, on or before the 15th day after the end of each delivery period, 5 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe, with respect to all receipts within the delivery period of producer milk (including such handler's own production), and other source milk.

Copies of this notice of hearing may be procured from the Director, Dairy Branch, Production and Marketing Administration, U. S. Department of Agriculture, Washington 25, D. C., or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: March 27, 1950, Washington, D. C.

[SEAL] ROY W. LENNARTSON,
Acting Assistant Administrator.

[F. R. Doc. 50-2673; Filed, Mar. 29, 1950; 8:54 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1950, 30th Supp.]

CAMDEN FIRE INSURANCE ASSN.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

MARCH 23, 1950.

A Certificate of Authority has been issued by the Secretary of the Treasury

to the above company under the act of Congress approved August 13, 1894, 28 Stat. 279-80, as amended by the act of Congress approved March 23, 1910, 36 Stat. 241 (6 U. S. C. 6-13) as an acceptable surety on Federal bonds. An underwriting limitation of \$854,000.00 has been established for the company. Further details as to the extent and localities with respect to which the com-

pany is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Section of Surety Bonds, Washington 25, D. C.

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 50-2662; Filed, Mar. 29, 1950; 8:51 a. m.]

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1950, 31st Supp.]

NEWARK FIRE INSURANCE CO.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

MARCH 23, 1950.

A Certificate of Authority has been issued by the Secretary of the Treasury to the above company under the act of Congress approved August 13, 1894, 28 Stat. 279-80, as amended by the act of Congress approved March 23, 1910, 36 Stat. 241 (6 U. S. C. 6-13), as an acceptable surety on Federal bonds. An underwriting limitation of \$747,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Section of Surety Bonds, Washington 25, D. C.

[SEAL] E. H. FOLEY, JR.,
Acting Secretary of the Treasury.

[F. R. Doc. 50-2663; Filed, Mar. 29, 1950; 8:51 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SMALL TRACT CLASSIFICATION NO. 22

MARCH 23, 1950.

Pursuant to the authority delegated to me by the Director, Bureau of Land Management by Order No. 319, dated July 19, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818), as amended, the following described lands in the Anchorage, Alaska, land district, embracing 160 acres, as chiefly valuable for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682 (a)), as amended, for home and cabin sites:

T. 13 N., R. 3 W., Seward Meridian
Sec. 33: W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The lands are located approximately four miles from the City of Anchorage, and are served by good gravelled and secondary roads. None of the area is served by public utilities at the present time. Adequate water supply for domestic use can be obtained from wells, and sewage disposal may be made by the use of cesspools or septic tanks. Churches, hospital, schools and market facilities are available in Anchorage. The climate is a favorable combination of the temperate coastal climate of southern Alaska. The winter is typically long and moderately cold, and the summer short and fairly warm.

This classification order shall not become effective to change the status of the land or to permit the leasing thereof under the Small Tract Act of June 1, 1938, cited above, until 10:00 a. m., on

April 13, 1950. At that time the land shall, subject to valid existing rights and to section 24 of the Federal Power Act, become subject to application, petition, location, or selection, as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from 10:00 a. m., on April 13, 1950, to close of business on July 12, 1950, inclusive, to (1) application under the Small Tract Act of June 1, 1938, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. Secs. 279, 282) as amended, and by other qualified persons entitled to credit for service under the said act, subject to the requirements of applicable law, and (2) application under any applicable public law, based on prior existing valid settlement and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans and by other persons entitled to credit for service shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference-right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed on March 24, 1950, or thereafter, up to and including 10:00 a. m., on April 13, 1950, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public land laws.* Commencing at 10:00 a. m., on July 13, 1950, any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the Small Tract Act by the general public filed on June 23, 1950, or thereafter, up to and including 10:00 a. m., on July 13, 1950, shall be treated as simultaneously filed.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claim. Persons asserting preference rights, through settlement or otherwise, and those having equitable claim, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

All applications for these lands, which shall be filed in the land office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent that such regulations are applicable. Applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

Lessees under the Small Tract Act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances, are presentable, substantial and appropriate for the use for which the lease is issued. Leases will be for a period of not more than five years, at an annual rental of \$5.00, payable in advance for the entire lease period. Leases will contain an option to purchase the tract at or after the expiration of one year from the date the lease is issued, provided the terms and conditions of the lease have been met.

All of the land will be leased in tracts of approximately 2 $\frac{1}{2}$ acres, in accordance with the classification map on file in the Land Office, Anchorage, Alaska. The tracts where possible are made to conform in description with the rectangular system of survey, in compact units.

The leases will be made subject to rights-of-way for road purposes and public utilities, of 33 feet in width, on each side of the tracts contiguous to the section and/or quarter section lines, or as shown on the classification map on file in the land office, Anchorage, Alaska. Such rights-of-way may be utilized by the Federal Government, or the State or Territory, county or municipality, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

All inquiries relating to these lands shall be addressed to the Manager, Land Office, Anchorage, Alaska.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc. 50-2641; Filed, Mar. 29, 1950; 8:45 a. m.]

