	Channel No.
Wisconsin—Continued	
Green Bay	2+, 5+, 70+
Janesville	63+
Kenosha	61−
La Crosse	8+, *32+, 38−, 72
Madison	3, *21−, 27−, 33+
Manitowoc	65
Marinette	11+, 32−, *38+
Milwaukee	4−, *10+, 12, 18+, 24+, 30
Oshkosh	48−
Park Falls	*18
Portage	17−
Prairie du Chien	34
Racine	49−, 55
Rhinelander	22
Rice Lake	21+
Richland Center	15, *66−
Sheboygan	59−
Shell Lake	*30−
Sparta	50−
Stevens Point	20+, 26−
Sturgeon Bay	44−
Superior. (*See* Duluth, Minn.)	
Wausau	7−, 9, 16+, *46−
Whitefish Bay	6
Wisconsin Rapids	14−
Wyoming:	
Buffalo	29
Casper	2+, 6+
Cheyenne	5+
Cody	24−
Douglas	14
Evanston	14−
Gillette	31−
Green River	16
Greybull	40
Lander	17−
Laramie	*8+, 18+
Lovell	36+
Lusk	19−
Newcastle	28+
Powell	30+
Rawlins	11−
Riverton	10+
Rock Springs	13
Sheridan	9−, 12+
Thermopolis	15
Torrington	27
Wheatland	24+
Worland	34
U. S. TERRITORIES AND POSSESSIONS	
Alaska:	
Anchorage	2−, *7−, 11, 13−
Fairbanks	2+, 4+, 7+, *9+, 11+, 13+
Juneau	*3, 8, 10
Ketchikan	2, 4, *9
Seward	4−, 9−
Sitka	13
Guam:	
Agana	8, 10
Hawaiian Islands:	
Hilo, Hawaii	2, *4, 7, 9, 11, 13
Honolulu, Oahu	2+, 4−, *7+, 9−, 11+, 13−
Lihue, Kauai	3+, *8−, 10+, 12−
Wailuku, Maui	3, 8, *10, 12
Puerto Rico:	
Arecibo-Aguadilla	12+
Caguas	11−
Fajardo	13+
Mayaguez	3+, 5−
Ponce	7+, 9−
San Juan	2+, 4−, *6+
Virgin Islands:	
Charlotte Amalie	10−
Christiansted	8+

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-10671; Filed, Dec. 29, 1958; 8:45 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

[Reg. F]

PART 206—TRUST POWERS OF NATIONAL BANKS

MISCELLANEOUS AMENDMENTS

1. Effective December 22, 1958, Part 206 is amended in the following respects:

(a) Footnote 5 to paragraph (f) of § 206.6 is amended to read as follows:

[5] The statement of principles of trust institutions approved by the Executive Council of the American Bankers Association is commended to banks operating trust departments.

(b) Section 206.19 is revoked.

2. (a) The purpose of these amendments is to eliminate from the Code of Federal Regulations the statement of principles of trust institutions approved by the Executive Council of the American Bankers Association under date of April 11, 1933. This seems advisable because the statement is not a regulation of the Board of Governors and it has been amended since its original adoption.

(b) The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with these amendments for the reasons and good cause found as stated in § 262.2 (e) of the Board's rules of procedure (Part 262), and especially because in connection with these amendments such procedures are unnecessary as they would serve no useful purpose.

(Sec. 11, 38 Stat. 262; 12 U. S. C. 248. Interpret or apply secs. 2-4, 24 Stat. 18, 19, sec. 1, 40 Stat. 1043, as amended, sec. 1, 44 Stat. 1225, as amended, sec. 11, 38 Stat. 261, as amended, 53 Stat. 68, as amended; 12 U. S. C. 30-33, 34, 248, 26 U. S. C. 584)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] MERRITT SHERMAN,
Secretary.

[F. R. Doc. 58-10689; Filed, Dec. 29, 1958; 8:46 a. m.]

[Reg. T]

PART 220—CREDIT BY BROKERS, DEALERS, AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

EXERCISE OF RIGHTS TO SUBSCRIBE

Section 220.102 is deleted from the Code of Federal Regulations since it contains an interpretation of paragraph (l) of § 220.6 which was revoked (14 F. R. 2659).

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

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] MERRITT SHERMAN,
Secretary.

[F. R. Doc. 58-10690; Filed, Dec. 29, 1958; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter B—Economic Regulations

[Reg. ER-242]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

REPEAL OF PRESCRIPTION OF DEPRECIATION ACCOUNTING PRACTICES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 23d day of December 1958.

On consideration of the decision in Alaska Airlines v. Civil Aeronautics Board, 103 U. S. App. D. C. 225, 257 F. 2d 229, cert. den. 79 S. Ct. 120, the Civil Aeronautics Board hereby rescinds, effective December 23, 1958, Amendment No. 2 to Part 241 of the Economic Regulations (Regulation No. ER-224, adopted November 18, 1957, 22 F. R. 9455, which amended §§ 241.2-14 (c), (d) and § 241.5-4 (g), and added § 241.35).

(Sec. 205, 52 Stat. 985; 49 U. S. C. 425. Interpret or apply sec. 407, 52 Stat. 1000, 1004; 49 U. S. C. 487, 496)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F. R. Doc. 58-10714; Filed, Dec. 29, 1958; 8:51 a. m.]

