

SECTION I DEFINITIONS

Definitions as used herein have the following meanings:

1. "COMMISSIONER" means the Commissioner of Agriculture for the State of Colorado.
2. "ACT" means Title 35, Article 28, Colorado Revised Statutes 1973.
3. "PERSON" means an individual, partnership, corporation, association, or any other business unit.
4. "MILK" is hereby defined to be the lacteal secretion, practically free from colostrum, obtained by the milking of one or more healthy cows, which contains not less than 8.25 per cent milk solids—non-fat—and not less than 3.2 per cent milk fat. The word "Milk" shall be interpreted to include homogenized milk.
5. "MILK PRODUCT" means any product manufactured from milk or any derivative or product of milk, including ice cream (as defined herein); but shall not be interpreted to include such manufactured items as hard or processed cheese (other than cottage cheese), dried skim or dried whole milk, butter, and evaporated milk.
6. "MILK MARKETING BOARD" means the Board of Control established pursuant to Section II herein.
7. "MARKETING AREA" means any geographical area in the state, established as such by the Commissioner of Agriculture under the provisions of this Order.
8. "PRODUCER" means any person engaged in the business of producing raw milk for market or causing such raw milk to be produced for market.
9. "HANDLER" means any person engaged in the operation of a licensed dairy plant and responsible to state and federal authorities for the operation thereof and the employees therein, processing milk or milk products, within or without the state of Colorado, any of which milk or milk products are sold, offered for sale, or marketed within the state of Colorado by any person.
10. "PRODUCER-HANDLER" means any handler principally engaged in processing milk which he has produced, and such person shall generally be included within the term "handler" unless otherwise specified.
11. "HANDLER-DISTRIBUTOR" means a person whose services are arranged for by a handler to deliver or market that handler's milk and milk products, under contract, for geographical or other practical reasons, and whose activities and prices are controlled by the handler, and shall specifically not include any retailer or group of retailers, or any corporation in which a retailer has an ownership interest, or any partnership, association, or cooperative organization of which any retailer is a member.
12. "DISTRIBUTOR" means any person, other than a handler or handler-distributor, engaged in the operation of selling, marketing, or distributing in this state milk or milk products which he has purchased or acquired from a handler, producer-handler, or a handler-distributor, or any other source, whether as owner, agent, broker, or otherwise, and shall include a person who has milk processed for him by a handler, but shall not include a retailer who purchases or acquires milk or milk products for resale to the general public on his premises.
13. "RETAILER" means any person who purchases or acquires milk or milk products for resale at retail to the general public at a fixed business location in the state of Colorado for consumption off such premises; and such term shall specifically not include a handler, handler-distributor, or distributor

who sells milk and milk products, at retail, to individual customers at their homes.

14. "TO HANDLE" means to engage in the business of a handler as herein defined.
15. "TO DISTRIBUTE" means to engage in the business of a handler-distributor or distributor as herein defined.
16. "SHIP" means to transport, offer for transportation, or ship milk or milk products by rail, truck, or any other means whatsoever.
17. "FISCAL YEAR" means the twelve-month period beginning January 1 of any year and ending upon December 31 of the same year, both dates inclusive.
18. "SELL" means a transaction wherein the ownership in milk or milk products is transferred from one person to another person for a consideration.
19. "WHOLESALE PRICE" means the price charged by a handler, handler-distributor, or distributor to a customer who resells the product.
20. "RETAIL PRICE" means the price charged to a person who does not resell the product.
21. "EQUIPMENT" includes all things having value and a functional purpose connected with the obtaining, storing, transporting, handling, selling, and delivering of milk and milk products.
22. "CUSTOMER" means any person other than a handler, handler-distributor, or distributor, who purchases milk or milk products, or any such person who receives delivery of milk or milk products for any purpose whatsoever.
23. "SIGN" means any article, board or device containing advertising or information, whether stationary or movable, lighted or unlighted, mechanized or unmechanized, and of any size, shape, form or composition whatsoever.
24. "POINT-OF-SALE" means the individual premises on which the delivery of milk or milk products to the buyer thereof occurs.
25. "DISCOUNT" means an allowance or deduction from either the wholesale or retail price of milk or a milk product which results in the actual net price which the customer is required to pay.
26. "REBATE" means any reduction in the wholesale or retail price of milk or milk products accomplished by the return to the customer of a part of the price paid or by delivery to the customer of money or other thing of value, after payment of the full wholesale or retail price.
27. "ICE CREAM" means a food prepared by freezing pasteurized mix which contains not less than 10 percent milk fat and 20 per cent total milk solids and a maximum of 0.5 per cent stabilizer, but shall not include that made from mix and which is manufactured on store premises for sale on those premises or at other locations under the same ownership.
28. "WHOLESALE DELIVERY" means the delivery of milk and milk products to a customer at the place of business of the customer, including placing and arranging products in the customer's display cases and crediting the customer for return of out-of-date or defective products.
29. "DOCK DELIVERY" means the transfer of milk or milk products to a customer at the door or loading platform of the place of business of a handler or handler-distributor, with the customer assuming full responsibility for such milk or milk products at the time of delivery (except for products determined to be defective at the time of delivery and returned by the customer not later than the

fifth day following the date of delivery); and without the furnishing of any services, assistance or considerations of any kind to the customer by the handler or handler-distributor, either at the point of delivery or any other place except such services both as to type and frequency as are offered to and made available to all customers of that handler or handler-distributor utilizing such type of delivery, and where the actual cost of such services is directly allocated to cost of "Dock Delivery."

30. "DROP SHIPMENT" means the transfer of milk or milk products to a customer at the door or loading platform of the place of business of such customer, with the customer assuming full responsibility for such milk or milk products at the time of delivery (except for products determined to be defective at the time of delivery and returned by the customer not later than the fifth day following the date of delivery); and without the furnishing of any services, assistance, or consideration of any kind to the customer by the handler, handler-distributor, or distributor, either at the point of delivery or any other place except such services both as to type and frequency as are offered to and made available to all customers of that handler, handler-distributor, or distributor utilizing such type of delivery, and where the actual cost of such services is directly allocated to cost of "Drop Shipment."

SECTION II MILK MARKETING BOARD

The membership of the Board and selection of members and alternates shall be as provided below.

1. ESTABLISHMENT AND MEMBERSHIP.

A Milk Marketing Board consisting of five (5) members, all of whom shall be handlers, is hereby established. There shall be an alternate for each member.

2. REPRESENTATION FOR BOARD MEMBERS.

Representation on the Milk Marketing Board shall be as follows:

All five (5) members shall be handlers in the state of Colorado, selected at large, one of whom shall be a handler who produces at least fifty-one per cent (51%) of the raw milk processed and distributed by him. There shall be only one member selected to represent a single business entity and its subsidiaries or affiliates.