ALASKA

NOTICE OF OPENING OF LAND TO ENTRY UNDER THE SMALL TRACT ACT

MARCH 23, 1950.

Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 319, dated July 19, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), the following described public lands in the Fairbanks, Alaska, land district, embracing 269.33 acres, were classified by Small Tract Classification Order No. 20, dated January 26, 1950 (15 F. R. 589), as chiefly valuable for lease and sale for home and cabin sites under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), as amended, to become effective for filing under the act after due notice by publication:

T. 1 S., R. 1 W., Fairbanks Meridian.
Sec. 17: S $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$.
Sec. 19: Lot 4 and E $\frac{1}{2}$ SW $\frac{1}{4}$.

The lands are located approximately three miles from the town of Fairbanks,

and approximately one mile east of the International Airport. Secondary roads are being constructed in the vicinity of these lands, which will require improvement to permit all year travel. The lands lie in the Tanana River Valley and are generally smooth and level. Adequate water supply for domestic use can be obtained from wells, and sewage disposal may be made by the use of cess-pools. It is expected that electric service will be made available in the area in the near future, by the construction of power distribution lines by the Rural Electrification Administration. Churches, school and marketing facilities are available at Fairbanks. The climate is of the extreme continental type of interior Alaska. Cold and long winters, but the snowfall is not excessive. The summers are short and warm, but the days are long and twilight is continuous during the short nights.

In accordance with the provision contained in Classification Order No. 20, above mentioned, notice is hereby given that the lands herein described shall be opened for leasing under the Small Tract Act of June 1, 1938, at 10:00 a. m., on April 13, 1950. At that time the lands shall, subject to valid existing rights, become subject to application, petition, location, or selection, as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from 10:00 a. m., on April 13, 1950, to close of business on July 12, 1950, inclusive, to (1) application under the Small Tract Act of June 1, 1938, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. 279, 282) as amended, and by other qualified persons entitled to credit for service under the said act, subject to the requirements of applicable law, and (2) application under any applicable public law, based on prior existing valid settlement and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans and by other persons entitled to credit for service shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference-right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed on March 24, 1950, or thereafter, up to and including 10:00 a. m., on April 13, 1950, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public land laws.* Commencing at 10:00 a. m., on July 13, 1950, any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the Small Tract Act by the general public filed on June 23, 1950, or thereafter, up to and including 10:00 a. m., on July 13, 1950, shall be treated as simultaneously filed.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate

of honorable discharge, or of an official document of his branch of service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claim, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

All applications for these lands which shall be filed in the land office at Fairbanks, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent that such regulations are applicable. Applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

Lessees under the Small Tract Act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances, are presentable, substantial and appropriate for the use for which the lease is issued. Leases will be for a period of not more than five years, at an annual rental of \$5.00, payable in advance for the entire lease period. Leases will contain an option to purchase the tract at or after the expiration of one year from the date the lease is issued, provided the terms and conditions of the lease have been met.

All of the land will be leased in tracts of approximately 2½ acres, in accordance with the classification maps on file in the Land Office, Fairbanks, Alaska. The tracts where possible are made to conform in description to the rectangular system of survey, in compact units.

The leases will be made subject to rights-of-way for road purposes and public utilities of 33 feet in width, on each side of the tracts contiguous to the section and/or quarter section lines, or as shown on the classification maps on file in the Land Office, Fairbanks, Alaska. Such rights-of-way may be utilized by the Federal Government, or the State or Territory, county or municipality, or by agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

All inquiries relating to these lands shall be addressed to the Manager, Land Office, Fairbanks, Alaska.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc. 50-2642; Filed, Mar. 29, 1950; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

C. J. ELLINGTON LIVESTOCK COMMISSION MARKET

NOTICE RELATIVE TO POSTED STOCKYARDS

It has been ascertained that the C. J. Ellington Livestock Commission Market, Alexandria, Louisiana, originally posted on April 19, 1938, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it is no longer used or operated as a stockyard. Therefore, notice is given to the owner of such stockyard and to the public that such stockyard is no longer subject to the provisions of said act.

Notice of public rule making has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impractical. There is no legal warrant or justification for not depositing promptly a stockyard which no longer is used or operated for stockyard purposes and is, therefore, no longer a stockyard within the definition contained in said act.

The foregoing rule is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication thereof in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 27th day of March 1950.

[SEAL]

H. E. REED,
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 50-2668; Filed, Mar. 29, 1950; 8:52 a. m.]

DEPARTMENT OF COMMERCE

Office of International Trade

[Case No. 80]

ALEX PRUZAN SEAL

ORDER SUSPENDING LICENSE PRIVILEGES

In the matter of Alex Pruzan, dba Alex Pruzan Seal, 91 Central Park West, New York, New York.