TITLE 7—AGRICULTURE

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

[Amdt. 3]

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

DEFINITIONS

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U. S. C. 1281 et seq.), to provide regulations for the reconstitution of publicly-owned wild life refuge farms. The amendment provides that all Federal or State owned land in one wild life refuge under the supervision of one manager must be constituted as one farm and such farms shall not include any land that is privately owned. It is imperative that reconstitutions to which the amendment will apply be made as soon as possible, and it is therefore determined and found that compliance with the notice and public procedure requirements and the 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003), are impracticable and contrary to the public interest and this amendment shall be effective upon the filing of this document with the Director, Division of the Federal Register.

The regulations (23 F. R. 6731), pertaining to reconstitution of farms, farm allotments, farm history, and Soil Bank base acreages are hereby amended as follows:

Section 719.2 (l) (2) is hereby amended by adding a new subdivision (v) at the end thereof as follows:

(v) Notwithstanding the above provisions; when designating any area of land as a wildlife refuge farm for the purpose of administering the various agricultural programs, all Federal or State-owned land in one refuge, under the supervision of one manager, must be constituted as one farm and such farm shall not include any land that is privately owned. Any land that is not currently constituted in accordance with this provision shall be reconstituted, however, such reconstitution shall not be effective with respect to 1959 wheat allotments.

(Sec. 375, 50 Stat. 66, sec. 124, 70 Stat. 198; 7 U. S. C. 1375, 1812)

Issued this 23d day of December 1958.

[SEAL] TRUE D. MORSE, *Acting Secretary.*

[F. R. Doc. 58-10711; Filed, Dec. 29, 1958; 8:51 a. m.]

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

[Lemon Reg. 770, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF HANDLING

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.877 (Lemon Regulation 770; 23 F. R. 9836) are hereby amended to read as follows:

(ii) District 2: 162,750 cartons.

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

Dated: December 23, 1958.

[SEAL] S. R. SMITH, *Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F. R. Doc. 58-10709; Filed, Dec. 29, 1958; 8:50 a. m.]

PART 994—MILK IN COLORADO SPRINGS-PUEBLO MARKETING AREA

ORDER REGULATING HANDLING OF MILK

AUTHORITY: §§ 994.0 to 994.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 994.0 *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, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Colorado Springs-Pueblo 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 specied 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;

(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 or commercial activity specified in a marketing agreement upon which a hearing has been held;

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, with respect to (a) all milk received from producers, including such handler's own farm production, (b) other source milk classified as Class I and (c) the quantities of milk at the plants of

handlers operating nonpool plants as specified in § 994.62 (a) (2) or (b) (2).

(b) *Additional findings.* It is necessary in the public interest to make this order partially effective not later than January 1, 1959, and fully effective not later than February 1, 1959.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued September 4, 1958, and the decision of the Acting Secretary containing all the provisions of this order was issued November 26, 1958. Thus, handlers have known of these impending requirements for some time and should be prepared. Furthermore, producers continued to lose substantial income, and marketing conditions continue to remain unstabilized, each day the effective date of the order is delayed. In view of the foregoing, it is hereby found and determined that good cause exists for making this order partially effective January 1, 1959, and fully effective February 1, 1959, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

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

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

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

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Colorado Springs-Pueblo marketing area shall be in conformity to, and in compliance with, the following terms and conditions:

DEFINITIONS

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

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

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

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

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

§ 994.6 *Colorado Springs-Pueblo, Colorado, marketing area.* "Colorado Springs-Pueblo, Colorado, marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the counties of El Paso, Pueblo, Huerfano, and Teller, all in the State of Colorado.

§ 994.7 *Pool plant.* A "pool plant" shall be any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a handler exempted in § 994.60 or § 994.61:

(a) Any plant hereinafter referred to as a "distributing pool plant", in which fluid milk products are pasteurized or packaged and from which 20 percent or more of the total Class I sales are made on routes in the marketing area;

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month not less than 40 percent of its dairy farm supply of Grade A milk is moved to a distributing pool plant(s): *Provided,* That any supply plant which has qualified as a pool plant from the effective date of this order through February 1959 and in each of the months of September through February in any year thereafter shall be a pool plant for each of the following months of March through August unless written request for nonpool status is furnished in advance to the market administrator.

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

§ 994.9 *Handler.* "Handler" means:

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

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

(c) A cooperative association with respect to the milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant from which it was diverted.

§ 994.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk in compliance with fluid milk product requirements of a duly constituted health authority having jurisdiction within the marketing area, and whose milk is (a) received at a pool plant or (b) diverted to a nonpool plant for the account of a handler. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

§ 994.11 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and a distributing plant at which, during the month, there is received no other source milk or milk from other producers.

§ 994.12 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 994.10.

§ 994.13 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

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

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

§ 994.14 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream (sweet or sour, including any mixture of cream and milk or skim milk) and concentrated (fresh or frozen) milk, flavored milk or flavored milk drinks which are neither sterilized nor in hermetically sealed cans.

