on food in accordance with the following prescribed conditions:

(a) The additive is manufactured from edible fats by interesterification with triacetin and in the presence of catalytic agents that are not food additives or are authorized by regulation, followed by a molecular distillation whereby the finished additive meets all the following specifications:

Monoglycerides: Not to exceed 25 percent.

Reichert-Meissl value: 75–150.

Acid value: Less than 6.

(b) It is used or intended for use as:

(1) A food coating agent.

(2) A food container component.

(3) An equipment lubricant.

(4) An emulsifier in food.

(5) A binder in vitamin and vitamin-mineral capsules and tablets.

The distilled acetylated monoglycerides from any such uses do not exceed 5 percent of the finished food.

(c) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive and any intermediate premixes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration of the additive in any intermediate premixes.

(2) The label or labeling shall bear adequate directions to provide a final product that complies with the limitations prescribed in paragraph (b) of this section.

Notice and public procedure are not required for those amendments not related to the petition filed, since they are not restrictive in nature and are made for the purpose of clarifying existing regulations.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

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

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: July 14, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-6807; Filed, July 19, 1961; 8:47 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND SERVICEMEN'S MORTGAGE INSURANCE

PART 221—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

SUBCHAPTER D—MULTIFAMILY AND GROUP HOUSING INSURANCE

PART 243—COOPERATIVE HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS FOR INDIVIDUAL MORTGAGES COVERING PROPERTIES RELEASED FROM LIEN OF PROJECT MORTGAGE

Miscellaneous Amendments

1. In § 221.22 a new sentence is added to paragraph (b) to read as follows:

§ 221.22 Mortgagors' payments to include other charges.

* * * * *

(b) * * * The provisions of this paragraph shall not apply to mortgages endorsed for insurance pursuant to applications received by the Commissioner on or after July 17, 1961.

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

2. In § 243.14 a new sentence is added to paragraph (b) to read as follows:

§ 243.14 Payments to include other charges.

* * * * *

(b) * * * The provisions of this paragraph shall not apply to mortgages endorsed for insurance pursuant to applications received by the Commissioner on or after July 17, 1961.

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

Issued at Washington, D.C., July 17, 1961.

NEAL J. HARDY,
Federal Housing Commissioner.

[F.R. Doc. 61-6814; Filed, July 19, 1961; 8:48 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO, THE VIRGIN ISLANDS, AND AMERICAN SAMOA

Miscellaneous Amendments

The purposes of the amendments of the wage order procedure in 29 CFR, Part 511 made by this document are as follows: (1) To adapt §§ 511.2, 511.10, and 511.13 to the Fair Labor Standards Amendments of 1961 (Pub. Law 87-30), (2) to provide flexibility in § 511.8(b) with respect to the time for filing prehearing statements and (3) to provide flexibility in the provisions of § 511.17 relating to the recording of hearings.

Now, therefore, pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and General Order No. 45–A (15 F.R. 3290) of the Secretary of Labor, 29 CFR, Part 511 is amended in the manner indicated below.

1. Section 511.2 is amended to read as follows:

§ 511.2 Initiation of proceedings; notices of hearings.

(a) Wage order proceedings are initiated by order of the Secretary, published in the FEDERAL REGISTER, giving notice of hearings by industry committees to recommend the minimum rate or rates of wages to be paid under section 6 of the act to employees in Puerto Rico, the Virgin Islands, and American Samoa engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce. These orders will contain a definition of the particular industry in Puerto Rico, the Virgin Islands, or American Samoa, for which the committee is to make its recommendations, or these orders will direct the committee to recommend the minimum rate or rates of wages for all industry in Puerto Rico, the Virgin Islands, or American Samoa. All such orders will make provision for convening the committee. Any particular industry defined in such an order may be a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(b) These orders will also give reasonable notice (1) of the time and place of the commencement of the hearing of such witnesses and receiving of such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the act, (2) of the general nature of the wage order proceedings and the authority under which they are proposed, (3) of the subjects and issues involved, and (4) that the committee will take official notice of the economic report (note § 511.13) and the parties will have an opportunity at the hearing to show any contrary or additional facts.

2. Paragraph (b) of § 511.8 is amended to read as follows:

§ 511.8 Prehearing statements.

* * * * *

(b) Any interested person who wishes to participate on his own behalf or by counsel shall file a written prehearing statement. Not later than ten days before the first hearing date set for any committee in a notice of hearing concerning minimum wages for Puerto Rico or the Virgin Islands, or such other period of time as may be prescribed in a notice of hearing, or other notice pub-

lished in the FEDERAL REGISTER, the original and 11 copies of the prehearing statement shall be filed at the Office of the Territorial Director of the Wage and Hour Division, United States Department of Labor, New York Department Store Building, Fortaleza and San Jose Streets, San Juan, Puerto Rico, and one copy at the Office of the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D.C. If such statements are sent by air mail between Puerto Rico or the Virgin Islands and the mainland, such filing shall be deemed timely if postmarked within the time provided. The number of copies of such statements and the times and places for filing them will be specified in notices of hearings to determine minimum wages for American Samoa. The prehearing statement shall describe the person's interest in the proceeding and shall contain (1) the prepared statement he proposes to give, if any; (2) a statement of the individual classifications and minimum wage rates, if any, he proposes to support; (3) the written data he proposes to introduce in evidence, including all tangible objective data to be submitted pursuant to § 511.13; (4) the names and addresses of the witnesses he proposes to call and a summary of the evidence he proposes to develop; (5) the name and address of the individual who will present his case; and (6) a statement of the approximate length of time his case will take. If the prehearing statement is in conformity with the above requirements, the person shall have the right to participate as a party. In accordance with section 6(c) of the Administrative Procedure Act, industry committees shall, after considering the advice of committee counsel, issue subpoenas authorized by section 9 of the Fair Labor Standards Act of 1938, to parties who make a request therefor accompanied by a clear showing of general relevance and reasonable scope of the evidence sought.

3. Section 511.10 is amended to read as follows:

§ 511.10 Subjects and issues.

The declared policy of the act with respect to industries or enterprises in Puerto Rico, the Virgin Islands, and American Samoa engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the object of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. Each industry committee shall recommend to the Administrator the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry and will not give any industry in Puerto Rico, the Virgin Islands, or American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa. Whenever the industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the industry committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a) or section 6(b) of the act, whichever would be applicable) that can be determined for it under the principles set out in this section which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in that industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classification within an industry, in making such a classification, and in determining the minimum wage rate for such a classification, the committee shall consider, among other relevant factors, the following: (a) competitive conditions as affected by transportation, living and production costs; (b) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) the wages paid for work of a like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

4. Section 511.13 is amended to read as follows:

§ 511.13 Evidence.

In accordance with the notice of hearing, the committee and any authorized subcommittee will take official notice of the facts stated in the economic report to the extent they are not refuted by evidence received at the hearing. Other pertinent evidence available to the Department of Labor may be presented at the hearing. The committee itself may call witnesses not otherwise scheduled to testify. Oral or documentary evidence may be received, but the committee shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every interested person who has met the requirements for participation as a party shall have the right to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination of witnesses called by others as may be required for a full and true disclosure of the facts. Testimony on behalf of an employer or group of employers as to inability to pay the minimum wage rate specified in section 6(a)(1) or section 6(b) of the act, whichever would be applicable, or as to inability to adjust to a higher minimum wage rate than prescribed by any applicable wage order of the Secretary, shall be supported by tangible objective data filed as part of the prehearing statement under § 511.8, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years for the individual firm or firms involved. Such financial data shall include the most recent period of a year or fraction thereof for which data are available. Financial statements filed in accordance with this provision, except those relating to a period of less than a full fiscal year or a fiscal year ending less than 90 days prior to the filing of the prehearing statement, shall be certified by an independent public accountant or shall be sworn to conform to and be consistent with the corresponding income tax returns covering the same years. Evidence of witnesses not present at the hearing may be submitted only by affidavits received with, or as a part of, a prehearing statement which meets the requirements of § 511.8 and satisfactorily explains why each affiant cannot be present. Such affidavits will be received in evidence to the same extent that testimony from affiants would have been admitted had they been present. The committee will give such weight to these statements as it considers appropriate, and the fact that such affiants have not been subject to cross-examination may be considered, along with other relevant facts, in assessing the weight to be given such evidence.

5. Section 511.17 is amended to read as follows:

§ 511.17 Records.

Each industry committee shall keep a journal recording the time and place of all its meetings, the members present, the votes, and other formal proceedings, including the appointment of subcommittees. Subcommittees shall keep a similar journal. No report of committee or subcommittee discussions need be included. All hearings shall be recorded. The record of any hearing before any subcommittee shall be transcribed. All hearings before a committee shall also be transcribed in whole or in part whenever the Administrator so directs upon his own motion or upon the motion of any party or any person compelled to submit data or evidence and upon the payment of costs prescribed by the Administrator. Promptly after completion of the committee's final report, the committee chairman shall certify the report and transmit it to the Administrator. As soon as practicable thereafter, the committee staff shall transmit to the Administrator (a) all committee and subcommittee journals, (b) all applications for leave to participate as parties together with the record of action thereon, and (c) the record, including any transcript of testimony and exhibits, together with all papers and requests filed in the proceedings. These documents shall be available for inspection and copying by interested persons at the Office of the Administrator during usual business hours.

Effective date. Since these amendments constitute changes in procedural rules excepted from the provisions of section 4 of the Administrative Procedure Act, they shall become effective immediately upon publication in the FED-

ERAL REGISTER. Signed at Washington, D.C., this 18th day of July, 1961.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 61-6854; Filed, July 18, 1961; 4:53 p.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 203—BRIDGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

Sesuit Harbor, Mass., et al.

1. Pursuant to the provisions of section 1 of an Act of Congress approved April 22, 1940 (54 Stat. 150; 33 U.S.C. 180), § 202.37 is hereby prescribed designating a special anchorage area in Sesuit Harbor, Dennis, Massachusetts wherein vessels not more than 65 feet in length, when at anchor, shall not be required to carry or exhibit anchor lights, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 202.37 Sesuit Harbor, Dennis, Mass.

All the waters of Sesuit Harbor southerly of a line extending between the outer end of the jetties on each side of the entrance to the Harbor.

NOTE: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed. Fixed mooring piles or stakes will be prohibited. The anchoring of vessels and the placing of temporary moorings will be under the jurisdiction and at the discretion of the local Harbor Master.

[Regs., 28 June 1961, 285/91-ENGCW-ON] (Sec. 1, 54 Stat. 150; 33 U.S.C. 180)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended with respect to paragraph (g) prescribing new subparagraph (18) to govern the operation of the South Carolina State Highway Department bridges across Ashley River, Charleston, South Carolina, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) *Waterways discharging into Atlantic Ocean between Chesapeake Bay and Charleston.* * * *

(18) Ashley River, S.C.; South Carolina State Highway Department bascule bridges at mile 2.4 and mile 2.5 above the mouth of the river at Charleston. Between 7:00 a.m., and 9:00 a.m., Monday through Friday, and between 4:00 p.m., and 7:00 p.m., daily, at least 12 hours' advance notice required: *Provided,* That the draw shall be opened at any time for a vessel in an emergency involving danger to life and property. Such emergency shall be indicated by four blasts of the signalling device.