This proceeding was begun by the mailing of a charging letter to the above-named respondent under date of November 30, 1949, in which respondent was charged with having violated the provisions of section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, and the regulations promulgated thereunder, by filing with the Collector of Customs at New York City, between October 29, 1947, and November 15, 1948, approximately 16 shipper's export declarations each of which was known by respondent to be false in that it identified and described used clothing valued at \$25 as the commodity being exported and specified that it was being exported as gifts under the

purported authority of general license, whereas the commodities actually being exported were furs and other merchandise of relatively high value requiring validated export licenses which respondent did not possess.

Respondent having neither answered the charging letter nor requested an oral hearing, the matter was informally presented to the Compliance Commissioner on February 23, 1950. The Compliance Commissioner has carefully reviewed the evidence in the possession of the Office of International Trade and on the basis thereof has duly filed his report under date of March 3, 1950.

It appears from the record and the report of the Compliance Commissioner that respondent Pruzan is or has been engaged in conducting export trade in various commodities, particularly furs, doing business at New York City under the trade names of Alex Pruzan Seal and Alex Pruzan Co., but that he maintains no offices of his own or for such companies and that he has for the past several months been and still is outside of the United States.

It further appears from the record and the report of the Compliance Commissioner that respondent admittedly, during approximately the period between October 29, 1947, and November 15, 1948, filed with U. S. Collectors of Customs some 16 or more shipper's export declarations each of which identified and described used clothing valued at \$25 as the commodity being exported and specified that such commodity was being exported as a gift by a named consignor in the United States to a named consignee in Spain under the authority of general license; that in fact, as respondent knew, the commodities being exported under such declarations were furs and other merchandise of relatively high value whose exportation required validated export licenses which respondent did not possess, the named consignors were nominees or dummies for respondent, and the named consignees were fictitious persons or mere aliases for the true consignee in Spain; that the primary objective of such fraudulent practices was to disguise and conceal the identity of the parties and the commodities for purposes of importation into Spain, but that the necessary and intended concomitant of such objective was the falsification of export declarations and the exportation without required validated export licenses; and that one such attempted exportation involving furs and two portable radio receiving sets having a total value of more than \$2,500 was seized by Customs officials and has been forfeited to the Government but that all other such exportations went undiscovered and were in fact completed.

The Compliance Commissioner has accordingly found that respondent knowingly violated the laws and regulations relating to export control by submitting false information and making false certifications to Customs officials and through them to the Office of International Trade and by exporting such furs and other merchandise without validated export licenses as required by such laws and regulations. The Compliance Com-

missioner has therefore recommended that, inasmuch as respondent is out of the country and his present and future activities in export trade remain uncertain, all outstanding export licenses issued to him be revoked and his export license privileges, including the obtaining or using of either validated or general licenses, be indefinitely suspended, but with a reservation of his right to obtain a reopening of the proceeding and a hearing either orally or in writing if he so desires upon his return to this country, and on the further condition that he may apply to the Office of International Trade, after the lapse of three months from the date of such order as may be issued, for reinstatement of his export license privileges.

The findings and recommendations of the Compliance Commissioner have been carefully reviewed, together with the evidence in the possession of the Office of International Trade, and it appears that such findings are supported by the evidence and that such recommendations are fair and reasonable and should be adopted. Now, therefore, it is ordered as follows:

(1) All outstanding export licenses issued in the name of respondent or any of the trade names under which he does business are hereby revoked and shall be immediately returned to the Office of International Trade for cancellation.

(2) Respondent is hereby denied the privilege of obtaining or using or participating directly or indirectly in the obtaining or using of export licenses, including general as well as validated licenses, for such time and to such extent as export licenses are required by law: *Provided, however,* (a) That respondent may, upon returning to this country and so requesting, obtain a reopening of this proceeding and a hearing either orally or in writing, and (b) that respondent may, at any time after three months from the date of this order, apply to the Office of International Trade for reinstatement of his export license privileges.

(3) Such denial of export license privileges shall extend not only to respondent personally but also to any other person, firm, corporation or other business association with which he may be now or hereafter connected by ownership, control or responsible position in the conduct of export trade.

Dated: March 24, 1950.

JAMES C. FOSTER,
Director,
Commodities Division.

[F. R. Doc. 50-2657; Filed, Mar. 29, 1950;
8:50 a. m.]

[Case No. 81]

JOHN RENTZEPERIS AND OCEANIC EXPRESS
CORP.