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

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his 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 of the part;

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

(d) Pay out of the funds received by § 994.88 the cost of his bond and those of his employees his own compensation, and all other expenses (except those incurred under § 994.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Verify all reports and payments of each handler, by audit 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 by such other means as are necessary;

(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 § 994.30 to § 994.32, or (2) payments pursuant to § 994.80 to § 994.88;

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

(1) On or before the 6th day of each month, the Class I price and butterfat differential for the month; computed pursuant to §§ 994.51 (a) and 994.53 (a) respectively;

(2) On or before the 6th day of each month, the Class II price and butterfat differential for the preceding month, computed pursuant to §§ 994.51 (b) and 994.53 (b), respectively;

(3) On or before the 12th day of each month, the uniform price for producer milk computed pursuant to § 994.71, the location differential computed pursuant to § 994.81, and the butterfat differential computed pursuant to § 994.82, all for the preceding month;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler; and

(k) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this part and which do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 994.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler or a handler making payments pursuant to § 994.62 (a), shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

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

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

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

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

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

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

§ 994.31 *Payroll reports.* On or before the 23d day of each delivery period, each handler except a producer-handler or a handler making payments pursuant to § 994.62 (a) shall submit to the market administrator his producer payroll for receipts during the preceding delivery period which shall show:

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

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

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

§ 994.32 *Other reports.* Each producer-handler and each handler making payments pursuant to § 994.61 or § 994.62 (a) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

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

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

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

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

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

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

CLASSIFICATION

§ 994.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat at pool plants which is required to be reported pursuant to § 994.30 shall be classified by the market administrator, pursuant to the provisions of §§ 994.41 to 994.46.

§ 994.41 *Classes of utilization.* Subject to the conditions set forth in § 994.42 to § 994.46, the classes of utilization shall be as follows:

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

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than a fluid milk product; (2) accounted for as livestock feed; (3) in skim milk dumped after prior notification to and opportunity for verification by the market administrator; (4) in inventory of fluid milk products on hand at the end of the month; (5) in shrinkage allocated to receipts of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat directly from producers, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in bulk from pool plants of other handlers, less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk lots to the pool plants of other handlers; and (6) in shrinkage allocated to receipts of other source milk.

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

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat (1) in the quantity of milk from producers and in bulk tanks from pool plants of other handlers, and (2) in other source milk.

§ 994.43 *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 shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 994.44 *Transfers.* Skim milk or butterfat disposed of from a pool plant shall be classified:

(a) As Class I milk if transferred or diverted in the form of a fluid milk product to the pool plant of another handler unless utilization in Class II is mutually indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the delivery period within which such transfer 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 § 994.46, and any additional amount of such skim milk or butterfat shall be assigned to Class I: *And provided further,* That if either or both plants have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk;

(b) As Class I milk if transferred in the form of a fluid milk product to a producer-handler;

(c) As Class I milk if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 200 miles from the El Paso County Courthouse by the shortest highway distance as determined by the market administrator;

(d) As Class I milk if transferred to a nonpool plant in the form of a fluid milk product in consumer packages;

(e) (1) As Class I milk, if transferred or diverted in the form of a fluid milk product, in bulk, to a nonpool plant located not more than 200 miles from the El Paso County Courthouse by shortest highway distance as determined by the market administrator, unless the following conditions are met:

(i) The transferring handler claims Class II utilization in his report submitted pursuant to § 994.30;

(ii) The operator of the nonpool plant keeps adequate books and records showing the utilization of all skim milk and butterfat received at such plant and the market administrator is permitted to examine such books and records for the purpose of verification; and

(iii) Not less than an equivalent quantity of skim milk and butterfat was actually used as Class II in the nonpool plant.

(2) If any skim milk or butterfat is transferred to a second nonpool plant under this paragraph, the same conditions of audit, classification, and allocation shall apply.

§ 994.45 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors, the report submitted by each handler pursuant to § 994.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 994.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 994.45 the market administrator shall determine the classification of milk received from producers at the pool plant(s) of each handler 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 allocated to shrinkage in skim milk received from producers pursuant to § 994.41 (b) (5);

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

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk received from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act;

(4) Subtract from the pounds of skim milk remaining in each class the skim milk received from other pool plants according to its classification as determined pursuant to § 994.44 (a).

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

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

(7) Subtract from the pounds of skim milk remaining in each class any amount by which the pounds of skim milk remaining in both classes exceed the pounds of skim milk in milk received from producers in series beginning with Class II. Such excess shall be called "overage".

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

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

MINIMUM PRICES

§ 994.50 *Basic formula price.* The basic formula price for each month to be used in determining the class prices set forth in § 994.51, shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest one-tenth cent:

(a) Determine the average of the basic, or field prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the Department:

Present Operator and Location

Borden Company, Mount Pleasant, Mich.
Carnation Company, Sparta, Mich.
Pet Milk Company, Wayland, Mich.
Pet Milk Company, Coopersville, Mich.
Borden Company, Orfordville, Wis.
Borden Company, New London, Wis.
Carnation Company, Richland Center, Wis.
Carnation Company, Oconomowoc, Wis.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Belleville, Wis.
White House Milk Company, Manitowoc, Wis.
White House Milk Company, 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) per pound 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 3.5.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the 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 0.965.

§ 994.51 *Class prices.* Subject to the provisions of §§ 994.52 and 994.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk.* During the first eighteen months following the effective date of this part, the basic formula price for the preceding month plus $2.20.

(b) *Class II milk.* During the months of August through February the basic formula price for the month, and during the months of March through July the basic formula price for the month less 20 cents.

§ 994.52 *Location differentials to handlers.* For milk which is received from producers at a pool plant located more than 80 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse in

Colorado Springs, Pueblo, or Walsenburg, whichever is closest, and which is classified as Class I milk the prices computed pursuant to § 994.51 (a) shall be reduced by 13.5 cents if such plant is located more than 80 miles but not more than 90 miles from such Courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 90 miles: *Provided*, That for the purpose of calculating such differential transfers between pool plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plant, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence beginning with the plant at which the lowest location differential credit would apply.

§ 994.53 *Butterfat differentials to handlers*. For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 994.51 shall be increased or decreased, respectively, for each one-tenth of one percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk*. Multiply the butter price specified in § 994.50 (b) (1) for the preceding month by 1.40 and divide the result by 10.