[Regs. 28 June 1961, 285/91-ENGCW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

3. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), and chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), § 204.222 establishing and governing the use and navigation of Naval non-explosive torpedo testing areas in Hood Canal and Dabob Bay, Washington is hereby revised, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.222 Hood Canal and Dabob Bay, Wash.; naval non-explosive torpedo testing areas.

(a) *Hood Canal in vicinity of Bangor*—(1) *The area.* All waters of Hood Canal between latitude 47°46'00" and latitude 47°42'00", exclusive of navigation lanes one-fourth nautical mile wide along the west shore and along the east shore south from the town of Bangor (latitude 47°43'28").

(2) *The regulations.* (i) The area will be used intermittently by the Navy for non-explosive torpedo ranging. Launching will be conducted only between 8:00 a.m., and sunset on days other than Saturdays, Sundays, and holidays. At no time will the navigation lanes generally paralleling the shore be closed to navigation.

(ii) Navigation will be permitted within the area at all times except when naval exercises are in progress. No vessel shall enter or remain in the area when such exercises are in progress. Prior to commencement of an exercise, the Navy will make an aerial or surface reconnaissance of the area. Vessels under way and laying a course through the area will not be interfered with, but they shall not delay their progress. Vessels anchored or cruising in the area and vessels unobserved by the Navy reconnaissance which enter or are about to enter the area while a torpedo is in the water will be contacted by a Navy patrol boat and advised to steer clear. Torpedos will be tested only when all vessels or other craft have cleared the area.

(iii) When operations are in progress, use of the area will be indicated by the presence of Naval vessels flying a "Baker" (red) flag.

(iv) Notices of temporary suspension and revival of operations will be published in local newspapers and in Notice to Mariners published by the United States Coast Guard.

(b) *Dabob Bay in the vicinity of Quilcene*—(1) *The area.* All waters of Dabob Bay beginning at latitude 47°39'27", longitude 122°52'22"; thence northeasterly to latitude 47°40'19", longitude 122°50'10"; thence northeasterly to a point on the mean high water line at Takutsko Pt.; thence northerly along the mean high water line to latitude 47°48'00"; thence west on latitude 47°48'00" to the mean high water line on the Bolton Peninsula; thence southwesterly along the mean high water line of the Bolton Peninsula to a point on longitude 122°51'06"; thence south on longitude 122°51'06" to the mean high water line at Whitney Pt.; thence along the mean water line to a point on longitude 122°51'15"; thence southwesterly to the point of beginning.

(2) *The regulations.* (i) Propeller-driven or other noise-generating craft shall not work their screws or otherwise generate other than incidental noise in the area during periods of actual testing, which will be indicated by flashing red beacons at strategic locations, and all craft shall keep well clear of vessels engaged in such testing.

(ii) No vessel shall trawl or drag in the area.

(iii) No vessel shall anchor in the area except between the shore and the 10-fathom depth line.

(iv) Operations will normally be confined to the period from about 9:30 a.m., to 2:30 p.m., on Mondays through Fridays, and will normally consist of intermittent tests of less than 30 minutes duration, with boat passage permitted between tests. Transits of log-tows and other slow-moving traffic will be arranged on a mutually satisfactory individual basis as appropriate. Emergencies or high-priority projects may occasionally cause operations outside the periods specified above. No operations will be conducted on Sundays.

(c) The regulations in this section shall be enforced by the Commandant, Thirteenth Naval District, and such agencies as he may designate.

[Regs., 28 June 1961, 285/91-ENGCW-ON] (40 Stat. 266, 892; 33 U.S.C. 1, 3)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 61-6792; Filed, July 19, 1961; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Injury Due to Hospital Treatment, Etc.

1. Section 3.154 is revised to read as follows:

§ 3.154 Injury due to hospital treatment, etc.

A formal claim for pension, compensation, dependency and indemnity compensation or any statement in a communication showing an intent to file a claim for disability or for death benefits resulting from training, hospitalization, medical or surgical treatment, or examination, filed within 2 years after the injury or aggravation was suffered, or death occurred, may be accepted as a claim. (38 U.S.C. 351)

2. Immediately following § 3.154, the following cross references are added:

CROSS REFERENCES: Effective dates—where disability suffered and claim filed within year following separation or release. See § 3.400(b)(2).
Effective dates—claim filed more than 1 year following separation or release. See § 3.400(i)(1).
Disability or death due to hospitalization, etc. See § 3.800(a).

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective July 20, 1961.

[SEAL] A. H. MONK,
Associate Deputy Administrator.

[F.R. Doc. 61-6810; Filed, July 19, 1961; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2435]

[Los Angeles 0170404]

CALIFORNIA

Modifying Reclamation Withdrawal of October 16, 1931 (Colorado River Storage Project)

By virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. The Departmental order of October 16, 1931, which withdrew lands for reclamation purposes in connection with the Colorado River Storage Project, California, is hereby modified to the extent necessary to permit the grant of a highway right-of-way made by section 2477 of the United States Revised Statutes (43 U.S.C. 932) to become effective as to those portions of the following-described lands delineated on a map filed by the County of Imperial, California, designated "Realignment Bard Road at Imperial Dam, Drawing No. R-485," dated February 17, 1961, on file with the Bureau of Land Management, in Los Angeles 0170404:

SAN BERNARDINO MERIDIAN

T.15 S., R. 24 E.,
Sec. 8, SE¼SE¼SE¼;
Sec. 9, W½SW¼SW¼ and SW¼NW¼SW¼;
Sec. 17, NW¼SW¼SW¼, NW¼SW¼, NW¼NE¼SW¼, S½SE¼NW¼, SW¼NE¼, NW¼SE¼NE¼, SW¼NE¼NE¼, and E½NE¼SE¼.

The areas described aggregate approximately 100 acres.

2. The right-of-way shall be subject to the prior right of the United States, its successors and assigns, to use any of the lands herein described to construct, reconstruct, operate and maintain dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, drainage works, flood channels, telephone and telegraph lines, electric transmission lines, roadways and appurtenant irrigation structures, without any payment by the United States, or its successors and assigns, for such right, with the agreement on the part of the County of Imperial that if the construction or reconstruction of any or all of such dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways or appurtenant irrigation structures across, over or upon said lands should be made more expensive by reason of the existence of improvements or workings of the County thereon, such additional expense is to be estimated by the Secretary of the Interior, whose estimate is to be final and binding upon the parties hereto, and that within 30 days after demand is made upon the County for payment of such sums, the County will make payment thereof to the United States, or its successors and assigns, constructing or reconstructing such dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, or appurtenant irrigation structures across, over or upon said lands. There is reserved to the United States the right of its officers, agents, employees, licensees and permittees, at all proper times and places freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing and protecting the rights reserved herein.

The United States, its officers, agents, employees and assigns, shall not be liable for any damage to the improvements or works of the County resulting from the construction, reconstruction, operation or maintenance of any of the works hereinabove enumerated.

KENNETH HOLUM,
Assistant Secretary of the Interior.

JULY 14, 1961.

[F.R. Doc. 61-6801; Filed, July 19, 1961; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Kodiak National Wildlife Refuge, Alaska

The following special regulation is issued.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALASKA

KODIAK NATIONAL WILDLIFE REFUGE

Hunting of upland game on the Kodiak National Wildlife Refuge, Alaska is permissable only under the following conditions:

(a) Species permitted to be taken: ptarmigan and hare.

(b) Open season: ptarmigan—August 20 to April 15; hare—no closed season.

(c) Daily bag limits: ptarmigan—20 a day; hare—no limit.

(d) Methods of hunting: weapons and means as permitted by Alaska regulations.

(e) Description of areas open to hunting:

Hunting is permitted in accordance with (a) above on all lands of the Kodiak National Wildlife Refuge.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective July 1, 1961, through June 30, 1962.

URBAN C. NELSON,
Regional Director, Bureau of Sports Fisheries and Wildlife.

JULY 11, 1961.

[F.R. Doc. 61-6797; Filed, July 19, 1961; 8:46 a.m.]

PART 32—HUNTING

Kenai National Moose Range, Alaska

The following special regulation is issued.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALASKA

KENAI NATIONAL MOOSE RANGE

Hunting of upland game on the Kenai National Moose Range, Alaska is permissible only under the following conditions:

(a) Species permitted to be taken: grouse, ptarmigan and snowshoe hare.

(b) Open season: grouse—August 20 to March 15; ptarmigan—August 20 to April 15; snowshoe hare—no closed season.

(c) Daily bag limits: grouse—15 a day; ptarmigan—20 a day; snowshoe hare—no limit.

(d) Methods of hunting: weapons and means as permitted by Alaska regulations.

(e) Description of areas open to hunting:

Hunting is permitted in accordance with (a) above on all lands within the Kenai National Moose Range.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective July 1, 1961, through June 30, 1962.

URBAN C. NELSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 11, 1961.

[F.R. Doc. 61-6798; Filed, July 19, 1961; 8:46 a.m.]

PART 32—HUNTING

Nunivak Island National Wildlife Refuge, Alaska

The following special regulation is issued.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALASKA

NUNIVAK ISLAND NATIONAL WILDLIFE REFUGE

Hunting of upland game on the Nunivak Island National Wildlife Refuge, Alaska is permissible only under the following conditions:

(a) Species permitted to be taken: ptarmigan.

(b) Open season: August 20 to April 15.

(c) Daily bag limits: 20 a day.

(d) Methods of hunting: weapons and means as permitted by Alaska regulations.

(e) Description of areas open to hunting:

Hunting is permitted in accordance with (a) above on all lands of the Nunivak Island National Wildlife Refuge.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective July 1, 1961, through June 30, 1962.

URBAN C. NELSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 11, 1961.

[F.R. Doc. 61-6799; Filed, July 19, 1961; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 270]

FROZEN FRIED SCALLOPS

Standards for Grades

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 6(a) of the Fish and Wildlife Act of August 8, 1956, (16 U.S.C. 742e), it is proposed to amend Title 50 Code of Federal Regulations by the addition of a new Part 270. The purpose of this amendment is to issue standards for grades of frozen fried scallops in accordance with the authority contained in Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U.S.C. 1621–1627). These regulations, if made effective, will be the first issued by the Department of the Interior prescribing Government standards for this commodity.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

JAMES K. CARR,
Under Secretary of the Interior.

JULY 12, 1961.

PART 270—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED SCALLOPS [1]

PRODUCT DESCRIPTION AND GRADES

Sec.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

PRODUCT DESCRIPTION AND GRADES

§ 270.1 Product description.

Frozen fried scallops are prepared from wholesome, clean, adequately drained, whole or cut adductor muscles of the sea scallop (Placopecten magellanicus), or scallop units cut from a block of frozen sea scallops, that are coated with wholesome batter and breading and pre-cooked in oil or fat. They are packaged and frozen according to good commercial practice and are maintained at temperatures necessary for preservation. Frozen fried scallops contain a minimum of 60 percent by weight of scallop meat.