3. NOMINATION AND SELECTION OF MEMBERS.

- A. At least thirty (30) days prior to the end of the fiscal year, meetings of handlers shall be held for the purpose of selecting nominees for members and their alternates on the Milk Marketing Board.
- B. At each such meeting, one or more nominees shall be designated for each impending vacancy as member or alternate. Such designation may be by ballot or by motion, at the option of those present in voting capacity.
- C. Only handlers may participate in designating nominees.
- D. Each handler shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives.

Members of the same household producing and marketing milk jointly in any combination shall be considered one person and shall have but one vote. Proxy voting shall be prohibited.

4. FAILURE TO NOMINATE.

If nominations are not made pursuant to the provisions of Section II-3 by the date provided therein, the Commissioner may, without regard to nominations, select members and alternates on the basis of the representation provided for in this subsection.

5. QUALIFICATION BY MEMBERS AND ALTERNATES.

Any person selected by the Commissioner as a member or as an alternate for a member of the Milk Marketing Board shall qualify therefor by filing a written acceptance with the Commissioner within fifteen (15) days after being notified of such selection.

6. TERM OF OFFICE.

The term of office of each Milk Marketing Board member and alternate shall be for two years, with the terms of two members and their alternates expiring on alternate years from the terms of the other three members and their alternates. Each member of the Board shall serve until his successor is selected and qualified.

7. ALTERNATE MEMBERS OF THE MILK MARKETING BOARD.

An alternate for a member shall act in the place and stead of such member during such member's absence or in the event of death, removal, resignation, or disqualification of such member, and until a successor for such member is selected and has qualified.

8. VACANCIES.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate to qualify, or in the event of the death, removal, resignation, or disqualification of a member or alternate, a successor for his unexpired term may be selected by the Commissioner from nominations made pursuant to Section II-3 from previously unselected nominees on the current nominee list, or from other eligible persons.

9. POWERS AND DUTIES.

By virtue of the authority delegated to the Milk Marketing Board by the Commissioner, and acting in his behalf, the said Milk Marketing Board shall have the following powers and duties, subject to the approval of the Commissioner:

- A. To administer this marketing order;
- B. To employ necessary personnel, including an attorney approved by the Attorney General of the State of Colorado, to fix their compensation and terms of employment, and to incur and pay such expenses from monies collected as herein provided, as it may deem necessary and proper to enable the Milk Marketing Board to properly perform all of its duties as authorized herein;
- C. To recommend administrative rules and regulations relating to the administration of this Order;
- D. To receive, investigate, and report to the Commissioner complaints of violation of this Order;
- E. To submit to the Commissioner for his approval an estimated budget of expenses necessary for the operation hereof; and also to submit for approval a method of assessing and collecting such funds as the Board may find necessary for administration of this Order, subject to the limitations herein contained;
- F. To collect and disburse fees assessed for administration of this Order, according to the terms

and conditions specified herein;

- G. To keep minutes, books, and records which will clearly reflect all of the acts and transactions of the Milk Marketing Board, which minutes, books, and records shall be subject at any time to examination by the Commissioner;
- H. To cause the books of the Milk Marketing Board to be audited by a competent accountant at least once each fiscal year and at such times as the Board may deem necessary, or as the Commissioner may request, and to file with the Commissioner and the Governor copies of any and all audit reports;
- I. To give the Commissioner the same notice of all meetings of the Milk Marketing Board as given to the members;
- J. To select a chairman and such other officers of the Milk Marketing Board as may be deemed advisable;
- K. to perform such duties as may be assigned to it by the Commissioner in connection with the administration hereof; and
- L. To cooperate, consult and confer with committees and/or boards administering other marketing agreements and orders and with other governmental agencies and industry groups engaged in marketing research and development activities deemed beneficial to the marketing of milk and milk products.

10. PROCEDURE.

- A. A majority of all members of the Milk Marketing Board shall be necessary to constitute a quorum or to pass any motion or approve any Board action.
- B. The members of the Milk Marketing Board, including successors, alternates and any agent or employee appointed or employed by the Board, shall be subject to removal or suspension by the Commissioner for cause at any time. Each and every regulation, decision, determination, or other act of the Board shall be subject to the continuing right of the Commissioner to disapprove of the same at any time, and upon such disapproval shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Commissioner.
- C. Upon the death, removal, resignation, or expiration of term of office of any member of the Board, all books, records, and other property in his possession shall be delivered to his successor in office or to the Board, and such assignments and other instruments shall be executed as may be necessary to vest in his successor or the Board full title to all books, records, and other proper possessions under the control of such members pursuant hereto.

SECTION III QUANTITY REGULATION

Whenever the Milk Marketing Board deems it advisable to regulate, during any period or periods, and in any marketing area or areas, the total quantity of any milk or milk products or of any grade, quality or package size, or portions or combinations thereof, which may be processed, distributed or otherwise handled in this state, it may so recommend to the Commissioner. Whenever the Commissioner determines that such regulation will tend to effectuate the declared purposes of the Act, he shall issue such regulation.

SECTION IV UNIFORM GRADING

Whenever the Milk Marketing Board deems it advisable to establish uniform grades for milk and milk products, during any period or periods, it may so recommend to the Commissioner. Whenever the Commissioner determines that to establish uniform grades for milk or milk products will tend to effectuate the declared purposes of the Act, he shall issue a regulation to establish such grades.

SECTION V ADVERTISING AND SALES PROMOTION

Whenever the Milk Marketing Board deems it advisable to establish an advertising and sales promotion program, it shall so recommend to the Commissioner. Whenever the Commissioner determines that to establish such a program will tend to effectuate the declared purposes of the Act, he shall approve such program, which may include establishment of temporary sales, prices, discounts, and rebates different from those posted pursuant to Section VI of this Order.

The Milk Marketing Board shall administer any such program issued pursuant to this Section.

SECTION VI FILING AND USE OF PRICE, DISCOUNTS, AND REBATES

1. FILING OF PRICES.

At least 20 days before selling or offering for sale any milk or milk products in the state of Colorado, each handler, handler-distributor, or distributor shall have on file with the Commissioner of Agriculture a complete schedule of wholesale and/or retail prices for the sale of milk or milk products in the marketing area in which such sale or offer to sell is made, subject only to the specific exceptions hereinafter set forth. All schedules of prices shall include each item of fluid milk and milk products which is offered for sale, and shall specify the size and type of container.

Prices shall be filed for only the following types of service to customers, which are used or intended for use by the handler, handler-distributor, or distributor: Retail Home Delivery; Wholesale Delivery; Dock Delivery; and Drop Shipment.

Before selling or offering for sale any item of milk or milk products for which a price has not previously been filed, a complete new schedule of prices including such item shall have been filed with the Commissioner for a period of 20 days.