ORDER SUSPENDING LICENSE PRIVILEGES

In the matter of: John Rentzeperis, and Oceanic Express Corporation, 168 West 23d Street, New York, N. Y.; respondents.—

This proceeding was begun by the mailing of a charging letter to the above-named respondents under date of December 29, 1949, wherein the Office of International Trade charged respondents with having violated the Export Control Act of 1949 (63 Stat. 7), and the regulations promulgated thereunder, by making some 30 or more exportations of streptomycin from the United States to Greece between December 23, 1948 and June 22, 1949, contrary to the terms of an order issued by the Office of International Trade on December 23, 1948, suspending, for a period of six months from the latter date, all export license privileges, general as well as validated, of respondent Rentzeperis, both individually and under the trade name of Oceanic Express Company, as well as any other firm, corporation or business organization in which he might have a controlling interest or with which he might hold a position of responsibility.

Respondents neither requested an oral hearing nor made any answer to the charging letter and were accordingly held in default. The evidentiary material in the possession of the Office of International Trade was therefore presented informally to the Compliance Commissioner for review and on the basis thereof he has duly filed his report under date of March 14, 1950.

It appears from the record and the report of the Compliance Commissioner that, under date of December 23, 1948, all export license privileges of respondent Rentzeperis, both individually and doing business as Oceanic Express Company, were suspended for a period of six months by order of the Office of International Trade; that such suspension order was based upon uncontested charges that respondent Rentzeperis had submitted false lists of donors in support of applications for export licenses to make shipments of gift parcels on behalf of donors in the United States to donees in Greece; and that such suspension order was by its terms applicable also to any other concerns which respondent Rentzeperis might control or with which he might hold a position of responsibility.

It further appears from the record and the report of the Compliance Commissioner that on or about November 30, 1948, subsequent to the filing of his written consent to the above-mentioned suspension order and in anticipation of the issuance of such order, respondent Rentzeperis caused respondent Oceanic Express Corporation to be organized under the laws of New York; that for this purpose respondent Rentzeperis induced three individuals to become nominally the incorporators, officers, directors and stockholders of record of said corporation; that none of such individuals had any financial interest in such corporation or took any part, other than the signing of their names to incorporation papers, in the organization or operation of such incorporation but were mere nominees of respondent Rentzeperis; that respondent Rentzeperis, while not appearing of record as interested in said corporation except as an employee, in fact was thus the sole owner and operator of the corporation and continued, under the cor-

porate guise, to conduct the same gift parcel business which he had previously operated under the name of Oceanic Express Company; and that such corporation was accordingly formed and operated as the alter ego of respondent Rentzeperis, its acts being in fact and in law his acts, and they together constituting one and the same business entity.

It further appears from the record and the report of the Compliance Commissioner that during the period of the above-mentioned six-month suspension, viz, between December 23, 1948, and June 22, 1949, respondents exported or caused to be exported some 30 or more shipments of streptomycin on behalf and in the names of donors in the United States to donees in Greece; that such exportations were effected under shipper's export declarations prepared and cleared through Customs by or under the direction of respondents; that the majority of such declarations were signed by an employee of respondents in the names of the respective donors but without the knowledge or consent of such donors; and that respondents did thereby not only submit false declarations and make false representations to Customs and through the latter to the Office of International Trade but also made exportations contrary to the terms of the above-mentioned suspension order of December 23, 1948.

The Compliance Commissioner has accordingly found that respondents have violated the laws and regulations relating to export control; that such violations were committed deliberately for the purpose of circumventing the suspension previously imposed; and that respondents have thereby demonstrated their disregard for export control regulations and their untrustworthiness insofar as concerns future compliance.

The Compliance Commissioner has therefore recommended that all outstanding export licenses issued to respondents or any of them be revoked; that all export license privileges of respondents be suspended for the duration of export control; and that such suspension extend not only to the named respondents but also to any person, firm, corporation or organization which respondents may now or hereafter control or with which respondent Rentzeperis may hold a position of responsibility in the conduct of export trade.

The findings and recommendations of the Compliance Commissioner have been carefully considered, together with the evidentiary material submitted by the Office of International Trade, and it appears that such findings are supported by the evidence and that such recommendations are reasonable and should be adopted. Now, therefore, it is ordered as follows:

(1) All outstanding export licenses held by or issued in the names of respondents or either of them are hereby revoked and shall be forthwith returned to the Office of International Trade for cancellation.

(2) Respondents and each of them are hereby denied the privilege of obtaining or using or participating directly or indirectly in the obtaining or using of ex-

port licenses, including general as well as validated export licenses, for so long and to the extent that such licenses continue to be required by law. Such denial of export license privileges shall be deemed to include and prohibit participation as a party, or as a representative of a party, to any export license application or to any exportation under either general or validated license in any manner or capacity, including the financing, forwarding, transporting or other servicing of exports.

(3) Such revocation and denial of export license privileges shall extend not only to the named respondents but also to any person, firm, corporation or other organization with which they or either of them may be now or hereafter related by ownership or control or with which respondent Rentzeperis may hold a position of responsibility in the conduct of export trade.