§ 270.2 Styles of frozen fried scallops.

The styles of frozen fried scallops include:

(a) *Style I Random pack.* Scallops in a package are reasonably uniform in weight and/or shape. The weight or shape of individual scallops are not specified.

(b) *Style II Uniform pack.* Scallops in a package consist of uniform shaped pieces which are of specified weight or range of weights.

§ 270.3 Grades of frozen fried scallops.

(a) "U.S. Grade A" is the quality of frozen fried scallops that possess good flavor and odor; and for those factors of quality which are rated according to the scoring system outlined in this part, the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen fried scallops that possess at least reasonably good flavor and odor; and for those factors of quality which are rated according to the scoring system outlined in this part, the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen fried scallops that fail to meet the requirements of U.S. Grade B.

FACTORS OF QUALITY

§ 270.11 Ascertaining the grade.

The grade of frozen fried scallops is determined by examining the product in the frozen and cooked states. Factors of quality evaluated in ascertaining the grade of the product are flavor and odor, appearance, uniformity, absence of defects, and character.

(a) Flavor and odor are rated directly by organoleptic evaluation. Score points are not assessed (see § 270.12).

(b) Appearance, uniformity, absence of defects, and character are rated numerically on a scale of 100. The maximum number of points that may be given each of these factors are:

Factors:	Points
Appearance	[1] 25
Uniformity	[1] 20
Absence of defects	40
Character	[1] 15
Total possible score	100

[1] Frozen fried scallops which receive the maximum number of deduction points for any of these factors shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

§ 270.12 Evaluating the unscored factor of flavor and odor.

(a) "Good flavor and odor" (essential requirements for a Grade A product) means that the cooked product has flavor and odor characteristics of good scallop meat and of the breading and is free from staleness and off-flavors and off-odors of any kind.

(b) "Reasonably good flavor and odor" (minimum requirements of a Grade B product) means that the cooked product is lacking in good flavor and odor, but is free from objectionable off-flavors and off-odors of any kind.

(c) "Substandard flavor and odor" (Substandard grade) means that the flavor and odor fails to meet the minimum requirements of "reasonably good flavor and odor."

§ 270.13 Evaluating and rating the scored factors of appearance, uniformity, absence of defects, and character.

Point deductions are allotted for each degree or amount of quality variation within each of the factors that are scored. The net score for each quality factor is obtained by subtracting the deduction-points assessed for that factor from the maximum points allotted to that factor. The total score for the product is the sum of the net scores for the four individually scored factors.

§ 270.14 Appearance.

(a) Appearance refers to the condition of the package and ease of separation in the frozen state and continuity and color in the cooked state.

(1) "Condition of the package" refers to freedom from packaging defects and the presence in the package of oil, and/or loose breading, and/or frost. Deduction points are based on the degree of the improper condition as small or large.

(2) "Ease of separation" refers to the difficulty of separating scallops that are frozen together after the frying operation and during freezing.

(3) "Continuity" refers to the completeness of the coating of the product in the cooked state. Lack of continuity is exemplified by breaks, ridges and/or lumps of breading. Each 1/16 square inch area of any break, ridge, or lump of breading is considered an instance of lack of continuity. Individual breaks, ridges, or lumps of breading measuring less than 1/16 square inch are not con-

sidered objectionable. Deduction points are based on the percentage of the scallops within the package that contain small and/or large instances of lack of continuity.

(4) "Color" refers to reasonably uniform color which is characteristic of the product in the cooked state.

Deviations in color are visually measured as "small" and "large". A "small" instance of deviation in color means that the scallop varies noticeably from the predominating color of the package. A "large" instance of deviation in color means that the scallop varies markedly from the predominating color of the package. The deduction points assessed are based on the degree of deviation as small or large and the percentage by count of the scallops affected in the package.

(b) For the purpose of rating the factor of appearance, the schedule of deduction points in Table I applies. Frozen fried scallops which receive 25 deduction points for the factor of appearance shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE I—SCHEDULE OF POINT-DEDUCTIONS FOR VARIATIONS IN APPEARANCE

Appearance subfactors	Method of determining subfactor score	Percent of scallops affected: Over	Percent of scallops affected: Not over	Deduction points
	Degree of condition of the package			
Condition of the package in the frozen state.	(a) Small (moderate amount of free oil, and/or loose breading, and/or frost, and/or packaging defects).			2
	(b) Large (excessive amount of free oil, and/or loose breading, and/or frost, and/or packaging defects).			5
	Degree of ease of separation			
Ease of separation of the scallops in frozen state.	Moderate (scallops separated by hand with difficulty).	0	30	1
		30	70	2
		70	----------	4
	Severe (scallops separated only by use of knife or other instrument).	0	30	3
		30	70	10
		70	----------	15
Continuity of the scallops in the cooked state.	Lack of continuity (breaks, ridges, and lumps).[1]	0	20	2
		20	50	4
		50	70	6
	Small (1 to 3 instances per scallop)	70	----------	10
		0	20	4
	Large (over 3 instances per scallop)	20	50	8
		50	70	12
		70	----------	25
	Deviation from predominating color of fried scallops in cooked state			
Color of the scallops in the cooked state.	Small instance of deviation in color means that the scallop varies noticeably from the predominating color of the package after cooking.	0	10	0
		10	30	2
		30	----------	4
	Large instance of deviation in color means that the scallop varies markedly from the predominating color of the package after cooking.	0	10	4
		10	30	10
		30	----------	25

[1] Each 1/16 square inch is considered an instance.

§ 270.15 Uniformity.

(a) Uniformity refers to the degree of freedom from undesirably small pieces and to the degree of uniformity of the weights of the frozen fried scallops within the package.

(1) For Style I, deduction points are assessed for (i) undesirable small pieces as determined by the percent by count of pieces passing through a sieve with 3/4 inch openings, and (ii) uniformity of size of the scallops remaining in the sieve as determined by the ratio of the weight of the 15 percent largest scallops (minimum three) divided by the 15 percent smallest scallops (minimum three). The number constituting this percentage shall be the closest approximation of 15 percent, determined by count.

(2) For Style II, deduction points are based on the percentage by count of small or large scallops deviating from the average weight within the package.

(b) For the purpose of rating the factor of uniformity, the schedules of deduction points in Table II apply. Frozen fried scallops which receive 20 deduction points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE II—SCHEDULE OF POINT-DEDUCTIONS FOR UNIFORMITY

Factor	Method of determining subfactor score	Percent of scallops affected: Over—	Percent of scallops affected: Not over—	Deduction points
	A. Style I (Random pack)			
Uniformity of size and weight of scallops in frozen state.	(a) Undesirable small pieces which pass through a sieve with 3/4 inch openings.	0	10	3
		10	20	6
		20	----------	10
		Ratio: Over—	Ratio: Not over—	
	(b) Weight ratio of scallops remaining in the sieve. The 15 percent largest scallops (minimum three) divided by the 15 percent smallest scallops (minimum three). The 15 percent to be determined by count.	----------	2.0	0
		2.0	2.5	1
		2.5	2.9	3
		2.9	3.3	6
		3.3	----------	10
	B. Style II (Uniform pack)	Percent of scallops affected: Over—	Percent of scallops affected: Not over—	
	Deviation from average weight			
	(a) Small (scallops deviating ±10 to 20 percent from average weight).	0	30	3
		30	70	5
		70	----------	10
	(b) Large (scallops deviating over ±20 percent from average weight).	0	30	6
		30	70	10
		70	----------	20

§ 270.16 Absence of defects.

(a) Absence of defects refers to the degree of freedom from doubled and misshaped scallops, pieces of shell fragments and extraneous material. The defects of doubled and misshaped scallops are determined by examining the frozen product, whereas the defects of shell fragments and extraneous materials are determined by examining the product in the cooked state. Deduction points are based on the percentage by count of the scallops affected within the package, or the relationship between the number of defect instances and the number of scallops within the package.

(1) *Doubled scallops.* Two or more scallops that are joined together during the breading and/or frying operations.

(2) *Misshaped scallop.* Elongated, flattened, mashed or damaged scallop meats.

(3) *Extraneous material.* An instance of extraneous material refers to an occurrence or group of occurrences of extraneous material in a scallop. Extraneous material consists of sand, grit, intestines, seaweed and substances foreign to the scallop meat, except for shell fragments.

(4) *Piece of shell fragment.* The presence in the scallops of any fragment of the scallop shell regardless of size.

(b) For the purpose of rating the factor of absence of defects the schedules of deduction points in Tables III and IV apply.

TABLE III—SCHEDULE OF POINT-DEDUCTIONS FOR ABSENCE OF DEFECTS SUBFACTORS MISSHAPED OR DOUBLED SCALLOPS AND SHELL FRAGMENTS

Defect subfactors	Method of determining subfactor score	Percent of scallops affected		Deduction points
		Over—	Not over—	
Misshaped or doubled scallops in the frozen state.	Misshaped scallops (elongated, flattened, mashed or damaged scallop meats).	0	10	3
		10	20	7
	Doubled scallops (two or more scallops joined together during breading and/or frying operation).	20	—	15
Shell fragments in the cooked state.	Each piece of shell fragment is considered an instance.	0	5	15
		5	10	30
		10	—	40

TABLE IV—SCHEDULE OF POINT-DEDUCTIONS FOR ABSENCE OF DEFECTS SUBFACTOR OF EXTRANEOUS MATERIAL

Number of scallops per 7 ounces	Number of instances of extraneous material								
	0	1	2	3	4	5	6	7	8 or more
	Deduction points								
10 or less	0	7	15	25	40	----	----	----	------
11	0	6	15	25	40	----	----	----	------
12	0	5	13	25	40	----	----	----	------
13	0	5	11	25	40	----	----	----	------
14	0	4	10	15	28	40	----	----	------
15	0	4	9	15	25	40	----	----	------
16	0	3	8	13	25	40	----	----	------
17	0	3	8	12	20	30	40	----	------
18	0	2	7	10	18	28	40	----	------
19	0	2	6	9	15	25	40	----	------
20 or more	0	2	5	8	12	20	30	40	------

§ 270.17 Character.

(a) Character refers to the texture of the scallop meat and of the coating and the presence of gristle in the cooked state. Deduction points are based on the degree of variation in the texture attributes of the coating and scallop meat or the relationship between the number of instances and the number of scallops within the package.

(1) *Gristle.* An instance of gristle refers to an occurrence of the tough elastic tissue usually attached to the scallop meat.

(2) *Texture* refers to the firmness, tenderness, and moistness of the cooked scallop meat and to the crispness and tenderness of the coating of the cooked product. The texture of the scallop meat may be classified as a degree of mushiness, toughness, and fibrousness. The texture of the coating may be classified as a degree of pastiness, toughness, dryness, mushiness, or oiliness.