2. FILING OF DISCOUNTS AND REBATES.

At least 20 days before using or offering any discount or rebate which is to be applicable to prices charged for milk or milk products in the state of Colorado, each handler, handler-distributor or distributor shall file with the Commissioner of Agriculture a complete schedule of such discounts or rebates to be utilized in a designated marketing area. The only discounts or rebates which may be filed shall be based upon the volume of sales of milk and milk products made at a point of sale by the handler, handler-distributor, or distributor utilizing the discounts or rebates and shall be calculated and paid on a monetary basis.

Discounts and rebates shall be filed for only the following types of service to customers which are used or intended for use by the handler, handler-distributor, or distributor: Retail Home Delivery; Wholesale Delivery; Dock Delivery; and Drop Shipment.

Where necessary to meet competition, a handler, handler-distributor, or distributor may be permitted to provide to a customer at a point of sale an amount of discount or rebate equal to the discount or rebate which would be available to that customer from any competitive handler, handler-distributor, or distributor if the total purchases of the customer at that point of sale were all made from that competitor, provided that permission for the use of such competitive discount is first obtained from the Commissioner, in accordance with such procedure as is designated by the Commissioner. In situations where separate schedules of discounts or rebates are in effect and

different discounts or rebates are applied to ice cream as distinguished from milk or other milk products, or where a handler, handler-distributor, or distributor distributes only ice cream or only milk and other milk products, then the discount which may be permitted will be determined by the total volume of purchases by the customer at the point of sale of the product to which the discount or rebate is to be applied.

Any discount or rebate, predicated on any other basis than volume of sales or in any other form must first be submitted to the Commissioner for approval and, unless approved by the Commissioner, may not be utilized.

3. FILING OF SCHEDULES BY HANDLERS.

Each handler selling or offering for sale any milk or milk products in the state of Colorado, either directly or through the use of a handler-distributor, or distributor, shall file a schedule of prices, discounts and rebates with the Commissioner of Agriculture, as provided above. Such schedules shall be subject to review and approval by the Commissioner of Agriculture.

4. FILING OF SCHEDULES BY HANDLER-DISTRIBUTORS.

Each handler-distributor selling or offering for sale any milk or milk products in the state of Colorado shall have on file with the Commissioner of Agriculture a complete schedule of prices, discounts, and rebates, as provided above. Such schedule may be filed either by the handler-distributor or by the handler whose products the handler-distributor distributes. In all cases, the handler concerned shall be responsible for the filing of schedules by each and all of the handler-distributors distributing his products.

Schedules of prices, discounts and rebates filed by a handler-distributor for use in any marketing area shall not reflect net prices lower than the net prices filed for use in that marketing area, for the same type of delivery, by the handler for which he distributes milk or milk products.

5. FILING OF SCHEDULES BY DISTRIBUTORS.

Each distributor selling or offering for sale any milk or milk products in the state of Colorado shall have on file with the Commissioner of Agriculture a complete schedule of prices, discounts, and rebates, as provided above. Such schedule may be filed either by the distributor or by the handler whose products the distributor distributes. In all cases, the handler concerned shall be responsible for the filing of schedules by each and all of the distributors distributing his products.

Schedules of prices, discounts, and rebates filed by a distributor for use in any marketing area shall not reflect net prices lower than the net prices filed for use in that marketing area, for the same type of delivery, by the handler for which he distributes milk or milk products.

6. CHANGING PRICES, DISCOUNTS, AND REBATES.

Each handler, handler-distributor, or distributor desiring to utilize different prices, discounts, and rebates from those on file with the Commissioner shall forward to the Commissioner, or his designated representative, a complete new schedule of prices, discounts and rebates 20 days prior to utilizing the changed or different prices, discounts, and rebates.

7. CANCELLATION OR WITHDRAWAL OF SCHEDULES FILED.

Any handler, handler-distributor, or distributor having filed a schedule of prices, discounts, and rebates may elect to cancel such filing, provided he does so not less than 7 days before such schedule is to become effective. In the event of such cancellation or withdrawal, the schedule of prices, discounts, and rebates which that handler, handler-distributor, or distributor previously had

on file immediately prior to the cancellation or withdrawal shall remain in effect.

Separate action to cancel or withdraw a schedule filed by a handler, handler-distributor, or distributor shall not be required in those instances where the schedule was originally filed to meet the competitive effect of a schedule of prices, discounts, and rebates filed by a competitor, as provided in subsection 8.

8. MEETING COMPETITIVE FILINGS.

When a handler, handler-distributor, or distributor files a new schedule of prices, discounts, and rebates for use in a marketing area, any other handler, handler-distributor, or distributor desiring to file new or changed prices, discounts, and rebates for use in that marketing area to meet the competitive effect of the schedule first referred to, may do so, with the same effective date; provided, that the schedule of prices, discounts, and rebates is filed on or before the 12th day preceding the effective date of the schedule being met, and provided that the schedule filed for the purpose of meeting a competitive effect changes prices, discounts, and rebates only on items changed on or added to the schedule being met and does not result in a lower net price for an item than the price developed by the schedule being met.

In the event the schedule first filed is cancelled pursuant to the provisions of subsection 7, all other schedules filed to meet such cancelled schedule shall be automatically cancelled.

Nothing in this subsection shall be interpreted to permit a handler-distributor or distributor to file prices lower than those filed in a marketing area by the handler from which that handler-distributor or distributor obtains milk or milk products.

9. PROCEDURE FOR FILING SCHEDULES.

To comply with the requirements for the filing of schedules of prices, discounts, and rebates, a handler, handler-distributor, or distributor shall forward to the Commissioner, or his duly designated representative, by first-class mail, a schedule of prices, discounts, and rebates, together with a sufficient number of copies of such schedule so that one may be furnished to all other handlers who have filed schedules in the marketing area or areas affected. If the schedule is proper and accepted, one (1) copy will be appropriately marked and returned to the person submitting it. If the schedule so filed is not accepted and approved by the Commissioner, the person filing it will be advised and procedures for review, as hereinafter provided, shall be utilized.

In the event a schedule is accepted, the handler filing the schedule shall be telephonically advised by the Board office of such acceptance and copies of the schedule, marked to show approval, shall be promptly mailed from the Board office to all handlers in the marketing area or areas for which the schedule is filed. If the schedule is not accepted, the Board office shall advise the handler filing it, by telephone, to that effect.

When the schedule being filed is for the purpose of meeting the competitive effect of a schedule filed by another handler, a copy shall be sent by first-class mail to the Board office and to each other handler having a schedule of prices filed for use in the marketing area or areas affected. If such schedule is not accepted, the filing handler and all other handlers to whom it was mailed shall be promptly advised by the Board office.