(b) *Class II milk*. Multiply the butter price specified in § 994.50 (b) (1) by 1.20 and divide the result by 10.

§ 994.54 *Use of equivalent prices*. If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 994.60 *Producer-handler*. Sections 994.40 to 994.46, 994.50 to 994.54, 994.70 to 994.72, and 994.80 to 994.88 shall not apply to a producer-handler.

§ 994.61 *Exempt plants*. The provisions of this part shall not apply to a plant specified in paragraph (a) or (b) of this section except that the operator of such plant shall make such reports of receipts and utilization of milk as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any distributing plant from which less than an average of 300 pounds of Class I milk per day is disposed of on routes in the marketing area during the month.

(b) Any distributing pool plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless (1) more Class I milk is disposed of from such plant on routes in the Colorado Springs-Pueblo marketing area than in the marketing area regulated pursuant to such other order, or (2) such plant was qualified as a supply plant under the other order.

§ 994.62 *Handler operating a nonpool plant*. In lieu of the payments required pursuant to §§ 994.80 to 994.88, each handler, other than a producer-handler or one exempt pursuant to § 994.61, who operates during the month a nonpool plant, shall pay to the market administrator on or before the 25th day after the end of the month the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 994.30, to pay the amounts computed pursuant to paragraph (b) of this section;

(a) The following amounts:

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

(2) As his share of the expense of administration, the rate specified in § 994.88 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts:

(1) To the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 994.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the month from Grade A dairy farmers at such plant or at a plant which serves as a supply plant; and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 994.88 had such plant been a pool plant, except that if such plant is also a nonpool plant under another order issued pursuant to the Act, and his Class I sales in such other marketing area exceed those made in the Colorado Springs-Pueblo marketing area, the payments due under this subparagraph shall be reduced by the amount of any administrative expense payments under the other order.

DETERMINATION OF UNIFORM PRICE

§ 994.70 *Computation of the value of producer milk for each handler*. For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 994.46 by the applicable class price and total the resulting amounts;

(b) Add an amount computed by multiplying the pounds of any overage deducted from any class pursuant to § 994.46 (a) (7) and, the corresponding step of § 994.46 (b) by the applicable class price;

(c) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 994.46 (a) (6) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 994.46 (a) (5) and the corresponding step of § 994.46 (b) for the current month, whichever is less;

(d) For any skim milk or butterfat subtracted from Class I milk pursuant to § 994.46 (a) (2) and the corresponding step of § 994.46 (b), and pursuant to § 994.46 (a) (5) and the corresponding step of § 994.46 (b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (c) of this section, add an amount equal to the differences between the values of such skim milk and butterfat at the Class I price and at the Class II price: *Provided*, That such calculations shall not apply if the total receipts of producer milk at pool plants during the month are less than 110 percent of the total Class I utilization of such plants for the month.

§ 994.71 *Computation of the uniform price*. The market administrator shall compute the uniform price per hundredweight of producer milk as follows:

(a) Combine into one total the values computed pursuant to § 994.70 for the producer milk of all handlers who submitted reports prescribed in § 994.30, and who are not in default of payments pursuant to § 994.80 for the preceding month;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential pursuant to § 994.82 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deduction to be made from producer payments for location differentials pursuant to § 994.81;

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

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

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

The resulting figure shall be the uniform price per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants within the 80-mile zone.

§ 994.72 *Notification of handlers*. On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

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

(b) The uniform price computed pursuant to § 994.71 and the producer location and butterfat differentials computed pursuant to §§ 994.81 and 994.82; and

(c) The amounts to be paid by such handler pursuant to §§ 994.84, 994.86, 994.87, and 994.88 and the amount due such handler pursuant to § 994.85.

PAYMENTS

§ 994.80 *Payment to producers*. Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as specified in paragraphs (a) and (b) of this section:

(a) On or before the last day of the month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, an advance payment with respect to milk received during the first 15 days of the month at the Class II price for the preceding month;

(b) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 994.71, subject to the butterfat differential computed pursuant to § 994.82 and location adjustment computed pursuant to § 994.81, plus or minus adjustments for errors made in previous payments to such producers and less (1) payments made pursuant to paragraph (a) of this section, (2) marketing service deductions pursuant to § 994.87, and (3) proper deductions authorized in writing by such producer:

Provided, That if by such date such handler has not received full payment for such delivery period pursuant to § 994.85 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraphs (a) and (b) respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 994.81 *Location differential to producers.* For milk which is received at pool plant located more than 80 miles but not more than 90 miles by shortest highway distance, as determined by the market administrator, from the Courthouse in Colorado Springs, Pueblo, or Walsenburg, whichever is closest, there should be deducted 13.5 cents per hundredweight and an additional 1.5 cents shall be deducted for each 10 miles or fraction thereof that such distance exceeds 90 miles.

§ 994.82 *Butterfat differential to producers.* The applicable uniform price to be paid producers pursuant to § 994.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 994.52, weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 994.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 994.62 and 994.84 and out of which he shall make all payments pursuant to § 994.85: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 994.84 *Payments to the producer-settlement fund.* On or before the 14th day after the end of each month, each handler who operates a pool plant shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 994.70, is greater than the amount owed by him for such milk at the appropriate uniform prices determined pursuant to § 994.80.

§ 994.85 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 994.70 is less than the amount owed by him for such milk at the appropriate uniform price determined pursuant to § 994.80. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 994.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator; 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 as set forth in the provisions under which such error occurred.