(b) For the purpose of rating the factor of character, the schedules of deduction points in Table V and VI apply. Frozen fried scallops which receive 15 deduction points for the factor of character shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE V—SCHEDULE OF POINT-DEDUCTIONS FOR CHARACTER SUBFACTOR OF TEXTURE

Character subfactors	Method of determining subfactor score	Deduction points
Texture in the cooked state.	*Texture of the coating*	
	Firm or crisp but not tough, pasty, mushy, or oily	0
	Moderately tough, pasty, mushy, or oily	5
	Excessively tough, pasty, mushy, or oily	15
	Texture of the scallop meat	
	Firm, but tender and moist	0
	Moderately tough, dry, and/or fibrous or mushy	5
	Excessively tough, dry, and/or fibrous or mushy	15

TABLE VI—SCHEDULE OF POINT-DEDUCTIONS FOR CHARACTER SUBFACTOR OF GRISTLE

Number of scallops per 7 ounces	Number of instances of gristle								
	0	1	2	3	4	5	6	7	8 or more
	Point deductions								
10 or less	0	2	4	6	8	10	----	----	------
11	0	2	4	6	8	10	----	----	------
12	0	2	4	6	8	10	----	----	------
13	0	1	3	5	8	10	----	----	------
14	0	1	3	5	7	9	10	----	------
15	0	1	2	4	6	8	10	----	------
16	0	1	2	4	6	8	10	----	------
17	0	1	2	4	6	8	10	----	------
18	0	1	2	3	4	6	8	10	------
19	0	1	2	3	4	6	8	10	------
20 or more	0	1	2	3	4	6	8	10	------

DEFINITIONS AND METHODS OF ANALYSIS

§ 270.21 Definitions and methods of analysis.

(a) *Percent of scallop meat* refers to percent, by weight, of scallop meat in a sample as determined by the following method:

(1) *Equipment needed.* (i) Water bath (3 to 4 liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch with second hand.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(2) *Procedure.* (i) Weigh all scallops in the sample while still in a hard frozen condition.

(ii) Place each scallop individually in the water bath which is maintained at 63° to 86° F. and allow the scallop to remain until such time as the breading becomes soft and can easily be removed from the still frozen meat (between 10 to 30 seconds for scallops held in storage at 0° F.).

NOTE: Several dry runs are necessary to determine the exact dip time required for "debreading" the scallops in a lot sample. For dry runs only, a saturated solution of copper sulfate (500 grams of copper sulfate in 2 liters of tap water) is necessary. The correct dip time is the minimum time required to dip the scallops in the (copper sulfate) solution so that the breading can easily be scraped off; provided that (1) the "debreaded" scallop is still solidly frozen, and (2) only a slight trace of blue color is visible on the surface of the "debreaded" scallop meat.

(iii) Remove the scallop from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the scallop meat with the spatula or nut picker.

(iv) Weigh all "debreaded" scallop meats.

(v) Calculate the percent of scallop meat in the sample by following formula:

$$\text{Percent scallop meat} = \frac{\text{Weight of scallop meats (iv)}}{\text{Weight of frozen fried scallops (i)}} \times 100$$

(b) *Cooked state.* Cooked state shall mean that the product shall be cooked in accordance with the instructions accompanying the product. If specific instructions are lacking, the product for inspection shall be cooked as follows: Spread the frozen scallops on a foil covered baking sheet or a shallow pan. Place sheet or pan and frozen contents at the mid point of a properly ventilated oven pre-heated to 400 degrees Fahrenheit until thoroughly cooked, 15 to 20 minutes.

(c) *Definitions.* (1) "Moderate" refers to a scored condition that is readily noticeable but is not seriously objectionable.

(2) "Excessive" refers to a condition that is very noticeable and is seriously objectionable.

(3) "Instance" refers to an occurrence of an individual scored subfactor on a scallop.

LOT CERTIFICATION TOLERANCES

§ 270.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (Regulations Governing Processed Fishery Products, Vol. 25 F.R. 8431, Sept. 1, 1960.)

[F.R. Doc. 61-6737; Filed, July 19, 1961; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 81]

INSPECTION OF POULTRY AND POULTRY PRODUCTS

Extension of Time

Notice of proposed amendments to the Regulations Governing the Inspection of Poultry and Poultry Products (7 CFR, as amended, Part 81) was published in the FEDERAL REGISTER on July 1, 1961 (26 F.R. 5958), and the time specified for filing written data, views, or arguments was not later than 15 days following publication in the FEDERAL REGISTER.

The time for filing written data, views, or arguments in connection with the proposed amendments set forth in the aforesaid notice is hereby extended until August 1, 1961.

(Sec. 14, 71 Stat. 447; 21 U.S.C. 463; 19 F.R. 74, as amended)

Issued at Washington, D.C., this 14th day of July 1961.

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

[F.R. Doc. 61-6805; Filed, July 19, 1961; 8:47 a.m.]

Agricultural Marketing Service

[7 CFR Part 938]

IRISH POTATOES GROWN IN RED RIVER VALLEY OF NORTH DAKOTA AND MINNESOTA

Limitation of Shipments

Notice is hereby given that the Secretary of Agriculture is considering the limitation of shipments as hereinafter set forth, which were recommended by the Red River Valley Potato Committee, established pursuant to Marketing Agreement No. 135 and Order No. 38 (7 CFR Part 938), regulating the handling of Irish potatoes grown in certain designated counties in North Dakota and Minnesota (the counties of Pembina, Walsh, Cavalier, Towner, Grand Forks, Nelson, Steele, Traill, Cass, Richland, and Ramsey of the State of North Dakota and Kittson, Marshall, Red Lake, Pennington, Polk Norman, Mahnomen, Wilken, Otter Tail, Becker, and Clay of the State of Minnesota), issued under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended: 7 U.S.C. 601-674).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 5 days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

§ 938.303 Limitation of shipments.

During the period of August 7, 1961, through June 30, 1962, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c), (d), (e), (f), and (g) of this section.

(a) *Minimum grade and size requirements*—(1) *Round varieties.* U.S. No. 2 or better grade, 2 inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter, or 4 ounces minimum weight.

(3) *All varieties.* Size B, if U.S. No. 1, or better grade.

(b) *Minimum maturity requirements—All varieties.* "Moderately skinned"—until November 1, 1961, when this requirement shall terminate.

(c) *Special purpose shipments—Chipping.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(1) Prior to September 15, 1961, shipments of round white varieties (Cobblers, Kennebecs, Cherokees, Early Ohio, and similar types) for potato chips failing to meet the maturity requirements of paragraph (b) of this section may be handled without regard to such maturity requirements.

(2) On and after September 15, 1961, with respect to round white varieties, and after the effective date hereof with respect to all other varieties, shipments for potato chips failing to meet the maturity requirements of paragraph (b) of this section may be handled without regard to such requirements if handlers thereof comply with the safeguard requirements of paragraph (e) of this section.

(d) *Exempted shipments.* The minimum grade, size, and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) *Certified seed.* If a copy of the applicable seed inspection certificate is furnished the committee.

(2) *Canning or freezing.* Subject to compliance with the applicable provisions of paragraph (e) of this section.

(e) *Safeguards.* (1) Each handler making special purpose shipments authorized by paragraph (c) requiring compliance with the provisions of this paragraph, and

(2) Each handler making special purpose shipments, other than seed, shall comply with the following safeguards:

(i) Prior to making shipment, apply for and obtain from the committee an approved Certificate of Privilege, pursuant to § 938.120;

(ii) Obtain inspection and pay assessments on such shipments, except shipments for canning or freezing;

(iii) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(iv) Bill each shipment directly to the applicable processor or receiver.

(3) Compliance with the requirements of this section shall not excuse failure to comply with State laws or regulations requiring inspection of potatoes handled for canning or freezing and the payment of State taxes or assessments thereon.

(f) *Minimum quantities.* Pursuant to § 938.53, each handler may handle up to, but not to exceed, 30 hundredweight of tablestock potatoes, in the aggregate, per shipment free from requirements effective pursuant to § 938.42 (*Assessments*) and § 938.60 (*Inspection*). This exemption shall not apply to any portion of a shipment of over 30 hundredweight of such potatoes.

(g) *Inspection.* (1) No handler shall ship any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 938.60, that each inspection certificate for tablestock potatoes shall be valid for a period not to exceed 5 days, except that inspection certificates issued to registered handlers of potatoes for chipping (§ 938.140) on potatoes for special use as potato chips shall be valid for a period not to exceed 75 days. The valid period begins at the end of the day (midnight) on which inspection is completed as shown in the certificate.

(2) Except as provided in paragraph (f) of this section, no handler shall transport or cause the transportation of any shipment of tablestock potatoes by motor vehicle, unless such shipment is accompanied by a copy of the inspection certificate applicable thereto.

(h) *Definitions.* The terms "moderately skinned," "U.S. No. 1," "U.S. No. 2," and "Size B" shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540 to 51.1556 of this title), including the tolerances set forth therein. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 135 and Order No. 38.

(i) *Applicability to imports.* Pursuant to section 608e of the Act and § 1066.1, "Import regulations" (25 F.R. 2659, 7 CFR Part 1066), red skinned round type Irish potatoes imported into the United States during the period October 1, 1961, through June 30, 1962, shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section for such varieties.

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

Dated: July 17, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-6825; Filed, July 19, 1961; 8:49 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 901]

[Docket No. AO-326]

MILK IN EASTERN COLORADO MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision to Proposed Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed marketing agreement and to the order regulating the handling of milk in the Eastern Colorado marketing area, which was issued June 15, 1961 (26 F.R. 5506), is hereby further extended to July 24, 1961.

Dated July 17, 1961, Washington, D.C.

H. L. FOREST,
Director, Milk Marketing Orders Division, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 61-6822; Filed, July 19, 1961; 8:49 a.m.]

[7 CFR Part 928]

[Docket No. AO-227-A11]

MILK IN NEOSHO VALLEY MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Pittsburg, Kansas, on June 1, 1961, pursuant to notice thereof issued on May 11, 1961 (26 F.R. 4289).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service, on June 23, 1961 (26 F.R. 5805; F.R. Doc. 61-6078) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issue on the record of the hearing relates to the level of the Class II price.

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

Class II price. The Class II price should be the higher of (1) the average prices paid for milk used in manufacturing American cheese, evaporated milk and butter and by-products, f.o.b. plants, in the United States adjusted to 4.0 percent butterfat test by direct ratio; or (2) the average of the announced prices reported to have been paid or to be paid per hundredweight for ungraded milk of 4.0 percent butterfat content at five local manufacturing plants plus 20 cents.

The Class II price presently is the basic formula price during the months of July through March. In the months of April through June the Class II price is the higher of the basic formula price less 10 cents or the paying prices for ungraded milk announced by four local plants. The basic formula price is the higher of the Midwest condensery price (average prices paid at 10 Wisconsin and Michigan plants for milk containing 3.5 percent butterfat) converted to 4.0 percent butterfat by direct ratio or a butter-powder price formula based on the average price of 92-score butter at Chicago and the average prices of nonfat dry milk solids, spray and roller process, f.o.b. manufacturing plants in the Chicago area. The Class II price has been based on the basic formula price since this amendment became effective April 1, 1960.