10. REVIEW OF SCHEDULES FILED.

Schedules of prices, discounts and rebates filed by handlers, handler-distributors, and distributors shall be subject to review by the Commissioner, and the Commissioner may extend for a designated period of time, but in no event more than sixty (60) days, the effective date for use of such schedule or part thereof, beyond the twenty (20) day period otherwise provided. Such

extension of the effective date of a schedule or part thereof may be made by the Commissioner when, in his judgment, reasonable grounds exist for a belief that the schedule results in prices which are below cost or so unreasonably low that the use of such prices would constitute unfair methods of competition or would tend to contravene the declared purposes of this Order.

In the event such action to extend the effective date is taken, a hearing shall be promptly held at which testimony and evidence shall be taken by the Commissioner, or his duly designated representative, and the Commissioner may permanently refuse to permit the use of the schedule or part thereof if he finds, as a result of such hearing and other information available to him, that such action is necessary and proper in the limitation and prevention of unfair methods of competition.

11. SUSPENSION OF SCHEDULES.

If the Commissioner has reasonable grounds to believe that a schedule or schedules of prices, discounts, and rebates then in effect are resulting in prices that are below cost or so unreasonably low that the use of such schedule or schedules would constitute unfair methods of competition or would tend to contravene the declared purposes of this Order, the Commissioner may suspend the use of such schedule or schedules for a designated period of time, but in no event more than sixty (60) days.

In the event such action is taken, the handler, handler-distributor, or distributor whose schedule is suspended shall utilize the prices, discounts, and rebates contained on the last schedule previously filed by him; and a hearing shall be promptly held at which testimony and evidence shall be taken by the Commissioner, or his duly designated representative, and the Commissioner may permanently refuse to permit the use of the suspended schedule or schedules if he finds, as a result of such hearing and other information available to him, that such action is necessary and proper in the limitation and prevention of unfair methods of competition.

12. ADJUSTMENT OF TIMES FOR FILING SCHEDULES.

The provisions above with respect to times for filing schedules of prices, discounts, and rebates and for cancellation of schedules filed may be adjusted by the Commissioner, in special circumstances, where such action is necessary to accomplish the purposes of this Order. A handler desiring such adjustment shall submit a request in writing, to the Commissioner, fully stating the reasons for such request.

13. UNIFORM PRICING.

The retail prices, discounts, and rebates on file with the Commissioner of Agriculture shall be charged by the handler, handler-distributor, or distributor filing such prices for all sales to consumers by delivery to such consumer's home.

The wholesale prices, discounts, and rebates on file with the Commissioner shall be charged by the handler, handler-distributor, or distributor filing such prices for all sales to stores, restaurants, hotels, boarding houses, nursing homes, hospitals, and all retailers entitled to wholesale prices.

No handler, handler-distributor, or distributor shall sell or offer for sale, directly or indirectly, any milk or milk products in any established marketing area at prices less than the prices filed by that handler, handler-distributor, or distributor for the marketing area in which the processing or bottling plant processing the products sold is located, except when such sales may be made in good faith to meet prices filed by competitors; and when the handler, handler-distributor, or distributor has filed a proper schedule of prices, discounts, and rebates for use in that marketing area, as provided for herein.

The only exceptions to this requirement for uniform sales at filed prices shall be those provided for in subsections 14, 16, 17, and 18 of this section.

14. MEETING UNREGULATED COMPETITION.

In the event that a handler, handler-distributor, or distributor who has filed a schedule of retail prices, discounts, and rebates under the provisions of this Order, believes it necessary to deviate from such schedule because of competitive prices of an unregulated retailer in a particular locality, he shall submit to the Commissioner a formal request, in writing, and secure a receipt for the same, for such deviation, specifying the locality involved, the name of the unregulated retailer whose prices he desires to meet, and the prices he desires to use.

In the event a handler, handler-distributor, or distributor, who has filed a schedule of prices, discounts, and rebates for use in sales to wholesale customers, believes it necessary to deviate from such schedule in a particular locality because of the competitive effect of purchases of products outside the state of Colorado, at unregulated prices, by wholesale customers, he shall submit to the Commissioner a formal request, in writing, for such deviation, specifying the locality involved, the source from which out-of-state purchases are being made or proposed, and the prices he desires to use.

The Commissioner shall promptly consult with the Milk Marketing Board and advise the handler, handler-distributor, or distributor, within thirty-six (36) hours following receipt of the request, of the action which he is given permission to take. Should the Commissioner fail to notify the handler, handler-distributor, or distributor of the approved action within the specified time, the handler, handler-distributor, or distributor may meet the competitive price without being in violation of this Order, until notified to the contrary by the Commissioner.

15. TRANSFER PRICES.

A handler, handler-distributor, or distributor owning, operating, or controlling a retail store outlet which sells milk or milk products obtained from that handler, handler-distributor, or distributor, shall be required to file with the Commissioner a schedule showing the net prices at which such milk and milk products are delivered into such retail store, and the provisions of subsections 1 through 12 shall be applicable in all respects to the filing of such net prices or changes therein.

16. SALES TO SCHOOLS AND GOVERNMENT AGENCIES.

The sale of milk and milk products to the following institutions and agencies shall be exempt from the requirement for uniform sales at filed prices, discounts, and rebates:

- A. Elementary schools, limited to all grade schools through high school grades, public, private, parochial, or otherwise that are operated for the same basic educational purposes as public schools and which provide similar nonprofit lunchroom facilities for the benefit of students;
- B. Agencies entirely supported by the Federal, State, County, or Municipal governments.

This exception, however, shall specifically not apply to independently operated dairy bars, soda shops, student centers, or other facilities operated by catering firms, which are located on the premises of such institutions or agencies; nor shall the exception apply to any milk or milk products purchased by such an institution or agency for a catering firm.

Sales of milk and milk products to such excepted schools and agencies shall not be made at prices below cost for the purpose of injuring competitors or destroying competition, or when such sales have the natural and probable effect of injuring competitors or destroying competition.

Any handler, handler-distributor, or distributor who enters into a contract for the sale of milk or milk products to such an excepted school or agency, based on the accepting of a bid price, shall file with the Commissioner, or his designated representative, at least one (1) day prior to the first date of delivery, a separate schedule showing the price or prices at which milk or milk products will be sold under the provisions of the contract.

17. TRANSACTIONS BETWEEN HANDLERS.

Sales or transfers of milk or milk products may be made by one handler to another handler at such prices as may be negotiated between such handlers, without restrictions as to prices scheduled, provided that such milk and milk products are transferred by one handler to the plant, warehouse, or truck of the other handler. Such inter-handler transactions shall specifically not include delivery of milk and milk products by one handler to customers of another handler or to stores operated by another handler.

18. TRANSACTIONS BETWEEN HANDLERS AND HANDLER-DISTRIBUTORS.

Sales or transfers of milk and milk products by a handler to a handler-distributor shall not be subject to the requirement that sales only be made at filed prices. Such transactions may be on a negotiated basis between the handler and handler-distributor.