Dated: March 24, 1950.

JAMES C. FOSTER,
Director,
Commodities Division.

[F. R. Doc. 50-2858; Filed, Mar. 29, 1950;
8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, and section 1 (b) of the Walsh-Healey Public Contracts Act, as amended, have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938, as amended (sec. 14, 52 Stat. 1068; 29 U. S. C. 214; as amended 63 Stat. 910), and Part 525 of the regulations issued thereunder, as amended (29 CFR, Part 525), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

Albany Association of the Blind, Inc., 208 State Street, Albany 6, N. Y.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 50 cents per hour, whichever is higher, and a rate of not less than 34 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective March 15, 1950, and expires January 31, 1951.

Buffalo Association for the Blind, 864 Delaware Avenue, Buffalo 9, N. Y.; at a wage rate of not less than the piece rate

paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 50 cents per hour, whichever is higher; certificate is effective March 23, 1950, and expires November 30, 1950.

Elmira Association for the Blind, Inc., 717 Lake Street, Elmira, N. Y.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 57.5 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective March 20, 1950, and expires November 30, 1950.

The National Society of Volunteers of America, 69 Henry Street, Binghamton, N. Y.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 30 cents per hour, whichever is higher; certificate is effective March 15, 1950, and expires January 31, 1951.

Pennsylvania Branch, Shut-in Society, 511 North Broad Street, Philadelphia, Pa.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 10 cents per hour, whichever is higher, and a rate of not less than 5 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective March 1, 1950, and expires February 28, 1951.

Wabash Valley Goodwill Industries, Inc., 122 North Fifth Street, Terre Haute, Ind.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 50 cents per hour, whichever is higher, and a rate of not less than 45 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective March 15, 1950, and expires February 28, 1951.

Goodwill Industries of Oakland, 485 Sixth Street, Oakland 7, Calif.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 55 cents per hour, whichever is higher; certificate is effective January 25, 1950, and expires January 24, 1951.

Goodwill Industries of San Francisco, 986 Howard Street, San Francisco 3, Calif.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 60 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950, and expires January 24, 1951.

Goodwill Industries of Oregon, Inc., 512 Southeast Mill Street, Portland 14, Oreg.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 50 cents per hour, whichever is higher, and a rate of not less than 40 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950, and expires January 24, 1951.

The Volunteers of America, 538 Southeast Ash Street, Portland 14, Oreg.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 60 cents per hour, whichever is higher, and a rate of not less than 40 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950, and expires January 24, 1951.

The Volunteers of America, 2801 Lombard Street, Everett, Wash.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 50 cents per hour, whichever is higher; certificate is effective January 25, 1950, and expires January 24, 1951.

Lighthouse for the Blind, Inc., 131 Elliott West, Seattle 99, Wash.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 60 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950, and expires January 24, 1951.

St. Vincent dePaul Salvage Bureau, 1001 Fairview Avenue, North, Seattle 9, Wash.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 60 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950, and expires January 24, 1951.

Seattle Goodwill Industries, 1400 Lane Street, Seattle 44, Wash.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 50 cents per hour, whichever is higher; certificate is effective January 25, 1950, and expires July 24, 1950.

National Society of the Volunteers of America, 1921 First Avenue, Seattle 1, Wash.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not

less than 50 cents per hour, whichever is higher; certificate is effective January 25, 1950, and expires January 24, 1951.

The Volunteers of America, 1517 Broadway, Tacoma 2, Wash.; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards or not less than 75 cents per hour, whichever is higher, and a rate of not less than 50 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950, and expires January 24, 1951.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations, as amended. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations, as amended. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 21st day of March 1950.

RAYMOND G. GARCEAU,
Director,
Field Operations Branch.

[F. R. Doc. 50-2643; Filed, Mar. 29, 1950;
8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 4194]

NATIONAL TRAVEL CLUB, INC., ET AL.

NOTICE OF HEARING

In the matter of the unauthorized operations in air transportation of the National Travel Club, Inc., Harold L. Rogers, Ferol (Mrs. Harold L.) Rogers, John J. Klak, Smith E. Speicher, Marvin L. Heintzel and George C. Chandler.

Notice is hereby given that pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 401 (a), 1001, 1002 (b) and 1002 (c) thereof, a hearing in the above-entitled proceeding is assigned to be held on April 17, 1950, at 10:00 a. m., e. s. t., in Room 5130 Commerce Building, Fourteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner F. Merritt Ruhlen.

Without limiting the scope of the issues involved in this proceeding, particular attention will be directed to the following matters and questions:

1. Have the National Travel Club, Inc., Harold L. Rogers, Ferol (Mrs. Harold L.) Rogers, John J. Klak, Smith E. Speicher, Marvin L. Heintzel, and George C. Chandler (hereinafter referred to as "respondents") individually, jointly, or severally engaged, or are the respondents individually, jointly, or severally engaging, directly or indirectly in air transportation in violation of section 401 (a) of the Civil Aeronautics Act of 1938, as amended.