The present Class II price has exceeded the value of milk used for manufacturing purposes locally. The local manufacturing plants paid an average price to dairy farmers of $3.15 for milk of 4.0 percent butterfat content during 1960 and $3.20 for the first four months of 1961. To this price certain premiums are added if the dairy farmers can qualify for them. A 10-cent premium is provided for milk which is mechanically cooled and a 25-cent premium is paid to dairy farmers who delivered a specified volume in certain months. The number of dairy farmers receiving premiums varies at the local manufacturing plants. Fifty to seventy percent of the dairy farmers delivering ungraded milk receive the 10-cent cooler premium and thirty to fifty percent receive the 25-cent volume premium. The average of all premiums paid by the local manufacturing plants is approximately 20 to 22 cents per hundredweight. The average price received by farmers for manufacturing grade milk of 4.0 percent butterfat content delivered to plants and dealers in the State of Kansas during 1960 was $3.40 per hundredweight and $3.50 during the first three months of 1961. The price for Class II milk of 4.0 percent butterfat content during 1960 averaged $3.476 and $3.64 for the first four months of 1961. The Class II price for each of the months of December 1960 through March 1961 was reduced 10 cents by a suspension order during those months.

One proprietary handler who processes a considerable volume of Class II milk has refused to handle any Class II milk after July 1, 1961, at the present Class II price. The alternative outlets for surplus milk are the local manufacturing plants where the price is somewhat less than the present Class II price. The producers through their cooperative associations would stand any loss on any pooled milk marketed to the local manufacturing plants. It is, therefore, necessary in order to insure the orderly marketing of milk in the market that the Class II prices be reduced to a level approximating the prices paid in the area for milk used in the production of manufactured dairy products.

The price received by dairy farmers f.o.b. plant for milk used in manufacturing American cheese, evaporated milk and butter and by-products in the United States adjusted by direct ratio to a 4.0 percent butterfat test will provide a proper price level for Class II milk. Since the U.S. manufacturing price is close to the prices paid for manufacturing grade milk in the State of Kansas and is available for the current month, it is appropriate for use as a Class II pricing formula. To insure that the Class II price level does not go below the local value of manufacturing milk there should be provided an alterative pricing plan using the average of basic prices paid per hundredweight to dairy farmers for ungraded milk of 4.0 percent butterfat content at five local manufacturing plants plus 20 cents. The 20 cents addition represents the average premium paid by the local plants. On the basis of the previous 12 months (May 1960-April 1961) the proposed Class II price would have produced a price 14 cents per hundredweight lower than the present Class II price.

A proposal was made at the hearing to use the butter-powder price formula (an alternative basic price formula) as the Class II price. Such a price level would be below the prevailing price level for manufacturing grade milk in the market. The butter-powder price averaged during 1960 about 5 cents below the price paid by local manufacturing plants including premiums and 10 cents below the average price paid for manufacturing grade milk in the State of Kansas.

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

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

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

(b) The parity prices of milk as determined pursuant to Section 2 of the Act

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

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

Rulings on exceptions. No exceptions were received.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Neosho Valley Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Neosho Valley Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of May 1961, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Neosho Valley marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., July 17, 1961.

ORVILLE L. FREEMAN,
Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Neosho Valley Marketing Area.

§ 928.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Neosho Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

1. Delete § 928.51(b) and substitute therefor the following:

(b) *Class II milk.* The price per hundredweight for Class II milk shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) The average price reported by the Department for the current month for milk used in the manufacture of American cheese, evaporated milk, and butter and by-products, f.o.b. plant, United States, adjusted to 4.0 percent butterfat test by direct ratio; or

(2) The average of the basic or field prices reported to have been paid or to be paid per hundredweight for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator or the Department plus 20 cents:

Present operator and location

Pet Milk Co., Neosho, Mo.
Pet Milk Co., Iola, Kans.
Carnation Co., Mt. Vernon, Mo.
Carnation Co., Girard, Kans.
Kraft Cheese Co., Oswego, Kans.

[F.R. Doc. 61-6823; Filed, July 19, 1961; 8:49 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[7 CFR Part 942]

[Docket No. AO 103-A18]

MILK IN NEW ORLEANS MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at New Orleans, Louisiana, on November 16 and 17, 1960, pursuant to notice thereof issued on November 3, 1960 (25 F.R. 10704).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Price Support, Commodity Stabilization Service, on June 13, 1961 (26 F.R. 5398; F.R. Doc. 61-5583) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. The supply-demand mechanism for the adjustment of the Class I price.
2. The role of cooperative associations as handlers of farm tank milk.
3. The classification and accounting for fortified and reconstituted milk.
4. The classification and accounting of fluid milk products in inventory.
5. The classification and pricing of milk disposed of for other than Class I use.

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

1. *Revision of the supply-demand mechanism of the Class I pricing formula.* The supply-demand adjustment mechanism of the Class I pricing formula should be revised to provide for a moving 24-month base period in lieu of the existing fixed 24-month base period. The standard utilization percentages (presently reflecting a 78 percent annual utilization) should be revised to reflect a 74.5 percent annual utilization and adjusted monthly to reflect the changing seasonality of Class I sales and production as indicated by a direct comparison of utilization in the base period with average utilization in the 2d, 3d, 14th, 15th, 26th, and 27th preceding months. The relationship of current utilization (2d and 3d preceding months) to the adjusted standard should determine the direction and extent of any price adjust-

ment. A contraseasonal provision should be provided to prevent substantial contraseasonal price movements during the months of September through November and April through June.

Under the existing order provisions the amount of the supply-demand adjustment is determined by a direct comparison of current utilization (2d and 3d preceding months) with synthesized standards based on average 1953–1954 experience adjusted to reflect a more ideal production pattern. However, because of producer objections to the resulting price level, the maximum amount of adjustment has been limited to plus or minus 13 cents by suspension action since February 1, 1959, pending further consideration of the Class I pricing provisions.

Producers contend that the existing supply-demand adjustment mechanism is deficient in that it is based on theoretical norms rather than actual experience, that seasonality of both supply and sales have changed significantly, that short-run changes in the supply-demand situation produce erratic and inappropriate price changes and that such changes have tended to run contraseasonally.

Producers proposed that standard utilization percentages be established on the basis of 1958–1959 experience, each month's standard to be a composite of the sales-supply relationship for the preceding 2d, 3d, 12th, and 13th months. To determine the appropriate adjustment for each pricing month the average sales-supply relationship on the 2d, 3d, 12th, and 13th months would be compared with the standards for such month. Each percentage point of deviation would produce a two-cent change in the Class I price. However, no price change would result unless the change from the standard was in excess of plus or minus one percent and the direction of the change was the same in each of the three preceding months.

While producer representatives accept the purpose of the supply-demand adjustment mechanism, nevertheless, their proposal would have provided no price adjustment in any month tested (January 1958 to date). The present mechanism as suspended has reduced the Class I price 5 cents, 11 cents and 9 cents, respectively, in the years 1958, 1959, and 1960. The adoption of producers' proposal would have provided an average Class I price increase of 8 cents per hundredweight over this three-year period. This proposed increase was suggested notwithstanding the fact that the market supply has been in excess of market demand during the entire period and in fact since 1951.

Official notice is taken of the price announcements of the market administrator for the months of December 1960 through March 1961.

It is apparent that the existing supply-demand mechanism has not provided adequate price adjustments to deter the continuing trend of oversupply of milk for the market. Annual utilization of Class I milk has decreased from an average of 75 percent of producer receipts in 1958 to 70 percent in 1960 and there is little indication of prospective improvement. It is imperative under the standards of the Act that some means be provided to further adjust the price level to reflect the actual existing supply-demand situation. While it is obvious that proponent's proposal would not accomplish this, nevertheless, many of the features of their proposal can be appropriately adopted. These include the adoption of a more current base period, a reduction in the annual average of the standard utilization percentage from 78 percent to 74.5 percent, snubbing the effect of short-term movements in supply and sales, permitting an adjustment to be effective only when it exceeds the standards by a specified amount, tying the adjustments to a three-month trend and limiting contraseasonal price movements.

The determination of the appropriate seasonal pattern of supplies and sales as reflected in the standard utilization percentages has been a continuing problem in the New Orleans market. Since March 1950 when a supply-demand adjustor first became effective under the order, the Class I pricing mechanism has been reviewed at five separate hearings and the operation of the supply-demand adjustor has been negated or limited either by amendment or suspension about one-third of the time. Past revisions of the standard utilization percentages were intended to modernize the standards to reflect changes in the seasonality of sales and supplies. However, it is apparent that standards established on a fixed base period have not provided appropriate price changes under conditions of continuing changes in seasonality of sales and supply. This difficulty can be substantially alleviated by providing for the use of a moving and ever current base period.

To determine changes in seasonality of supplies and sales a utilization percentage (ratio of sales to supplies) for the immediately preceding two-month period and of the same period one and two years earlier should be computed and compared to the utilization percentage of the two-year period beginning with the 25th preceding month and ending with the 2d preceding month. This comparison of the average two-month utilization at approximately the beginning, center and end of a two-year period with that of the two-year period, provides a basis for adjusting the "norms" or standards to reflect the current seasonality of sales and supplies.

Under the present order provisions the normal relationship between sales and supply at which no adjustment is made is 78 percent, which was the sales-supply relationship during the period 1953–1954. Proponents suggested that the average of their proposed standard sales-supply relationships for 1958–1959, which was 74.5 percent, be used. The use of 74.5 percent will tend to provide an appropriate level of Class I pricing under the revised supply-demand adjustment herein provided.

The relationship established between sales and supply in the three two-month periods and the 24-month period should be applied to the annual average relationship of 74.5 to establish the "norm" or standard for comparison with actual utilization in the two-month period ending with the 2d preceding month. The deviation between the two percentages would thus indicate the direction and extent of desirable price adjustments.

To provide further assurance that supply-demand adjustments are not the result of erratic sales-supplies ratio changes, each price adjustment should reflect the deviation percentages for the current and two preceding pricing months. Hence, if June were the pricing month, for example, the deviation percentage for such month would reflect the sales-supplies relationship for the preceding March and April, and the deviation percentage for the two preceding pricing months, May and April would reflect the sales-supplies relationship for February–March, and January–February, respectively. However, the three successive deviation percentages to be used in the price adjustment for each month, should be applied in a manner so that the more recent of the deviations would be given more importance than the earlier of the three deviation percentages. This may be accomplished by eliminating any deviation which is in the opposite direction from a more recent deviation, and reducing any deviation to the extent that it exceeds a more recent deviation. The sum of the resulting adjusted deviation percentages would provide the basis for price adjustments. The price adjustments would be upward or downward depending on whether the sum of the adjustment deviation reflects utilization below or above, respectively, the standard utilization percentage.

The rate of price adjustment for each deviation percentage should be 1.5 cents. The present adjustment rate approximates two cents per point. However, because the recommended procedure reflects an accumulated adjustment, a rate of 1.5 cents will produce an appropriate result.

Proponents proposed that no price adjustment be applicable unless the deviation percentage exceeded the standard by more than one percent. They suggested that minor price fluctuations accomplish no useful purpose and are confusing to producers. Under the existing order provisions no price adjustment is applicable unless the net deviation percentage exceeds the standard by plus or minus 3 points. Since the net deviation percentage under the procedure herein recommended reflects the deviation percentage for three months no price adjustment should be made unless such net deviation percentage exceeds the norm or standard by at least four percentage points.