The Commissioner of Agriculture may issue regulations governing transactions between handler and handler-distributors for the purpose of obtaining, on a confidential basis, information with respect to such transactions. Such information, including the pricing arrangement between the parties, shall be confidential and shall be available only to the Commissioner, full-time employees of the Department of Agriculture designated by the Commissioner, the Manager of the Colorado Milk Marketing Board, the attorney representing the Commissioner and the attorney representing the Board, except in the event that the Commissioner determines that administrative or court action is necessary for proper enforcement of this Milk Marketing Order, and, in such event, the information may be used in connection with an administrative hearing or court proceeding.

19. TRANSACTIONS BETWEEN HANDLERS OR HANDLER-DISTRIBUTORS AND DISTRIBUTORS

Sales of milk and milk products by a handler or handler-distributor to a distributor shall only be made at the prices on file by that handler or handler-distributor for such products, and the only discounts or rebates which may be afforded to the distributor shall be those filed by the handler or handler-distributor making the sale.

20. USE OF DOCK DELIVERY AND DROP SHIPMENT SERVICE PRICES.

"Dock Delivery" prices in any marketing area may only be established and utilized in a city or town in that marketing area where a processing plant is operating or was operating on January 1, 1967, or where a dock service price was in use on January 1, 1967, and such price shall only be applicable to products transferred at the processing plant dock or at other places of business located in the same city or town.

"Drop Shipment Service" shall only be made to customers who obtain products for resale to the public for consumption off the premises of the customer.

SECTION VII UNFAIR PRACTICES AND UNFAIR COMPETITION

For the purpose of eliminating unfair competition in the marketing of milk and milk products and to prevent the destruction of competition and injury to competitors, the following requirements and restrictions shall apply to all handlers, handler-distributors, and distributors:

1. INDIRECT DISCOUNTING AND REBATING.

The offering, granting, giving, leasing, or furnishing, directly or indirectly, of anything of value (other than milk, milk products, or merchandise offered for sale for which the regular established price is charged) to a purchaser or a prospective customer by any handler, handler-distributor, or distributor, or by an officer, agent, employee, any branch sales station, or subsidiary thereof, is hereby prohibited.

The above prohibition includes, but is not restricted to, the following practices: Discounts or rebates (if not included in the handler's, handler-distributor's, or distributor's posted prices as a volume discount or rebate or otherwise approved by the Commissioner), free services, free milk and/or milk products, or any other product or merchandise handled by the handler, handler-distributor, or distributor, free supplies, free equipment or services to equipment, leasing of equipment, cooperative advertising, advertising allowances, seasonal holiday or other gifts to customers, or employees of customers, the granting of exceptional credit or the advancement of money or product, loans or endorsements, or guarantees of any nature, except as provided below.

2. LOANS TO CUSTOMERS.

From and after the effective date hereof, no handler, handler-distributor or distributor, either directly or indirectly through any branch sales station, subsidiary, officer, agent, or employee, shall make or endorse or guarantee in any way any loan or obligation to any customer or any prospective customer.

All handlers, handler-distributors, and distributors not previously regulated prior to the effective date of this amended Order, shall file with the Commissioner within twenty (20) days from the effective date of this amended Order a schedule of all existing loans and endorsements, giving date of note, name and address of payor, amount, terms of payment, and the present status in regard to delinquency; and all existing loans and endorsements made prior to the effective date of this amended Order by previously unregulated persons, so filed with the Commissioner, shall be presumed valid.

All information filed under this paragraph or under previous requirements for the submission of similar information shall be maintained in a confidential file by the Commissioner and shall be available only to the Commissioner, his chief deputy and chief administrative officer employed by the Milk Marketing Board. These designated individuals shall only release or disclose such information upon service of a subpoena issuing from a court of competent jurisdiction.

Hereafter, each handler, handler-distributor, or distributor shall file quarterly reports with the Commissioner on or before the first day of January, April, July, and October of each year, setting forth the required information as to each existing loan or endorsement.

3. PORCH BOXES.

The Commissioner will consider approving the use of retail customer porch boxes on a local area basis upon recommendation of the Milk Marketing Board.

4. DISCOUNTS TO EMPLOYEES.

Discounts to employees who purchase milk or milk products from a handler, handler-distributor, or distributor may be utilized in sales to regular employees for their own use and not for resale, if approved by the Commissioner after request is made by a handler for their use; provided, that the term "regular employee" shall be understood to mean only a person in direct employment of the handler, handler-distributor, or distributor who receives compensation of at least \$50.00 a month

for his services.

5. COMBINATION SALES.

No handler, handler-distributor, or distributor shall combine the price of ice cream or any other product, equipment or service with the price of milk or milk products, or otherwise engage in any practice for the purpose of, or with the effect of, reducing the prices on file with the Commissioner.

6. SALE OF EQUIPMENT.

The sale of equipment by a handler, handler-distributor, or distributor to a customer or prospective customer is prohibited except that refrigerated equipment for the purpose of storage or display of milk and milk products may be sold when all the following conditions are complied with:

- A. When the purchase price of such equipment plus freight, labor, current rate of interest and installation costs are included in the sale price. The sale price for used equipment shall be depreciated value or the fair market value.
- B. When the terms of payment for equipment sales require a minimum of 20 percent down payment and substantially equal monthly payments on the balance for a period of not more than thirty (30) months, with the first monthly payment to be made within sixty (60) days from the date of installation; and when the transaction is documented by a written conditional sales agreement or secured by a chattel mortgage on the equipment. No "Balloon Payment" shall be permitted.
- C. When payments are maintained on a current basis, and when equipment is removed from the customer's premises when any payment is delinquent in excess of ninety (90) days.
- D. When complete records are maintained which reflect all items in (A), (B), and (C) above, including the complete sales price, down payment, and schedule of payments for the balance due, and such records are made available to representatives of the Commissioner.

7. DISPOSAL OF EQUIPMENT ON LEASE OR LOAN.

Any loan or lease to a customer of equipment owned or leased by a handler, handler-distributor, or distributor not previously regulated prior to the effective date of this amended Order shall be terminated, either

- A. By sale of equipment to the customer within six (6) months after the effective date of this amended Order, provided that such sale is in compliance with the provisions of subsection 6 above, entitled "Sale of Equipment," with the exception that the down payment required by paragraph (B) may not be less than 10 percent and the term of payments may not be more than thirty-six (36) months, or
- B. By removal of all such equipment from the customer's business premises within six (6) months following the effective date of this amended Order.

No handler, handler-distributor, or distributor may loan or lease equipment to a customer or prospective customer. Sales of equipment to customers may be made pursuant to provisions of subsection 6 hereof.