§ 994.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 994.80, shall deduct 6 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 16th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

§ 994.88 *Expense of administration.* As his pro rata share of the expense of the administration hereof, each handler shall pay the market administrator, on or before the 16th day after the end of each month, 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) all milk received from producers during such month, including such handler's own farm production, (b) other source milk received at a pool plant and classified as Class I and (c) the quantities of milk at the plants of handlers operating nonpool plants as specified in § 994.62 (a) (2) or (b) (2).

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in such obligation, unless within such 2-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 months 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 names of such producer or cooperative associations, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-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 2-year period, with respect to such obligation, shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representative;

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the payment (including deduction or offset 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

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

§ 994.91 *Suspension or termination.* The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

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

§ 994.93 *Liquidation.* Upon the suspension or termination of any or all provisions of this part, 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 liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 22d day of December 1958, to be effective as follows: §§ 994.0 to 994.22 (h), §§ 994.30 to 994.46, §§ 994.60 to 994.62, 994.88, and §§ 994.90 to 994.101 shall be effective January 1, 1959, and all of the remaining provisions shall be effective February 1, 1959.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-10693; Filed, Dec. 29, 1958; 8:47 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

REGULATION E—EXEMPTION FOR SECURITIES OF SMALL BUSINESS INVESTMENT COMPANIES

The Securities and Exchange Commission has adopted a new regulation, designated Regulation E,[1] which provides a conditional exemption from registration under the Securities Act of 1933 for securities of small business investment companies which are licensed under the Small Business Investment Act of 1958 or which have received the preliminary approval of the Small Business Administration and have been notified by the Administration that they may submit an application for such a license. The new regulation was adopted after consideration by the Commission of all views and comments received as a result of the notice and invitation for comments published November 5, 1958 in Securities Act Release No. 3989 (Investment Company Act Release No. 2790).

Regulation E, which exempts issues not in excess of $300,000 from registration under the Act, was adopted pursuant to the new section 3 (c) which was added to the Securities Act by section 307 (a) of the Small Business Investment Act. It should be noted that in computing the $300,000 permitted by the regulation it is not necessary to include funds received from the Small Business Administration.

The new regulation is similar in many respects to the general exemption for certain securities, other than those of investment companies, provided by Regulation A. The new regulation requires the filing of a notification with the Commission and, except in the case of offerings not in excess of $50,000, the filing and use of an offering circular containing certain specified information. In general, information is required in the offering circular as to the business and investment policies of the issuer, its management and its financial condition. The financial statements required by the new regulation must be prepared in accordance with generally accepted accounting principles and practices but need not be certified by independent public accountants. The new regulation provides for the suspension of the exemption in a particular case if the Commission finds that any of the terms and conditions of the regulation have not been met or complied with.

The new regulation requires the filing, semi-annually, of reports showing the progress of the offering. Upon completion of the offering and the filing of a final report, no further reports are required under this regulation. However,

[1] Copies of Regulation E may be obtained from any Regional or Branch Office of the Commission or from any Regional or Branch Office of the Small Business Administration. Copies may also be obtained by writing to Publications Unit, Securities and Exchange Commission, Washington 25, D. C.

if the company is required to be registered under the Investment Company Act of 1940, compliance with the reporting requirements of that Act will be required.

The foregoing action was taken pursuant to the Securities Act of 1933, particularly sections 3 (c) and 19 (a) thereof. In order to make the regulation available for immediate use, it is being made effective upon publication December 17, 1958.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary*.

DECEMBER 16, 1958.

REGULATION E—EXEMPTION FOR SECURITIES OF SMALL BUSINESS INVESTMENT COMPANIES

AUTHORITY: §§ 230.601 to 230.610a issued under sec. 19, 48 Stat. 85, as amended; 15 U.S.C. 77s.

§ 230.601 *Definitions of terms used in §§ 230.601 to 230.610a*. As used in §§ 230.601 to 230.610a, the following terms shall have the meaning indicated:

Act. The term "Act" refers to the Securities Act of 1933 unless specifically stated otherwise.

Affiliate. An "affiliate" of an issuer is a person controlling, controlled by or under common control with such issuer. An individual who controls an issuer is also an affiliate of such issuer.

Notification. The term "notification" means the notification required by § 230.604.

Offering Circular. The term "offering circular" means the offering circular - quired by § 230.605.

State. A "State" is any State, Territory or insular possession of the United States, or the District of Columbia.

Underwriter. The term "underwriter" shall have the meaning given in section 2 (11) of the Act.

§ 230.602 *Securities exempted*. (a) Except as hereinafter provided in this section, securities issued by any small business investment company which is registered under the Investment Company Act of 1940 shall be exempt from registration under the Securities Act of 1933, subject to the terms and conditions of §§ 230.601 to 230.610a. As used in this paragraph, the term "small business investment company" means any company which is licensed as a small business investment company under the Small Business Investment Act of 1958 or which has received the preliminary approval of the Small Business Administration and has been notified by the Administration that it may submit a license application.

(b) No exemption under §§ 230.601 to 230.610a shall be available for the securities of any issuer if such issuer or any of its affiliates:

(1) Has filed a registration statement which is the subject of any proceeding or examination under section 8 of the Act, or is the subject of any refusal order or stop order entered thereunder within five years prior to the filing of the notification;

(2) Is subject to pending proceedings under § 230.610 or any similar rule adopted under section 3 (b) of the Act, or to an order entered thereunder within five years prior to the filing of such notification;

(3) Has been convicted within five years prior to the filing of such notification of any crime or offense involving the purchase or sale of securities;

(4) Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five years prior to the filing of such notification, temporarily or permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of securities;

(5) Is subject to pending proceedings under section 8 (e) of the Investment Company Act of 1940 or to any suspension or revocation order issued thereunder;

(6) Is subject to an injunction issued pursuant to section 35 (d) of the Investment Company Act of 1940; or

(7) Is subject to a United States Post Office fraud order.