It was also proposed that price adjustments resulting from action of the supply-demand mechanism be limited to a maximum of plus or minus 24 cents. Proponents pointed out that under the present pricing provisions, except for the effect of the existing suspension action, the Class I price could be reduced 69 cents by supply-demand action and the seasonal price change beginning in March. Also, the Class I price could fluctuate by as much as 98 cents, solely through action of the supply-demand adjustment. They suggested that price

changes of such magnitude in conjunction with the returns from surplus milk (Class II) would unduly depress the blended price and requested that the action of the supply-demand mechanism be limited to plus or minus 24 cents.

It is recommended that the limits of supply-demand adjustment be plus or minus 45 cents. The Class I price should be at that level which is necessary to bring forth an adequate but not excessive supply of milk for the fluid market and it is apparent that the action of existing supply-demand mechanism has not encouraged needed supply adjustments. In fact, as previously noted, the supply of milk in relation to market's requirements has continued to increase throughout the past two years. A supply-demand adjustment limited to 24 cents could not be expected to produce needed supply adjustments.

The influence of the base-excess plan has tended to override the influence of price on production in this market. An analysis of the production pattern during recent years clearly indicates a substantial production response during the base-forming months and a tendency for production during other months in close conformance with established bases. This situation has tended to produce the contraseasonal action of the supply-demand mechanism to which proponents object. It also emphasizes, however, the necessity for price adjustments of sufficient magnitude to override the urge for continued base-building in an oversupplied market.

In view of the past experience with a supply-demand adjustor in this market it does not appear desirable to permit adjustments in excess of 45 cents at this time. However, should the indicated adjustments exceed this limit over any extended period of time consideration then should be given to adjustment of the basic price level.

Proponents in their exception reiterated their position that the maximum limit of any supply-demand adjustment should be 24 cents, contending that larger adjustments could result in Class I price disparity as between the local market and the adjacent Mississippi Federal order markets. They pointed out that neither the Mississippi Gulf Coast nor the Central Mississippi orders contain a supply-demand adjustor.

A limitation of 24 cents on the action of the supply-demand adjustor would not be appropriate for reasons previously stated. It is unlikely under the existing market situation that the amount of the adjustment under the recommended procedure will approach the 45-cent limit provided. Nevertheless, provision must be made to permit price adjustments which will be sufficient to reflect substantial changes in the supply-sales relationship.

Notwithstanding the previous conclusions it is desirable that appropriate checks be provided to prevent substantial contraseasonal price movements during the months of September through November and April through June, normally the months of shortest and greatest production, respectively. The features of the supply-demand mechanism herein recommended should tend to substantially reduce large contraseasonal price movements. While contraseasonal price movements are especially unsatisfactory to producers, nevertheless, when such movements are primarily the result of bona fide supply-demand changes rather than changing seasonality, it is important that some adjustments be made promptly rather than permitting them to be accumulated to take effect later in the form of large and abrupt price changes. This can be accomplished without unreasonable contraseasonal price movements by providing that the Class I price during any month of September through November shall in no event be more than 5 cents less than the Class I price in the immediately preceding month and such price during any month of April through June shall in no event be more than 5 cents greater than the Class I price in the immediately preceding month.

While producers recommended inclusion of December among the months when contraseasonal price movements should be deterred, the record does not support its inclusion.

The changes in the Class I pricing provisions herein recommended, had they been in effect during 1960, would have provided an average Class I price of $6.14 compared to the price of $6.12 provided by the present order. In the months of January, February and March, 1961, however, the prices would have averaged 32, 27, and 27 cents, respectively, under the prices actually in effect. It must be expected that without some favorable supply adjustments the action in subsequent months will approach that for the January-March period. This situation reflects the rapidly growing excess of production over Class I sales which has occurred throughout much of 1960 and emphasizes the need for more realistic Class I prices.

2. *A cooperative association's responsibility as a handler on farm tank milk.* A cooperative association should be the responsible handler for milk picked up at the farm in tank trucks owned and operated by, or controlled by, the association and delivered to the pool plant of another handler, unless such cooperative association and the operator of the pool plant notify the market administrator, in writing, prior to the time of delivery that the plant operator is to be held the responsible handler for such milk.

Under the existing order provisions the operator of the pool plant at which the milk is first received is held the responsible handler for reporting, accounting and payment. In situations where a tank of milk is split between two or more handlers the operator of the plant where milk is first drawn off is considered the receiving handler for the entire load and the subsequent deliveries to the remaining plants involved are treated as interhandler transfers. In cases of diversions, the diverting handler (the cooperative association or the plant operator, as the case may be) is held the responsible handler.

Under the terms of its membership contracts the principal cooperative, acting as the marketing agent for its members, negotiates for the sale of their milk, collects the proceeds therefrom and returns such proceeds to its members in the form of a uniform price. With the advent of farm milk tanks the cooperative generally has assumed full responsibility for hauling producer milk to plants. The milk is picked up at the farm in tankers owned and operated by the association or, in situations where independent haulers are involved, under contract to or under direct control of the cooperative. Milk is delivered to handlers in accordance with their daily requirements which in some situations requires splitting loads between several handlers. Milk in excess of the market's fluid requirements is diverted to the association's nonpool manufacturing plant or to other nonpool plants, primarily for manufacturing uses.

Under the arrangements for marketing the milk of producers using farm milk tanks as they exist in the milkshed, the amount of milk received is determined by measurement at the farm. Samples for the determination of the butterfat tests are taken at the farm. The acceptability of the quality of the milk is also determined at the farm. After the milk has been pumped into the tank truck and commingled with the milk of other producers, there is no further opportunity to measure or sample or reject the milk on an individual basis. The determinations made at the farm are therefore the final and only valid determinations concerning the milk received from individual producers. In cases where the cooperative controls the pick-up and hauling it should be held the responsible handler for reporting, accounting and payment. The milk delivered to a pool plant should be considered a receipt of producer milk by the cooperative association at a pool plant at the same location of the plant of physical receipt and the transaction should be treated under the order as an interhandler transfer.

To minimize administrative problems transfers from a cooperative association, in its capacity as the operator of a pool plant or as a handler of farm bulk tank milk, to the pool plant of another handler should be assigned pro rata to available Class I and Class II utilization immediately preceding the assignment of producer receipts. However, provisions should be made whereby the classification of such transfers can be made on the same basis as other interhandler transfers i.e., by agreement to the extent that the transferee plant has utilization in such class of an equivalent amount of skim milk and butterfat, respectively, and such classification results in the allocation to producer receipts of the maximum Class I utilization in both plants.

Under some situations where the cooperative picks up both member and nonmember milk the cooperative may not wish to be the responsible handler. In other situations the transferee handler, with agreement of the cooperative may wish to be the responsible handler. The order would accommodate either

situation of the cooperative and the transferee handler both agree that the transferee handler shall be held the responsible handler and both notify the market administrator to that effect, prior to delivery.

In line with the present provisions relating to milk received from a cooperative association as the operator of a pool supply plant, the purchasing handler should be required to pay to the cooperative at least the class prices for milk received from the association in its capacity as a handler with respect to milk received from producers with farm tanks. In addition, to prevent possible inequities in the cost of milk to handlers, the payment by the purchasing handler should also include the administrative assessment on milk received from the association. The cooperative in turn should be held responsible for payment of the administrative assessment to the market administrator.

The present classification provisions of the order provide that the receiving handler shall be allowed as Class II milk actual shrinkage up to 0.5 percent of milk received from producers and disposed of as whole milk, skim milk or cream in bulk lots. The transferee handler is allowed as Class II shrinkage up to 1.5 percent of milk received in bulk lots and disposed of other than in bulk lots. This provision should also apply to the cooperative as the receiving handler of bulk tank milk since it will provide an acceptable basis for dividing shrinkage when the cooperative is the responsible handler on such milk.

3. *The classification and accounting for fortified and reconstituted fluid milk products.* The present order provisions should be clarified to assure a full accounting of all milk and milk products on a butterfat and skim milk equivalent basis. The liquid volume of all fluid milk products designated as Class I milk pursuant to § 942.41(a) should be classified as Class I and in the case of fortified products the skim milk equivalent of the nonfat solids in excess of the weight of natural fluid skim milk should be classified in Class II. This is the intent of the existing order provisions and the order has been administered to accomplish essentially this result.

Producers proposed clarification to remove any doubt of the intent for full accounting on a butterfat and skim milk equivalent basis. They further proposed that in the case of fortified products the skim equivalent of nonfat solids used in fortification should be classified as Class I milk rather than Class II milk as presently provided.

Under the classified use system of pricing in the market, milk classified and priced as Class I is that which is disposed of in fluid form as fresh fluid milk and fluid milk products to consumers and which is required to be made from milk meeting prescribed quality standards. It is necessary that such fluid milk products be classified and priced as Class I if producers who supply such milk to the local market are to be properly compensated, and if the necessary incentive to producers is to be provided through the uniform price to encourage the daily production and delivery of an adequate milk supply to meet the market's requirements for such products.

Fortification is the result of adding extra solids to a fluid milk product. Grade A products must be used. However, the added solids are normally derived from nonfat dry milk for which handlers have a wide choice as to source of supply. While nonfat dry milk is manufactured locally from producer milk, such locally made product is no more valuable than the same product procured from other sources and the value of the producer milk from which it is derived is not enhanced when the product is used for fortification. The added solids, regardless of source, displace no significant volume of fluid producer milk. This is in contrast to reconstitution where the milk equivalent of the solids used displaces an equal volume of producer milk. Unless the liquid volume of reconstituted milk is classified and priced as Class I the effectiveness of the order in achieving orderly marketing conditions for producer milk might be nullified.

The foregoing conclusions are identical with those set forth in the recommended decision of the Deputy Administrator and no exceptions were filed to these conclusions. Certain changes have been made in the recommended amendatory language of the fluid milk product definition and the classification provisions to more clearly set forth the procedure for implementing these conclusions.

4. *Classification and accounting for fluid milk products in inventory.* No change should be made in the classification of inventory of fluid milk products on hand at the end of accounting periods. This closing inventory is presently classified as Class II in the current month, but any opening inventory which is allocated to Class I is subject to a reclassification charge at the difference between the Class II price of the previous month and the Class I price of the current month. This procedure tends to assure equal costs among handlers for milk disposed of as Class I milk.

Producers requested that closing inventories be classified as Class I. Their representatives stated that the allocation of inventories under the present provisions of the order results in administrative problems for them in collecting reclassification charges from association buyers, particularly when the reclassification occurs several months after the actual sale.

The classification of closing inventories as Class I would give handlers an opportunity to speculate on Class I price changes, either up or down, by respectively building or depleting inventories in order to gain cost-of-product advantages. Such speculation might contribute to inequities among handlers as to the cost of producer milk and could deprive producers of the full use value of their milk.

The problem producers seek to relieve can be alleviated by changes in the allocation procedure which provides for the clearing of opening inventories for each month by specific assignment of opening inventory to final disposition in the current month. A corollary change should also be made in the payment provisions to preclude a reclassification charge on other Federal order milk, classified and priced as Class I in the original market and assigned to Class II in the preceding month but which may be reclassified in the current month through inventory reclassification. Since such milk has already been classified and priced as Class I under the original order, it would be inappropriate to require a reclassification charge.