2. If any such violation is established should the Board issue an order directing any or all of the respondents to cease and desist from engaging in air transportation or such other order to compel compliance by any or all of the respondents with section 401 (a) of the act?

For further details as to the matters involved reference can be made to the order to show cause (Serial No. E-3573) adopted by the Board on the 16th day of November 1949, the report of the pre-hearing conference, and other papers contained in the docket of this proceeding.

Dated at Washington, D. C., March 24, 1950.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-2661; Filed, Mar. 29, 1950;
8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 24979]

CEMENT FROM PREGNALL, S. C., TO NEW BERN, N. C.

APPLICATION FOR RELIEF

MARCH 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of Atlantic and East Carolina Railway Company and Southern Railway Company.

Commodities involved: Cement, carloads.

From: Pregnall, S. C.

To: New Bern, N. C.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found

to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-2647; Filed, Mar. 29, 1950;
8:47 a. m.]

[4th Sec. Application 24980]

SCRAP IRON OR STEEL FROM VALDOSTA, GA.,
TO WEIRTON, W. VA.

APPLICATION FOR RELIEF

MARCH 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 950.

Commodities involved: Scrap iron or steel, carloads.

From: Valdosta, Ga.

To: Weirton, W. Va.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-2648; Filed, Mar. 29, 1950;
8:47 a. m.]

[4th Sec. Application 24981]

STOVES OR RANGES FROM THE SOUTH TO
OFFICIAL AND WESTERN TERRITORIES

APPLICATION FOR RELIEF

MARCH 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariffs I. C. C. Nos. 955 and 971.

Commodities involved: Stoves or ranges, iron or steel, viz: heaters, gas, with or without clay radiants, carloads.

From: Points in the South.

To: Points in official and western trunk-line territories.

Grounds for relief: Circuitous routes. Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-2649; Filed, Mar. 29, 1950;
8:48 a. m.]

[4th Sec. Application 24982]

ALL FREIGHT FROM AND TO POINTS IN THE
SOUTH

APPLICATION FOR RELIEF

MARCH 27, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1073.

Commodities involved: Merchandise in mixed carloads.

From: Atlanta, Ga., Birmingham, Ala., and Greensboro, N. C.

To: St. Louis, Mo., East St. Louis and Chicago, Ill., and points in Florida.

Grounds for relief: Circuitous routes and competition with motor carriers.

Schedules filed containing proposed rates: C. A. Spaninger's I. C. C. No. 1073, Supplement No. 41.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hear-

ing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-2650; Filed, Mar. 29, 1950;
8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1184]

JEFFERSON LAKE SULPHUR CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 24th day of March A. D. 1950.

The New Orleans Stock Exchange has made application under Rule X-12F-2 (b) for a determination that the 7% cumulative Preferred Stock, \$10 Par Value, and the Common Stock, \$1 Par Value, of Jefferson Lake Sulphur Company, a New Jersey corporation, are substantially equivalent, respectively, to the 7% Cumulative Preferred Stock, \$10 Par Value, and the Common Stock, \$1 Par Value, of Jefferson Lake Sulphur Company, Inc., a Louisiana corporation, which securities have heretofore been admitted to unlisted trading privileges on the applicant exchange.

The Commission having duly considered the matter, and having due regard for the public interest and the protection of investors;

It is ordered, Pursuant to sections 12 (f) and 23 (a) of the Securities Exchange Act of 1934 and Rule X-12F-2 (b) thereunder, that the 7% Cumulative Preferred Stock, \$10 Par Value, and the Common Stock, \$1 Par Value, of Jefferson Lake Sulphur Company, a New Jersey corporation, are hereby determined to be substantially equivalent, respectively, to the 7% Cumulative Preferred Stock, \$10 Par Value, and the Common Stock, \$1 Par Value, of Jefferson Lake Sulphur Company, Inc., a Louisiana corporation, whose securities heretofore were admitted to unlisted trading privileges on the applicant exchange.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 50-2646; Filed, Mar. 29, 1950;
8:46 a. m.]

[File No. 30-173]

EASTERN MINNESOTA POWER CORP.

NOTICE OF FILING OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 24th day of March A. D. 1950.

Notice is hereby given that an application has been filed with this Commission pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935 ("act") by Eastern Minnesota Power Corporation ("Eastern Minnesota"), a registered holding company, for an order

declaring it has ceased to be a holding company.