(c) No exemption under §§ 230.601 to 230.610a shall be available for the securities of any issuer, if any of its directors, officers or principal security holders, any investment adviser or any underwriter of the securities to be offered, or any partner, director or officer of any such investment adviser or underwriter:

(1) Has been convicted within ten years prior to the filing of the notification of any crime or offense involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer or investment adviser;

(2) Is temporarily or permanently restrained or enjoined by any court from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer or investment adviser;

(3) Is subject to an order of the Commission entered pursuant to section 15 (b) or 15A (1) of the Securities Exchange Act of 1934; has been found by the Commission to be a cause of any such order which is still in effect; or is subject to an order of the Commission entered pursuant to section 203 (d) or (e) of the Investment Advisers Act of 1940;

(4) Is suspended or has been expelled from membership in a national securities dealers association or a national securities exchange for conduct inconsistent with just and equitable principles of trade; or

(5) Is subject to a United States Post Office fraud order.

(d) No exemption under §§ 230.601 to 230.610a shall be available for the securities of any issuer if any underwriter of such securities, or any director, officer or partner of any such underwriter was, or was named as, an underwriter of any securities:

(1) Covered by any registration statement which is the subject of any proceeding or examination under section 8 of the Act, or is the subject of any refusal order or stop order entered thereunder within five years prior to the filing of the notification; or

(2) Covered by any filing which is subject to pending proceedings under § 230.610 or any similar rule adopted under section 3 (b) of the Act, or to an order entered thereunder within five years prior to the filing of such notification.

(e) Paragraph (b), (c) or (d) of this section shall not apply to the securities of any issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Any such determination by the Commission shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person.

§ 230.603 *Amount of securities exempted*. (a) The aggregate offering price of all of the following securities of the issuer shall not exceed $300,000:

(1) All securities presently being offered under §§ 230.601 to 230.610a, or specified in the notification as proposed to be so offered;

(2) All securities previously sold pursuant to an offering under §§ 230.601 to 230.610a, commenced within one year prior to the commencement of the proposed offering; and

(3) All securities sold in violation of section 5 (a) of the Act within one year prior to the commencement of the proposed offering.

Notwithstanding the foregoing, the aggregate offering price of all securities so offered or sold on behalf of any one person other than the issuer shall not exceed $100,000, except that this limitation shall not apply if the securities are to be offered on behalf of the estate of a deceased person within two years after the death of such person.

(b) The aggregate offering price of securities, which have a determinable market value shall be computed upon the basis of such market value as determined from transactions or quotations on a specified date within 15 days prior to the date of filing the notification, or the offering price to the public, whichever is higher: *Provided*, That the aggregate gross proceeds actually received from the public shall not exceed the maximum aggregate offering price permitted in the particular case by paragraph (a) of this section.

(c) In computing the amount of securities which may be offered under §§ 230.601 to 230.610a, there need not be included unsold securities the offering of which has been withdrawn with the consent of the Commission by amending the pertinent notification to reduce the amount stated therein as proposed to be offered.

§ 230.604 *Filing of notification on Form 1-E.*[1] (a) At least 10 days (Saturdays, Sundays and holidays excluded) prior to the date on which the initial offering of any securities is to be made under §§ 230.601 to 230.610a, there shall be filed with the Commission four copies of a notification on Form 1-E. The Commission may, however, in its discretion, authorize the commencement of the offering prior to the expiration of such 10-day period upon a written request for such authorization.

(b) The notification shall be signed by the issuer and each person, other than the issuer, for whose account any of the securities are to be offered. If the notification is signed by any person on behalf of any other person, evidence of authority to sign on behalf of such other person shall be filed with the notification, except where an officer of the issuer signs on behalf of the issuer.

(c) Any amendment to the notification shall be signed in the same manner as the original notification. Four copies of such amendment shall be filed with the Commission at least 10 days prior to any offering of the securities subsequent to the filing of such amendment, or such shorter period as the Commission, in its discretion, may authorize upon a written request for such authorization.

(d) A notification or any exhibit or other document filed as a part thereof may be withdrawn upon application unless the notification is subject to an order under § 230.610 at the time the application is filed or becomes subject to such an order within 15 days (Saturdays, Sundays and holidays excluded) thereafter: *Provided*, That a notification may not be withdrawn after any of the securities proposed to be offered thereunder have been sold. Any such application shall be signed in the same manner as the notification.

§ 230.605 *Filing and use of the offering circular.* (a) Except as provided in paragraph (b) of this section and in § 230.606:

(1) No written offer of securities of any issuer shall be made under §§ 230.601 to 230.610a unless an offering circular containing the information specified in § 230.610a is concurrently given or has previously been given to the person to whom the offer is made, or has been sent to such person under such circumstances that it would normally have been received by him at or prior to the time of such written offer; and

(2) No securities of such issuer shall be sold under §§ 230.601 to 230.610a unless such an offering circular is given to the person to whom the securities were sold, or is sent to such person under such circumstances that it would normally be received by him, with or prior to any confirmation of the sale, or prior to the payment by him of all or any part of the purchase price of the securities, whichever first occurs.

[1] Filed as part of original document.