8. SERVICES TO CUSTOMERS.

The rendering of any service or repairs to facilities or property of a customer or prospective

customer (whether leased or owned by the customer), including any assistance in carrying out the remodeling or renovation of a customer's or prospective customer's business premises by a handler, handler-distributor, or distributor, is prohibited.

9. FURNISHING OF SIGNS AND POINT OF SALES ADVERTISING.

The cost of any sign placed by a handler, handler-distributor, or distributor on a customer's premises within 100 yards thereof is not to exceed \$150.00 for one sign or combination of signs for any customer's location and three-fourths of the space on the sign shall be utilized for advertising of milk and milk products without reference to the customer.

- A. Signs now in place shall be considered to be in compliance with these rules and may be maintained and repaired, except that a sign costing more than One Hundred Fifty Dollars (\$150.00) may not be removed from its present location and installed in a new location.
- B. No handler, handler-distributor, or distributor shall change the customer privilege section or the location of a sign costing more than One Hundred Fifty Dollars (\$150.00) on the customer's premises or elsewhere.
- C. If a sign is sold to another handler, handler-distributor, or distributor by the handler, handler-distributor, or distributor now owning such sign, the purchasing party may change only the handler's, handler-distributor's, or distributor's advertising or trademark on the sign, in which event, the purchasing party shall forward, within five (5) days to the Commissioner a copy of the sales agreement.
- D. Signs which are 100 percent advertisement of the handler's handler-distributor's, or distributor's name or trademark or so-called "window units" which are in place as of the effective date of this amended Order, shall be considered to be in compliance with the regulations.
- E. A sign placed by a handler, handler-distributor, or distributor and located at a distance greater than 100 yards from any customer's premises shall be exempt from the regulations and restrictions set forth above, provided that such sign contains no reference to a customer.

10. INDOOR SIGNS, BACKBARS, AND DISPLAY MATERIAL.

No handler, handler-distributor, or distributor shall furnish, give or install any indoor sign, backbar, or display sign, menu, or menu boards or other display material or display equipment for a customer except as follows:

- A. The sign or signs for any one customer shall not exceed a total of forty (40) square feet and may be single or double face.
- B. The display material must show not less than 75 percent of the entire display space of the sign in advertising or displaying the handler's, handler-distributor's, or distributor's milk and/or milk products, brand name, or trade name, and the remaining 25 percent of the sign may be used for the trade name and/or brand name or trademark of the customer. Any sign used in connection with a customer must be on such customer's premises. However, the entire sign may be used to advertise or display the handler's, handler-distributor's, or distributor's milk and/or milk products, brand name, or trade name.
- C. All signs installed as of the effective date of this amended Order that do not agree with (A) and (B) will be considered in compliance; such signs can be repaired or repainted but shall not be removed for installation in a new or different location, and no customer privilege section shall be changed.

11. MILK SAMPLING.

All sampling of milk and milk products to customers or prospective customers is prohibited except that milk or milk products may be used for sampling prospective customers at home or through store or other demonstrations, provided such product samples are removed from the original container and served in a quantity not exceeding three ounces for consumption on the premises, or in individual containers containing not more than three ounces which are plainly marked as samples and not for sale, and provided further that where sampling is accomplished through store or other demonstrations, a record is maintained by the handler reflecting the date, the items sampled, and the name and address of the store cooperating in such demonstration. Samples of products may also be provided to prospective wholesale customers if the total value of such samples does not exceed \$5.00 at current wholesale prices. Further, a handler, handler-distributor, or distributor may sample a prospective home service customer one time only within a period of 90 days. Such sample shall be limited to one item of not more than 90 cents, retail value, or such different amounts as may be later specified by the Commissioner, and shall be limited to one person only in a family or single house-hold. A record must be made of all sampling of actual or prospective home service customers, showing date, name, and address of the customer and the quantity of the product.

12. CONTRIBUTIONS, SAMPLES, AND GIFTS.

No contributions of milk and milk products shall be made to organized charities, churches, clubs, and other nonprofit groups. These products may be sold to such groups at wholesale prices.

No free samples of milk or milk products shall be given to stores for use in "free baskets" or other cooperative promotions. No seasonal or special gifts shall be given customers, purchasing agents, dietitians, or other personnel or customers.

13. EXCEPTIONAL EXTENSIONS OF CREDIT.

The granting of exceptional credit by a handler, handler-distributor, or distributor is prohibited by Section VII-I. "Exceptional credit" shall be such extension of credit as is more favorable to the customer than those credit terms and periods for payments as may be established from time to time by the Commissioner through regulations issued by him under authority of this amended Order.

In the event that a customer fails to pay any billing in full within the period established by the Commissioner, the handler, handler-distributor, or distributor serving such customer shall be in violation of this amended Order, unless he immediately terminates service to that customer or places such customer on a cash on delivery basis until such billing is paid in full.

14. SALES BELOW COST PROHIBITED.

The sale of any milk or milk products by a handler, handler-distributor, or distributor at prices below cost thereof to the seller for the purpose of, or having the natural and probable effect of, eliminating or injuring competition, is specifically prohibited.

Sales below cost may be made, if made in good faith to meet a legal price of a competitor or if made in other circumstances where the seller can establish a reason for such sales to prove that the sales were not made for the purpose of injuring or eliminating competition or that such sales did not have the natural and probable effect of eliminating or injuring competition.

Each handler, handler-distributor, and distributor shall maintain records to show his "cost," including cost of raw materials, labor, and overhead expense or "cost of doing business;" and "cost of doing business" is defined as all costs of doing business incurred in the conduct of such

business and must include without limitation the following items of expense: Labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, cost of selling, maintenance of equipment, delivery costs, credit losses, cost of all licenses, taxes, insurance, and advertising. Such records shall be made available to the Commissioner of Agriculture or his authorized representative, upon request, for the purpose of determining the legality of posted prices.

15. RESPONSIBILITY OF HANDLERS FOR DISTRIBUTORS, BRANCH PLANTS, SALES STATIONS, AND SUBSIDIARIES.

Each handler shall be responsible for seeing that his handler-distributors and distributors, branch plants, sales stations, subsidiaries, and officers, agents, or employees thereof, know and are acquainted with the provisions of this amended Order, and with rules and regulations promulgated by the Commissioner of Agriculture. Violations of this amended Order or the rules and regulations promulgated thereunder by an officer, agent, or employee of a handler-distributor or distributor, branch plant, sales station, or subsidiary may constitute grounds for the handler, handler-distributor, branch plant operator, or sales station operator to be subjected to the enforcement provisions as outlined in Section 35-28-116 of the Marketing Act of 1939 as amended.

16. DECEPTIVE PRACTICES.

Solicitation of sales or customers through false or misleading statements, with respect to either the nature, grade, or quality of the product, the actual effective price for the product, or the service to be provided to the customer, is specifically prohibited.