These modifications in the allocation and payment provisions will tend to clarify for both buyer and seller the basis of any inventory reclassification charge. Under the recommended procedure inventory reclassification is first credited to producer milk to the extent that producer milk, other than shrinkage, was assigned to Class II in the previous month. Thereafter, inventory reclassification is credited to any other Federal order receipts in the previous month which were assigned to Class II under this order but were classified and priced as Class I under the original order. A reclassification charge is applicable on any reclassification of producer milk and on any reclassification of other source milk except receipts from other Federal order plants classified and priced as Class I in the original market.

5. *The classification and pricing of milk disposed of for other than Class I use.* No basic change should be made in the classification system presently provided by the order. However, provision should be made for the classification of "dip" specialty items as Class II.

Producers proposed that the existing Class II classification be subdivided to provide a separate classification for milk and skim milk used in fluid form for ice cream and cottage cheese. They further proposed that the price for milk in such uses be increased about 46 cents per hundredweight and that the price for milk used in other manufacturing products be decreased about 19 cents per hundredweight. Proponents contended that such a classification and pricing system would relieve certain milk manufacturing operations from a cost-price squeeze and at the same time more realistically reflect in returns to producers the actual use value of milk disposed of for all manufacturing uses.

Under certain circumstances under the Federal order program where handlers are required by the local health ordinance to use locally inspected milk or its equivalent in specified nonfluid products a separate classification and pricing above that for other manufacturing uses but below the Class I price has been adopted. However, the situation in the New Orleans market does not support such a procedure. While limited volumes of fluid milk and skim milk are used at city plants for cottage cheese and ice cream, it is apparent that handlers have considerable flexibility in the choice of ingredients in these products. Certain handlers now get their cottage cheese from unregulated sources and if a higher pricing were provided it is likely that handlers generally would seek a cheaper source of supply, either for finished products or by use of nonfat dry milk.

Ice cream manufacturers similarly could readily adjust their operations. Hence, adoption of producer's proposal would likely increase the volume of milk to be processed at country manufacturing outlets and lower over-all returns to producers.

Both at the hearing and in its brief the cooperative association suggested that if a three-class classification system was not adopted some downward adjustment in the existing Class II price was desirable. Their only specific recommendation in this regard, however, was for better alignment of the New Orleans Class II price with the Class II price under the Mississippi Federal orders. Handlers, on the other hand, proposed that the Class II price be reduced by 13.5 cents and that the Class II location differential be eliminated.

The structure of the New Orleans market is fundamentally different from that of the adjacent Mississippi markets. In the case of New Orleans there is virtually no overlapping of marketing area and supply area whereas in both the Mississippi Gulf Coast and Central Mississippi markets the production area and marketing area are largely coextensive. In the case of New Orleans, milk not needed for fluid consumption need not be moved to the marketing area for manufacture. Manufacturing facilities are available in and adjacent to the supply area to handle the reserve supply of the market. If handlers desire milk at city plants for other than Class I use producers should not be expected to bear the cost of transportation. For this reason the New Orleans order provides a Class II location differential applicable at plants located 50 miles or more distant from specified points in the marketing area.

The New Orleans Class II price at plants at which the Class II location differential is applicable is virtually identical with the Class II price in both the Gulf Coast and Central Mississippi orders. In each market the Class II price is computed by the addition of specified differentials to the average of local manufacturing plant pay price. Because of the variations in seasonality of pricing provided and the amount of the differentials, the New Orleans Class II price in each month of the year varies from the Class II price in either the Gulf Coast or Central Mississippi markets by 5 cents. In some months it is higher, in other months lower, and on an annual basis is higher than the Gulf Coast and Central Mississippi Class II prices by only 3.3 and 2.5 cents, respectively.

The New Orleans Class II price is well below the price paid by local manufacturing plants for Grade A, bulk tank milk. Such plants generally are paying a 50-cents premium over their reported pay prices for ungraded milk which prices are used in the computation of the order Class II price. This would indicate that the prevailing price for Grade A milk at unregulated manufacturing plants is 11.5 to 21.5 cents over the order price at New Orleans and 25 to 35 cents over the order price at country plants. The cooperative association during 1960 moved sizable quantities of milk as much as 275 miles to West Point and Starkville, Mississippi, and received a price 50 cents over the ungraded milk price. Since it appears that there are outlets for the surplus milk at unregulated plants which will return at least the present Class II price a lesser price than that presently provided would not be appropriate.

A proposal included in the hearing notice would price diverted milk at the location of the plant of physical receipt. However, no testimony was offered on this proposal at the hearing and no action is taken on it.

A handler proposed that the classification provisions of the order be revised to provide that "dip specialty products" be classified as Class II. Such products normally consist of various blends of milk solids, cultured milk and cream, cheese and nondairy food ingredients such as onion, garlic, horse radish and similar items. Proponents suggested that the requested classification be applicable to those cultured milk and cream products containing not more than 15 percent butterfat and not less than 3 percent of cheese and other nondairy food ingredients.

A determination of the appropriate classification of the products in question should not be dependent on their butterfat content nor on the percentage of nondairy food ingredients included. The products included in Class I are those products which are required to be made from locally approved milk supplies. A Class I classification and pricing for such products is essential to assure sufficient returns to producers to encourage the maintenance of an adequate milk supply for the market.

It is neither necessary nor desirable that sufficient producer milk be available to supply the market's requirements for products not required to be made from approved milk. Such requirements, under normal circumstances, can be supplied more economically through manufactured dairy products procured on the open market. Nevertheless, to the extent that the reserve supply of the local fluid market is available for disposition in such products its economic utilization should be encouraged.

Products similar to "dip speciality items", made from ungraded milk in outside markets are now being disposed of in the marketing area in competition with locally made products. There are widely scattered sources supplying the products to this market. However, if handlers sell their locally made products as sour cream or under a Grade A label to comply with local health regulations, the product should be classified as Class I. If the products are not so labeled, they should be classified in Class II. The recommended revision in the definition of "fluid milk products" hereinafter set forth will implement these conclusions.

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

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

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

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

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

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, the exception received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with the exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the New Orleans Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the New Orleans Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the New Orleans marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of May 1961 is hereby determined to be the representative period for the conduct of such referendum.

William J. Larzelere is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Issued at Washington, D.C., July 17, 1961.

ORVILLE L. FREEMAN,
Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the New Orleans Marketing Area

§ 942.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New Orleans marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

§ 942.10 [Amendment]

1. Delete subparagraphs (1) and (2) of § 942.10(a) and substitute therefor the following:

(1) Disposition in the marketing area of fluid milk products on routes is 20 percent or more of receipts from dairy farmers, cooperatives in their capacities as handlers pursuant to § 942.12(d) and supply plants; and

(2) Total disposition of fluid milk products on routes is 50 percent or more of receipts from dairy farmers, cooperatives in their capacities as handlers pursuant to § 942.12(d) and supply plants;

§ 942.12 [Amendment]

2. Delete the period at the end of § 942.12(c), substitute a semicolon and the word "or" and add a new paragraph (d) to read as follows:

(d) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm to the pool plant of another handler in a tank truck owned and operated by, under contract to, or under the control of such association, unless the association and the transferee handler both notify the market administrator, in writing, prior to the time of delivery that the transferee handler is to be held the responsible handler for such milk. Such milk shall be deemed to have been received by the association from producers at a pool plant at the location of the pool plant at which such milk is physically received.

3. Delete § 942.16 and substitute therefor the following:

§ 942.16 Other source milk.

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

(a) Receipts of fluid milk products during the month, except:

(1) Fluid milk products received from pool plants;

(2) Milk received from a cooperative association in its capacity as a handler pursuant to § 942.12(d); and

(3) Producer milk.

(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, or for which other utilization or disposition is not established pursuant to § 942.34.

4. Delete § 942.17 and substitute therefor the following:

§ 942.17 Fluid milk product.

Fluid milk product means all skim milk (including reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk, concentrated milk or skim milk, fortified milk or skim milk, flavored milk, flavored milk drinks (including eggnog) yoghurt, cream (other than frozen storage cream), cultured sour cream, sour cream products labeled Grade A and any mixture of cream and milk or skim milk in fluid form (other than ice cream mixes, other frozen dessert mixes and sterilized products contained in hermetically sealed containers).

§ 942.30 [Amendment]

5. In the preamble of § 942.30 insert immediately following the words "a handler pursuant to § 942.12(c)" insert the following: "or (d)"

§ 942.30 [Amendment]

6. In § 942.30(a) renumber subparagraphs (2), (3), and (4) as (3), (4), and (5), respectively, and insert a new subparagraph (2) as follows:

(2) Milk received from a cooperative association in its capacity as a handler pursuant to § 942.12(d);

§ 942.31 [Amendment]

7. Delete that part of paragraph (a) of § 942.31 preceding the colon and substitute therefor the following:

(a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 942.12 (c) or (d) shall report their producer payroll for the preceding month which shall show for each producer:

§ 942.41 [Amendment]

8a. Delete § 942.41(a) and substitute therefor the following:

(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 as Class II milk pursuant to (b) (3), (4), and (5) of this section: *Provided,* That if any fluid milk products is fortified by the addition of nonfat milk solids the extent of classification of such products as Class I milk shall be an equal volume of the unmodified product of the same butterfat test; and (2) Not specifically accounted for as Class II milk.

8b. Delete subparagraph (5) of § 942.41(b) and substitute therefore the following:

(5) That portion of fluid milk products not classified as Class I pursuant to paragraph (a) (1) of this section;

(6) In shrinkage not to exceed an amount calculated as follows:

(i) 0.5 percent of skim milk and butterfat, respectively, received from producers (except diverted milk) and disposed of in bulk lots as whole milk, skim milk or cream;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(ii) 1.5 percent of skim milk and butterfat, respectively, received in bulk (including milk received from a cooperative association in its capacity as a handler pursuant to § 942.12(d)) and disposed of in a form other than bulk lots of milk, skim milk and cream;

(iii) 2.0 percent of skim milk and butterfat, respectively, received directly from producers and disposed of in a form other than bulk lots of whole milk, skim milk or cream.

§ 942.43 [Amendment]

9. Delete the preamble and paragraph (a) of § 942.43 and substitute therefor the following:

§ 942.43 Transfers.

Skim milk and butterfat transferred or diverted during the month as milk, skim milk or cream in bulk from a pool plant (including milk transferred by a cooperative association in its capacity as a handler pursuant to § 942.12(d)) to:

(a) The pool plant of another handler, except as provided in paragraph (f) of this section, shall be classified as Class I unless Class II utilization is indicated by the operators of both plants in their reports submitted pursuant to § 942.30 and:

(1) The receiving plant has utilization in such class of equivalent amounts of skim milk and butterfat, respectively; and

(2) Such skim milk and butterfat shall be classified so as to allocate to producer milk the greatest possible total Class I utilization in the two plants.