(b) Any written advertisement or other written communication, or any radio or television broadcast, which states from whom an offering circular may be obtained and in addition contains no more than the following information may be published, distributed or broadcast at or after the commencement of the public offering to any person prior to sending or giving such person a copy of such circular:

(1) The name of the issuer of such security;

(2) The title of the security, the amount being offered, and the per-unit offering price to the public; and

(3) The identity of the general type of business of the issuer.

(c) The offering circular may be printed, mimeographed, lithographed or typewritten, or prepared by any similar process which will result in clearly legible copies. If printed, it shall be set in roman type at least as large as ten-point modern type, except that financial statements and other statistical or tabular matter may be set in roman type at least as large as eight-point modern type. All type shall be leaded at least two points.

(d) If the offering is not completed within nine months from the date of the offering circular, a revised offering circular shall be prepared, filed and used in accordance with §§ 230.601 to 230.610a as for an original offering circular. In no event shall an offering circular be used which is false or misleading in light of the circumstances then existing.

(e) Four copies of the offering circular required by this section, which is to be used at the commencement of the offering, shall be filed with the notification at the time such notification is filed and shall be deemed a part thereof. If the offering circular is thereafter revised or amended, four copies of such revised or amended circular shall be filed as an amendment to the notification at least 10 days prior to its use, or such shorter period as the Commission may, in its discretion, authorize upon a written request for such authorization.

§ 230.606 *Offering not in excess of $50,000.* No offering circular need be filed or used in connection with an offering of securities under §§ 230.601 to 230.-610a if the aggregate offering price of all securities of the issuer offered or sold without the use of such an offering circular does not exceed $50,000, computed in accordance with § 230.603, provided the following conditions are met:

(a) There shall be filed as an exhibit to the notification four copies of a statement setting forth the information (other than financial statements) required by § 230.610a to be set forth in an offering circular.

(b) No advertisement, article or other communication published in any newspaper, magazine or other periodical and no radio or television broadcast in regard to the offering shall contain more than the following information:

(1) The name of the issuer of such security;

(2) The title of the security, amount offered, and the per-unit offering price to the public;

(3) The identity of the general type of business of the issuer; and

(4) By whom orders will be filled or from whom further information may be obtained.

§ 230.607 *Sales material to be filed.* Four copies of each of the following communications prepared or authorized by the issuer or anyone associated with the issuer, any of its affiliates or any principal underwriter for use in connection with the offering of any securities under §§ 230.601 to 230.610a shall be filed with the Commission at least five days (exclusive of Saturdays, Sundays and holidays) prior to any use thereof, or such shorter period as the Commission, in its discretion, may authorize:

(a) Every advertisement, article or other communication proposed to be published in any newspaper, magazine or other periodical;

(b) The script of every radio or television broadcast; and

(c) Every letter, circular or other written communication proposed to be sent, given or otherwise communicated to more than ten persons.

§ 230.608 *Prohibition of certain statements.* No offering circular or other written or oral communication used in connection with any offering under §§ 230.601 to 230.610a shall contain any language stating or implying that the Commission has in any way passed upon the merits of, or given approval to, guaranteed or recommended the securities offered or the terms of the offering or has determined that the securities are exempt from registration, or has made any finding that the statements in any such offering circular or other communication are accurate or complete.

§ 230.609 *Reports of sales hereunder.* Within 30 days after the end of each six-month period following the date of the original offering circular, or of the statement required by § 230.606, the issuer or other person for whose account the securities are offered shall file with the Commission four copies of a report on Form 2-E[1] containing the information called for by that form. A final report shall be made upon completion or termination of the offering and may be made prior to the end of the six-month period in which the last sale is made.

§ 230.610 *Suspension of exemption.* (a) The Commission may, at any time after the filing of a notification, enter an order temporarily suspending the exemption, if it has reason to believe that:

(1) No exemption is available under §§ 230.601 to 230.610a for the securities purported to be offered hereunder or any of the terms or conditions of §§ 230.601 to 230.610a have not been complied with, including failure to file any report as required by § 230.609.

(2) The notification, the offering circular or any other sales literature contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(3) The offering is being made or would be made in violation of section 17 of the Act;

(4) Any event has occurred after the filing of the notification which would have rendered the exemption hereunder unavailable if it has occurred prior to such filing;

(5) Any person specified in paragraph (b) of § 230.602 has been indicted for any crime or offense of the character specified in subparagraph (3) thereof, or any proceeding has been initiated for the purpose of enjoining any such person from engaging in or continuing any conduct or practice of the character specified in subparagraph (4) of such paragraph;

(6) Any person specified in paragraph (c) of § 230.602 has been indicted for any crime or offense of the character specified in subparagraph (1) thereof, or any proceeding has been initiated for the purpose of enjoining any such person from engaging in or continuing any conduct or practice of the character specified in subparagraph (2) of such paragraph; or

(7) The issuer or any officer, director or underwriter has failed to cooperate, or has obstructed or refused to permit the making of an investigation by the Commission in connection with any offering made or proposed to be made hereunder.

(b) Upon the entry of an order under paragraph (a) of this section, the Commission will promptly give notice to the persons on whose behalf the notification was filed (1) that such order has been entered, together with a brief statement of the reasons for the entry of the order, and (2) that the Commission, upon receipt of a written request within 30 days after the entry of such order, will, within 20 days after the receipt of such request, set the matter down for hearing at a place to be designated by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission. Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of an opportunity for such hearing, either vacate the order or enter an order permanently suspending the exemption.

(c) The Commission may at any time after notice of and opportunity for hearing, enter an order permanently suspending the exemption for any reason upon which it could have entered a temporary suspension order under paragraph (a) of this section. Any such order shall remain in effect until vacated by the Commission.