SECTION VIII LABELING

Whenever the Milk Marketing Board deems it advisable to regulate the labeling of containers in which milk and milk products are sold or offered for sale, it shall so recommend to the Commissioner. Whenever the Commissioner determines that such regulation will tend to effectuate the declared purposes of the Act, he shall issue such regulation.

SECTION IX WEIGHING AND INSPECTION STATIONS

Whenever the Milk Marketing Board deems it advisable that weighing and inspection stations for milk and milk products be established, it shall so recommend to the Commissioner. Whenever the Commissioner determines that to establish such weighing and inspection stations would tend to effectuate the declared purposes of the Act, he shall approve the establishment of such stations.

SECTION X PACKAGING

Whenever the Milk Marketing Board deems it advisable to regulate the size, shape, type, and construction of containers in which milk and milk products are sold or offered for sale, it shall so recommend to the Commissioner. Whenever the Commissioner determines that to establish such regulation would tend to effectuate the declared purposes of the Act, he shall issue such regulation.

SECTION XI RESEARCH

Whenever the Milk Marketing Board deems it advisable that research programs be established in the fields of storing, transporting, marketing, handling, or processing of milk or milk products, it shall so recommend to the Commissioner. Whenever the Commissioner determines that to establish such research programs would tend to effectuate the declared purposes of the Act, he shall approve such research programs.

The Milk Marketing Board shall administer any research programs established pursuant to this Section.

SECTION XII FINANCING

1. EXPENSES.

The Milk Marketing Board is authorized to incur such expenses as the Commissioner finds are reasonable and likely to be incurred by such Milk Marketing Board for the administration and operation of the provisions of this amended Order. The Milk Marketing Board shall prepare and submit to the Commissioner a proposed budget of expenses and a proposed rate of assessment for the then current fiscal year. The funds to cover such budgeted expenses shall be acquired by the levying of assessments as provided in this Section.

2. ASSESSMENTS.

Each handler's *pro rata* share of such budgeted expenses shall be that proportion of such expenses which the total quantity of milk or milk equivalent utilized by that handler is of the total quantity of milk utilized by all handlers, during said fiscal year. Such *pro rata* share shall be determined by assessment at the rate fixed by the Commissioner upon the quantity of milk and milk equivalent utilized by each handler. In no event shall such assessment rate exceed \$.03 per CWT on the amount of milk or milk equivalent utilized in a handler's plant or plants.

Assessments with respect to utilization in plants located outside the state of Colorado shall be limited to the portion of the total utilization in such plants which is utilized for the production of milk and milk products sold in Colorado, and shall be determined by procedures established by the Commissioner.

3. COLLECTION OF ASSESSMENTS.

- A. All assessments made and levied pursuant to the provisions of this Milk Marketing Order shall be paid by the respective handlers who shall be primarily liable therefor. Such assessments shall be remitted to the Milk Marketing Board each month in an amount determined by application of the rate of assessment to the quantity of milk or milk equivalent utilized by the handler during the preceding month. Any handler who fails or neglects to remit such assessment to the Board upon demand shall be guilty of a violation of this amended Order.
- B. The Commissioner may, at the request of the Milk Marketing Board, require each and every handler directly affected by this amended Order to deposit with the Milk Marketing Board in advance an amount based upon the estimated gross volume of milk handled by such handler during any given fiscal year and based upon the rate of assessment for such fiscal year. At the close of such fiscal year, the sum so deposited shall be adjusted to the amount which is chargeable against such handler, upon the basis of the actual gross volume of milk handled by such handler during such fiscal year.
- C. (1) In addition to the primary responsibility imposed upon handlers for the payment of assessments as provided in subparagraph (A) hereof, each distributor shall be secondarily liable for payment of assessments levied against the handler whose milk and milk products he distributes.
- (2) Thirty days after the mailing of a notice of assessment from the Board to a handler, if the assessment remains unpaid, collection proceedings may be immediately commenced against either the handler or his distributors, or both, but collection proceedings against distributors are not contingent upon concurrent or prior collection attempts through legal proceedings against the respective handlers.

- (3) In addition to any administrative remedy, the Commissioner may seek a temporary restraining order and injunction to enjoin the distribution of any milk and/or milk products of any handler whose assessment is 30 days delinquent. Such a temporary restraining order or injunction shall apply to all milk and/or milk products that are owned, possessed, or under the control of either the handler or the distributor.
- (4) The Milk Marketing Board, with the approval of the Commissioner, shall establish methods and procedures for the collection of assessments.

4. ACCOUNTING.

If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following procedures:

- A. The Milk Marketing Board, with the approval of the Commissioner may carry over such excess into subsequent fiscal periods as a reserve.
- B. If such excess is not retained in a reserve as provided in subparagraph (A) of this subsection, it shall be refunded proportionately to the persons from which it was collected. Upon liquidation, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Commissioner may determine to be appropriate. To the extent practical, such funds shall be returned *pro rata* to the persons from whom such funds were collected.

Any monies collected pursuant to this amended Order shall be deposited in a bank or banks, or other depository, approved by the State Treasurer, allocated to the Milk Marketing Board, and disbursed only for the necessary expenses incurred by the Board and the Commissioner and approved by the Commissioner. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the Commissioner.

SECTION XIII COMPLIANCE

The Commissioner, upon recommendation by the Milk Marketing Board, may establish methods and procedures by which handlers, handler-distributors, and distributors shall transport, sell, ship, or handle milk or milk products to insure compliance with all the provisions of this amended Order.

SECTION XIV REPORTS AND RECORDS

The Commissioner may require any and all handlers, handler-distributors, and distributors to maintain books and records reflecting their operations as such, to furnish to the Commissioner, or his duly authorized or designated representatives, such information as may be from time to time requested by him relating to such operations, and to permit the inspection by said Commissioner, or his duly authorized representatives, of such portions of such books and records as relate to such operations.

Each handler, handler-distributor, and distributor shall maintain the following records:

- A. A sales ticket or invoice shall be made in duplicate, showing the name and address for each wholesale sale (whether cash or charge), including all milk, milk products, and all miscellaneous products or commodities sold in conjunction with milk and milk products, showing in detail each item sold and the price charged. Each handler, handler-distributor, and distributor shall make and keep on file for at least three (3) years one (1) copy of such tickets or invoices, and all other customer records, including home delivery route records, accounts receivable, and customer payment records.

- B. Records reflecting costs as specified in subsection 14, Section VII.
- C. All records normally utilized in the operation of the business of a handler, handler-distributor, or distributor.
- D. Such other specific records as may be required by regulations issued by the Commissioner pursuant to the authority herein provided.

All handlers, handler-distributors, and distributors must maintain the records required by this Section at some point in the state of Colorado, including full records of all transactions with branches, divisions, districts, subsidiaries, or parent organizations which pertain to the sale of milk or milk products in the state, and of transactions with customers which relate to the sale of milk and milk products in this state; or if such records are not available in the state of Colorado, the handler, handler-distributor, or distributor shall be required to make such records available for examination by representatives of the Milk Marketing Board at the point at which they are maintained outside the state of Colorado.