All interested persons are referred to said application which is on file in the offices of this Commission for a complete statement of the matters set forth therein. A summarization of the basis for said application follows:

The Commission on May 13, 1949, issued its findings and opinion and order approving a plan, filed pursuant to section 11 (e) of the act by Eastern Minnesota, which provided for the liquidation and dissolution of the company (see Eastern Minnesota Power Corporation, et al., — S. E. C. — (1949), Holding Company Act Release No. 9077). Applicant states that, in accordance with the terms of said plan, it has distributed substantially all of its assets, which consisted primarily of cash and shares of the common stock of Wisconsin Hydro Electric Company ("Wisconsin Hydro"), its only subsidiary, to its stockholders, that it has completed proceedings for its dissolution in compliance with the statutes of the State of Minnesota, and that its affairs in dissolution are administered by three of its former directors who have been designated by its stockholders as trustees in dissolution. Applicant further states that it has no control over Wisconsin Hydro, that it holds, for distribution upon surrender of shares of its own stock or for disposition in accordance with the terms of the plan, less than 1% of the common stock of Wisconsin Hydro, and that its remaining assets consist of approximately \$5,000 in cash held as a reserve for the payment of expenses which may be incurred and of a possible income tax liability.

Applicant requests that the order granting said application become effective forthwith upon issuance.

Notice is further given that any interested person may, not later than April 10, 1950, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest, and the issues of fact or law raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after April 10, 1950, said application as filed, or as amended, may be granted.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 50-2646; Filed, Mar. 29, 1950;
8:47 a. m.]

[File No. 54-178]

UNITED LIGHT AND RAILWAYS CO., ET AL.
ORDER PERMITTING APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 22d day of March A. D. 1950.

The United Light and Railways Company ("Railways"), a registered holding

company, having filed an application-declaration, designated Supplemental Application No. 4, pursuant to the provisions of a plan providing for the liquidation of Railways and its registered holding company subsidiary, Continental Gas & Electric Corporation ("Continental"), and approved by the Commission on January 10, 1950, with respect to the following transactions:

The plan, inter alia, provides for the sale by Railways to its common stockholders under a rights offering, upon terms and conditions to be approved by the Commission, of all of the common stock of Kansas City Power and Light Company ("Kansas City") acquired by Railways in connection with the liquidation of Continental and the application of the net proceeds received from such sale to the payment of the indebtedness of Continental to be assumed by Railways and to the payment of the other indebtedness of Railways. The application-declaration states that in connection with the liquidation of Continental, Railways acquired 1,904,003 shares of common stock of Kansas City, and that Railways proposes, on or about March 30, 1950, to offer to its stockholders the right to purchase such stock at \$12 per share on the basis of three shares of Kansas City for each five shares of Railways common stock owned, and in connection therewith to issue transferable warrants evidencing the rights of Railways stockholders to purchase such stock of Kansas City. The net proceeds received from the sale of such stock of Kansas City are to be used for the payment of the balance of Continental's bank indebtedness in the amount of \$5,935,319.41, assumed by Railways, and the remainder is to be applied towards the payment of Railways' bank loan in the amount of \$19,500,000.

If 1% or less of the aggregate number of shares offered are unsubscribed, Railways proposes to sell such shares through the ordinary brokerage channels. If more than 1% of the shares offered are unsubscribed, such shares will be disposed of by appropriate means suggested by Railways and approved by the Commission pursuant to a Supplemental Application. The proceeds from such sales, after deducting an amount equal to \$12 per share and expenses incurred in connection with such sales, are to be distributed pro rata to the registered holders of the warrants representing the unexercised rights. Funds representing checks returned not cashed will be held by Railways for the persons entitled thereto in the same manner as funds representing returned or uncashed dividend checks are held.

Said application-declaration having been filed on February 23, 1950, and the last amendment thereto having been filed on March 21, 1950, and notice of said filing having been duly given in the manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for a hearing with respect to said application-declaration, as amended, within the period specified or otherwise, and not having ordered a hearing thereon; and

Applicant-declarant having requested that the Commission enter an order on or

before March 22, 1950, to become effective upon its issuance, granting and permitting said application-declaration, as amended, to become effective, and having also requested that such order recite that the proposed transactions are necessary or appropriate to the simplification of the holding company system of which Railways is a member and are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and the record being incomplete with respect to the fees and expenses to be incurred and paid in connection with the proposed transactions; and

The Commission finding with respect to the application-declaration, as amended, that the requirements of the applicable provisions of the act and the rules and regulations promulgated thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration, as amended, be granted and permitted to become effective forthwith, subject to the terms and conditions specified in Rule U-24, and subject to a reservation of jurisdiction with respect to fees and expenses, and the Commission further deeming it appropriate to grant applicant-declarant's request that said order contain the recitals above requested and to grant the request for acceleration of the effective date of this order;

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, subject to the terms and conditions prescribed by Rule U-24, that the application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith, subject to a reservation of jurisdiction with respect to the fees and expenses to be incurred and paid in connection with the proposed transactions;