9a. Delete the period (.) at the end of paragraph (e) of § 942.43 and add the following: ; and (f) Unless a different utilization is claimed by both handlers pursuant to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as the operator of a pool plant or a handler pursuant to § 942.12(d) shall be classified pro rata to the respective amounts thereof remaining in each class for such months at the pool plant of the receiving handler after the computations pursuant to § 942.46(g) and the corresponding step of § 942.47.

§ 942.45 [Amendment]

10. Delete the period at the end of § 942.45, and add the following: : *Provided*, That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

11. Delete § 942.46 and substitute therefor the following:

§ 942.46 Allocation of skim milk classified.

The pounds of skim milk remaining after making the following computations shall be the pounds of skim milk in each class allocated to producer milk:

(a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk in shrinkage computed pursuant to § 942.41(b)(6);

(b) Subtract from the total pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk except as specified in paragraphs (c) and (d) of this section;

(c) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk received from pool plants regulated pursuant to other orders issued pursuant to the Act;

(d) Subtract from the pounds of skim milk in Class I the pounds of skim milk in other source milk receipts of fluid milk products in consumer packages from a nonpool distributing plant described in § 942.62;

(e) Subtract from the pounds of skim milk remaining in Class II, in excess of the pounds of skim milk contained in inventory of fluid milk products at the end of the month, the pounds of skim milk in inventory of such products at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II the difference shall be subtracted from the remaining pounds of skim milk in Class I;

(f) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk received from other pool plants (including a cooperative association in its capacity as a handler pursuant to § 942.12(d)) in accordance with the classification of such milk pursuant to § 942.43(a);

(g) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to paragraph (a) of this section;

(h) Subtract pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 942.43(f); and

(i) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the remaining pounds of skim milk in each class in series beginning with Class II. Any amount so subtracted shall be known as overage.

§ 942.51 [Amendment]

12. Delete paragraph (a) and substitute therefor the following:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus $2.48 during the months of March through June and $2.68 in all other months, plus or minus a supply-demand adjustment calculated for each month pursuant to subparagraphs (1) through (6) of this paragraph: *Provided*, That the Class I price for any month of September, October, or November shall not be lower, by more than 5 cents, than such price for the immediately preceding month and for any month of April, May or June of each year shall not be higher, by more than 5 cents, than such price for the immediately preceding month:

(1) Divide the total gross volume of Class I milk of all pool handlers (excluding interhandler transfers) by total receipts of producer milk in each of the following periods and round to one-tenth of one percent:

(i) The two-year period ending with the second preceding month;

(ii) The two-month period ending with the second preceding month; and

(iii) The two-month period ending with the second preceding month and the same period of each of the two preceding years.

(2) Divide the utilization percentage for the three two-month periods computed pursuant to subparagraph (1)(iii) by the utilization percentage for the two-year period computed pursuant to subparagraph (1)(i). Adjust the resulting "seasonal ratio" as follows:

(i) Add to the seasonal ratio a similar computation for each of the 11 preceding periods;

(ii) Divide 12 by the sum thus obtained;

(iii) Divide the seasonal ratio by the quotient obtained in subdivision (ii).

(3) Compute the standard utilization percentage by multiplying the adjusted seasonal ratio of (2)(iii) by 74.5.

(4) Subtract from the current utilization percentage computed pursuant to subparagraph (1)(ii) the standard utilization percentage for the month computed pursuant to subparagraph (3) of this paragraph and round to the nearest full percentage point. The result is the deviation percentage.

(5) Compute a sum of the deviation percentages for the current and two preceding months, and after excluding any deviation percentage which is in the opposite direction from the deviation percentage of a more recent month, compute a sum from the remaining deviation percentages which excludes any amount by which, any of such deviation percentages exceeds any of such deviation percentages for a more recent month.

(6) Compute the number of cents which is 1.5 times the sum of the plus or minus deviations, as the case may be, computed pursuant to subparagraph (5) of this paragraph, round to the nearest even full cent, and increase or decrease, respectively, the Class I price by such sum, if it exceeds plus or minus four cents: *Provided*, That the plus or minus adjustment shall not exceed 45 cents.

§ 942.53 [Amendment]

13. In § 942.53(b)(2) change the reference from "§ 942.41(b) (3), (4), and (5)" to "§ 942.41(b) (3), (4), and (6)".

§ 942.70 [Amendment]

14. Delete paragraphs (b), (c), and (d) of § 942.70 and substitute therefor the following:

(b) Add an amount computed by multiplying the skim milk and butterfat substracted from Class I milk pursuant to § 942.46(b) and the corresponding step of § 942.47 by the rate of compensatory payment as determined pursuant to § 942.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products;

(c) Add an amount computed by multiplying the skim milk and butterfat subtracted from Class I milk pursuant to § 942.46(d) and the corresponding step of § 942.47 which is not classified and priced as Class I milk under the provisions of the other Federal order by the rate of compensatory payment as determined pursuant to § 942.54.

(d) Add an amount obtained by multiplying by the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month the lesser of:

(1) The skim milk and butterfat subtracted from Class I pursuant to § 942.46 (e) and the corresponding step of § 942.47; or

(2) The skim milk and butterfat (except shrinkage) in producer milk classified as Class II and in milk allocated to Class II pursuant to paragraph (h) of § 942.46, both for the preceding month;

(e) Add an amount computed by multiplying the rate of compensatory payment as determined pursuant to § 942.54 by the skim milk and butterfat subtracted from Class I pursuant to § 942.46(e) and the corresponding step in § 942.47 which is in excess of the sum of;

(1) The skim milk and butterfat for which an adjustment was made pursuant to paragraph (d); and

(2) The skim milk and butterfat subtracted from Class II pursuant to § 942.46 (c) and the corresponding step in § 942.47 for the previous month and which was classified and priced as Class I under another Federal order; and

(f) Add the amounts computed by multiplying the skim milk and butterfat in overage deducted from each class pursuant to § 942.46(i) and the corresponding step of § 942.47 by the applicable class price.

§ 942.80 [Amendment]

15. Delete paragraph (d) of § 942.80 and substitute therefor the following:

(d) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 942.12(a) and § 942.12(d) as follows:

(1) On or before the 22d day of each month an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from any cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the applicable class prices plus the amount due the market administrator from the cooperative association on such milk pursuant to § 942.86, less amounts paid pursuant to subparagraph (1) of this paragraph.

[F.R. Doc. 61-6824; Filed, July 19, 1961; 8:49 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 511]

HEARINGS OF INDUSTRY COMMITTEES FOR NEWLY COVERED EMPLOYEES IN PUERTO RICO

Notice of Additional Time for Filing Prehearing Statements

Pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and 29 CFR 511.8, as amended by the document amending Part 511 of Title 29 of the Code of Federal Regulations published in the FEDERAL REGISTER on this date, notice is hereby given that prehearing statements for the hearings to be held by Industry Committees NC 1, 2, 3, and 4 noticed in the FEDERAL REGISTER on July 8, 1961 (26 F.R. 6127), may be filed not later than July 25, 1961, in lieu of the date of July 21, 1961, prescribed in the notice of hearings.

Signed at Washington, D.C., this 18th day of July 1961.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 61-6855; Filed, July 18, 1961; 4:53 p.m.]

Notices

DEPARTMENT OF JUSTICE

Office of Alien Property

ELLEN POLL

Notice of Intention to Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property and Location

Ellen Poll, Schwerte (Ruhr), Land North-Rhine/Westfalia, Germany. Claim Nos. 40786, 40787, and 40788. $470.64 in the Treasury of the United States. An undivided 1/12ths interest in the following securities located in the Office of Alien Property, Department of Justice, 101 Indiana Avenue NW., Washington 25, D.C.: Fifty (50) shares of Aztec Silver-Gold Mining Company, $1.00 par value capital stock, evidenced by Certificate No. 141 for 50 shares; two hundred and fifty (250) shares of Transvaal Copper Mines Company of Utah, $5.00 par value common stock, evidenced by Certificate No. 637 for 250 shares; two hundred (200) shares of The Arizona Consolidated Mines Company, $10.00 par value capital stock, evidenced by Certificate No. 1102 for 200 shares. Vesting Order No. 1813.

Executed at Washington, D.C., on July 13, 1961.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Acting Director,
Office of Alien Property.

[F.R. Doc. 61-6812; Filed, July 19, 1961; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document No. 251]

ARIZONA

Redelegation of Authority by State Director

Pursuant to the authority contained in section 1(d) of the Bureau of Land Management Order No. 679, dated June 27, 1961, the following classes of employees are authorized to enter into contracts for construction, supplies (including the rental of equipment), or services in amounts not to exceed $2,000 and to make open market purchases up to $2,000:

District Managers, Chief, Division of Administration, Administrative Assistants.

Any field employee when away from headquarters is authorized to make open market purchases not to exceed $100.

Contracts and leases entered into under this authority must conform with applicable regulations and statutory requirements and are subject to the availability of appropriations.

Dated: July 12, 1961.

FRED J. WEILER,
State Director.

[F.R. Doc. 61-6800; Filed, July 19, 1961; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FOSSTON LIVESTOCK SALES, AND CLAYTON LIVESTOCK AUCTION CO.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the stockyards named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said act for the reason that they are no longer being conducted or operated as public markets, and are, therefore, no longer subject to the provisions of the act.

Name and location of stockyard:	*Date of posting*
Fosston Livestock Sales, Fosston, Minn.	Feb. 20, 1961
Clayton Livestock Auction Co., Clayton, N. Mex.	Nov. 6, 1956

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 17th day of July 1961.

H. L. JONES,
Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-6819; Filed, July 19, 1961; 8:49 a.m.]

MASSAC AUCTION, INC.

Posted Stockyard

The stockyard formerly known as the Pullen Auction Company, Metropolis, Illinois, was originally posted on November 27, 1959 (25 F.R. 685), as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). On September 13, 1960, there was published in the FEDERAL REGISTER (25 F.R. 8795) a notice concerning the deposting of such stockyard for the reason that it was no longer being conducted as a public market. Subsequent to the publication of such notice and prior to the taking of the further steps required by section 302(b) of the Act (7 U.S.C. 202(b)) for the deposting of a stockyard, it was ascertained that operation of such livestock market, under the name of Massac Auction, Inc., would be continued as a stockyard within the definition of that term contained in section 302(a) of the Act (7 U.S.C. 202(a)).

Notice is hereby given, therefore, that the livestock market presently known as the Massac Auction, Inc., Metropolis, Illinois, originally posted on November 27, 1959, remains posted as a stockyard within the definition of that term contained in section 302 of the Act and remains subject to the provisions of the Act.

Done at Washington, D.C., this 17th day of July 1961.

H. L. JONES,
Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-6820; Filed, July 19, 1961; 8:49 a.m.]

WINGER SALE BARN ET AL.

Proposed Posting of Stockyards

The Chief of the Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the act.

Winger Sale Barn, Winger, Minn.
Geary Community Sale, Geary, Okla.
Albany Livestock Auction Co., Albany, Oreg.
Dan B. Roth Auction Market, Albany, Oreg.
Valley Auction Market, Eugene, Oreg.
Southern Livestock Auction Co., Columbia, Tenn.
Blanco Livestock Commission Co., Inc., Blanco, Tex.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the pro-