(d) All notices required by this section shall be given to the person or persons on whose behalf the notification wrs filed by personal service, registered mail or confirmed telegraphic notice at the addresses of such persons given in the notification.

§ 230.610a *Schedule A: Contents of offering circular*. The offering circular required by § 230.605 shall contain the following information:

1. The following statement shall be set forth on the outside front cover page of the offering circular in capital letters in type as large as that used generally in the body of the circular:

These securities are offered pursuant to an exemption from registration with the United States Securities and Exchange Commission. The Commission does not pass upon the merits of, or approve, guarantee or recommend, any securities nor does it pass upon the accuracy or completeness of any offering circular or other selling literature.

2. State the exact name and address of the issuer, the name of the State or other jurisdiction under the laws of which it was incorporated and the date of its incorporation.

3. (a) Give the following information, in the tabular form indicated, on the outside front cover page of the offering circular on a per-share or other unit basis.

Offering price to public	Underwriting discounts or commissions	Proceeds to issuer or other persons

(b) If any of the securities are to be offered for the account of any person other than the issuer, give the name and address of each such security holder, the total amount he owns and the amount to be offered hereunder for his account.

4. (a) State the amount of securities to be offered pursuant to this regulation, the aggregate offering price to the public, the aggregate underwriting discounts or commissions, the amount of expenses of the issuer and the amount of expenses of the underwriters to be borne by the issuer, and the aggregate proceeds to the issuer or security holders for whose account the securities are to be offered.

(b) If the securities are not to be offered for cash, state the basis upon which the offering is to be made.

5. Describe briefly the method by which the securities are to be offered and if the offering is to be made by or through underwriters, the name and address of each underwriter and the amount of the participation of each such underwriter, indicating the nature of any material relationship between the issuer and such underwriter.

6. Furnish a reasonably itemized statement of the purposes for which the net cash proceeds to the issuer from the sale of the securities are to be used and the amount to be used for each such purpose, indicating in what order of priority the proceeds will be used for the respective purposes. If the issuer has not yet obtained a license from the Small Business Administration, state whether the funds paid in by investors for the securities to be offered will be returned to them in the event such license is not obtained and describe the arrangements made to assure such return.

7. Give a brief description of the securities to be offered pursuant to this regulation. Include the following information:

(a) In the case of shares, the par or stated value, if any; the rate of dividends, if fixed, and whether cumulative or noncumulative; a brief indication of the preference, if any; and if convertible, the conversion rate.

(b) In the case of debt securities, the rate of interest; the date of maturity, or if the issue matures serially, a brief indication of the serial maturities, such as "maturing serially from 1965 to 1975"; if the payment of principal or interest is contingent, an appropriate indication of such contingency; a brief indication of the priority of the issue; and if convertible, the conversion rate.

(c) In the case of any other kind of securities, appropriate information of a comparable character.

8. State whether the issuer is a closed-end or open-end investment company, and whether it proposes to operate as a diversified or nondiversified investment company.

Instruction. The issuer may reserve freedom of action to change from a non-diversified to a diversified investment company.

9. Furnish the information which would be required by Items 2 and 3 of Form N-5 if a registration statement on that form were currently being filed.

10. (a) Give the full names and complete resident addresses of all directors, officers and members of the advisory board of the issuer, any investment adviser of the issuer and any persons who own of record or are known to own beneficially more than ten percent of any class of securities of the issuer, other than the Small Business Administration.

(b) State the aggregate annual remuneration of all directors and officers of the issuer as a group and the annual remuneration of each of the three highest-paid officers of the issuer.

(c) Describe all direct and indirect interests (by security holdings or otherwise) of each person named in answer to (a) above (i) in the issuer and (ii) in any material transactions within the past two years or in any material proposed transactions to which the issuer was or is to be a party. Include the cost to such persons of any assets or services for which any payment by or for the account of the issuer has been or is to be made.

11. Furnish appropriate financial statements of the issuer as required below. Such statements shall be prepared in accordance with generally accepted accounting principles and practices but need not be certified.

(a) A balance sheet as of a date within 90 days prior to the date of filing the notification with the Commission.

(b) A profit and loss or income statement for each of the last three fiscal years and for any subsequent period up to the date of the balance sheet furnished pursuant to (a) above.

[F. R. Doc. 58-10699; Filed, Dec. 29, 1958; 8:48 a. m.]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

EXTENSION OF EFFECTIVE DATE RELATING TO VARIATION IN SALES LOAD OF REDEEMABLE SECURITIES OF REGISTERED INVESTMENT COMPANIES

The Securities and Exchange Commission has extended to March 20, 1959, the effective date of its § 270.22d-1 (Rule N-22D-1) under the Investment Company Act of 1940 governing permissible reductions in the sales load of redeemable securities offered for public sale by registered investment companies.

As adopted under date of December 2, 1958 (Investment Company Act Release No. 2798), § 270.22d-1 (Rule N-22D-1) was to have become effective January 20, 1959. However, the Commission has received requests for postponement of the effective date in order to allow additional time for the revision of current prospectuses being used in the sale of such securities to conform to the requirements of the new rule. A large number of investment companies have fiscal years ending December 31, 1958, and would normally revise their prospectuses during February or shortly thereafter. The Commission's action will make it possible to incorporate the changes made necessary by the rule in the regular annual revision of the prospectuses of these companies.

Section 270.22d-1, (Rule N-22D-1) is not retroactive, and variations in the sales load of redeemable securities of in-