It is further ordered and recited, That the following transactions involved in the consummation of the plan of Railways and Continental under section 11 (e) of the act, heretofore approved by order of the Commission on January 10, 1950, are necessary or appropriate to the simplification of the holding company system of which Railways is a member and are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935:

1. The issuance by Railways to its common stockholders of the transferable warrants described in Supplemental Application No. 4 in File No. 54-178 filed by Railways in these proceedings evidencing rights to purchase 1,904,003 shares of common stock of Kansas City without par value at a price of \$12 per share, on the basis of 3 shares of common stock of Kansas City for each 5 shares of common stock of Railways; and the receipt and sale or exercise of such warrants and the rights thereby evidenced by such common stockholders;

2. The sale and transfer by Railways pursuant to the aforesaid rights, of such number of shares of common stock of Kansas City, without par value, (out of certificates TCC4 for 1,637,255 shares and TCC3 for 266,748 shares of common

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stock of Kansas City, respectively) as may be required upon the exercise of such rights by the holders thereof;

3. The sale and transfer by Railways through ordinary brokerage transactions, or at public or private sale, of any of said 1,904,003 shares of common stock of Kansas City in respect of which the aforesaid rights shall not be exercised;

4. The expenditure of the net proceeds (\$22,848,036, less expenses estimated at \$95,000) of the sale of such 1,904,003 shares of common stock of Kansas City by Railways to pay, retire, and cancel securities representing indebtedness of Railways as follows:

(a) To pay, retire, and cancel all of the remaining outstanding principal amount of 2½% ten year notes dated December 7, 1945, issued in the principal amount of \$30,000,000 pursuant to the Loan Agreement, dated November 24, 1945, between Continental and certain commercial banks, heretofore assumed by Railways on liquidation of Continental, such payment to be made to the following banks in the amounts indicated below:

Name of bank	Amounts of notes
The National City Bank of New York	\$1,187,063.88
Bankers Trust Co.	1,187,063.88
Central Hanover Bank & Trust Co.	1,187,063.88
Continental Illinois National Bank & Trust Co. of Chicago	593,531.95
The First National Bank of Chicago	566,823.00
Mellon National Bank & Trust Co.	566,823.00
Harris Trust & Savings Bank	237,412.78
National Bank of Detroit	118,706.39
Commerce Trust Co.	178,059.58

Name of bank	Amounts of notes
The First National Bank of Kansas City	\$71,223.88
The City National Bank & Trust Co. of Kansas City	41,547.24

Total 3,985,319.41

(b) To prepay, pro rata, the outstanding \$19,500,000 principal amount of 2½% notes, maturing August 1, 1950, issued pursuant to the Loan Agreement, dated April 30, 1949, between Railways and certain commercial banks, in the following amounts:

Name of bank	Amounts of notes
The National City Bank of New York	\$5,850,000
Central Hanover Bank & Trust Co.	5,850,000
Mellon National Bank & Trust Co.	5,850,000
Harris Trust & Savings Bank	1,950,000

Total 19,500,000

all as required by the terms of such Loan Agreements and by the order of this Commission entered in these proceedings on January 10, 1950.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-2644; Filed, Mar. 29, 1950; 8:46 a. m.]

UNITED STATES MARITIME COMMISSION

DE LA RAMA STEAMSHIP CO., INC., ET AL.

NOTICE OF APPROVAL OF AGREEMENT

Notice is hereby given that the Commission by order dated March 14, 1950,

approved the following described agreement pursuant to section 15 of the Shipping Act, 1916, as amended:

Agreement No. 17-23, between (De La Rama Lines)—joint service of the De La Rama Steamship Co., Inc., the Swedish East Asia Co., Ltd., the Ocean Steam Ship Co., Ltd., the China Mutual Steam Navigation Company, Ltd., and Nederlandsche Stoomvaart Maatschappij "Oceaan" N. V.— and the member lines of the Far East Conference provides for the admission of the aforesaid carriers comprising the De La Rama Lines joint service to membership in the Far East Conference as a single party with one vote pursuant to the provisions of their joint service agreement (No. 7739), and for the termination of membership agreements No. 17-17 covering the Swedish East Asia Co., Ltd. (Swedish East Asiatic Co. Ltd.) and the De La Rama Steamship Co. Inc., and No. 17-18 covering the Ocean Steam Ship Company, Ltd., the China Mutual Steam Navigation Co., Ltd., and Nederlandsche Stoomvaart Maatschappij "Oceaan". Agreement No. 17 covers the establishment and maintenance of agreed rates and charges for transportation of cargo from U. S. Atlantic and Gulf ports to ports in the Far East.

Interested parties may obtain copies thereof at the Commission's Office of Regulation, Washington, D. C.

Dated: March 24, 1950, at Washington, D. C.

By the Commission.

[SEAL] R. L. McDONALD,
Assistant Secretary.

[F. R. Doc. 50-2655; Filed, Mar. 29, 1950; 8:49 a. m.]