SECTION XV LIABILITY

The members of any such Milk Marketing Board duly appointed by the Commissioner, including employees of such Board, shall not be held responsible individually in any way whatsoever to any producer, handler, handler-distributor or distributor, or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of such Board. The liability of such Board shall be several and not joint, and no member shall be liable for the default of any other member.

SECTION XVI EFFECTIVE TIME AND TERMINATION

1. EFFECTIVE TIME.

The provisions hereof shall become effective at such time as the Commissioner may declare above his signature, attached hereto, and shall continue in force until terminated as specified in this Section.

2. TERMINATION.

- A. The Commissioner may suspend or terminate any separate provision or provisions hereof whenever he finds that such provision or provisions do not tend to effectuate the declared purposes of the Act within standards and subject to the limitations and restrictions therein imposed, provided that such suspension or termination shall not be effective until the expiration of the then current fiscal year.
- B. If the Commissioner finds that the termination hereof is requested in writing not less than 60 days prior to the end of a fiscal year, by more than fifty percent (50%) of the handlers who are handling for market milk within the state, and who handled more than fifty percent (50%) of the volume of milk handled for market within the state, the Commissioner shall terminate the provisions hereof; provided that such termination shall be effective only at the end of the fiscal year in which such announcement of termination is made.
- C. The provisions hereof shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

3. PROCEEDINGS AFTER TERMINATION.

Upon termination of the provisions of this amended Order, the Commissioner may appoint the

members of the Milk Marketing Board then functioning to continue as joint trustees, for the purpose of liquidating the affairs of the Board, of all property then in the possession or under the control of the Board, including property not delivered at the time of such termination; provided that, upon termination by the Commissioner of this marketing order, any and all monies remaining and not required by the Commissioner to defray the expenses of this marketing order shall be returned by the Commissioner upon a *pro rata* basis to all persons from whom assessments were collected; provided further, however, that if the Commissioner finds that the amounts so returnable are so small as to make impractical the computation and remitting of such *pro rata* refund to such persons, the Commissioner may use the monies in such fund to defray the expenses incurred by him in the formulation, issuance, administration, or enforcement of any subsequent marketing order for such commodity.

SECTION XVII ENFORCEMENT AND PENALTIES

This amended Order shall be enforced and administered by the Commissioner of Agriculture and his duly authorized representatives pursuant to the provisions of the Marketing Act of 1939, Colorado Revised Statutes 1973, Title 35, Article 28.

Any person who violates any provision of this marketing Order or any provision of a regulation duly issued by the Commissioner hereunder, shall be in violation of Title 35, Article 28, Section 116 of the Colorado Revised Statutes 1973, and shall be subject to the penalties and remedies provided therein.

SECTION XVIII DURATION OF IMMUNITIES

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

SECTION XIX SEPARABILITY

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

SECTION XX DEROGATION

Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Commissioner, or of the state of Colorado, to exercise any powers granted by the Act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

SECTION XXI AMENDMENTS

Amendments hereto may be proposed from time to time by the Milk Marketing Board or by the Commissioner. When such amendments are proposed, a hearing shall be held thereon.

NOTICE OF ISSUANCE

Pursuant to Title 35, Article 28, Colorado Revised Statutes 1973, I, J. Evan Goulding, Commissioner of Agriculture of the State of Colorado, pursuant to the authority vested in me by law, do hereby execute, issue, and publish this Amended Marketing Order at my office in Denver, Colorado, this 9th day of April, 1976, A. D., and do declare that I have this day posted a notice of the issuance of this Amended Order on a public bulletin board in my office. A copy of said notice was ordered published on April 9, 1976, in the Denver Post, a newspaper of general circulation published at Denver, Colorado. Therefore, this Amended Order shall be in full force and effect on and after 12:01 a.m. (MST) April 15, 1976.

J. Evan Goulding Commissioner of Agriculture

COLORADO DEPARTMENT OF AGRICULTURE 1525 Sherman Street Denver, Colorado 80203
1978 Budget and Assessment REGULATION 14-1-1
Docket No. A-20

**ORDER BY THE COMMISSIONER OF AGRICULTURE APPROVING THE BUDGET AND RATE OF
ASSESSMENT OF THE COLORADO MILK MARKETING BOARD PURSUANT TO THE MILK
MARKETING ORDER, DOCKET NO. A-20.**

In compliance with the provisions of Marketing Order Docket No. A-20, dated September 25, 1963, as amended, issued pursuant to Title 35, Article 28, Colorado Revised Statutes 1973, and upon the recommendation of the Colorado Milk Marketing Board, it is hereby found and determined that the estimated budget of expenses for the year 1977 will necessitate an assessment of \$0.013 per hundredweight on all milk utilized in Colorado during the year 1978.

Therefore, pursuant to the aforesaid authority and in compliance therewith, it is hereby ordered that each regulated handler of milk products shall pay an assessment of \$0.013 per hundredweight on all milk equivalent utilized by him during the year, as provided in Section XII, 2, of the Colorado Milk Marketing Order.

THIS REGULATION CANCELS AND SUPERSEDES REGULATION NO. 14-1-1, issued on December 30, 1976.

The handler shall be responsible for the remittance of said assessment.

IN WITNESS WHEREOF, I, J. Evan Goulding, Commissioner of Agriculture, have executed this Order and Notice thereof in the City and County of Denver, State of Colorado, this 2nd day of December, 1977.

J. Evan Goulding, Commissioner

**ORDER BY THE COMMISSIONER OF AGRICULTURE RELATIVE TO EXCEPTIONAL EXTENSIONS
OF CREDIT IN CONNECTION WITH THE SALE OF MILK AND MILK PRODUCTS IN THE
STATE OF COLORADO**

Pursuant to the provisions of Title 35, Article 28, Colorado Revised Statutes 1973, and the Colorado Milk Marketing Order, Docket No. A-20, issued under the authority granted by that statute, and particularly by virtue of the authority granted to the Commissioner by Section VII-13 of such Marketing Order; upon the recommendation of the Colorado Milk Marketing Board which has solicited suggestions from all handlers in Colorado; and other information available to the Commissioner; the Commissioner of Agriculture finds and determines that, in order to effectuate the declared purposes of the Marketing Order, the following is necessary and proper, and IT IS HEREBY ORDERED THAT:

"Exceptional credit," as that term is used in Section VII-13 of the Colorado Milk Marketing Order, shall be such extension of credit as is more favorable to a wholesale customer than credit terms and periods for payment which demand and obtain payment by such customer of amounts unpaid for more than ninety days from the date of the delivery of milk and milk products to that customer.

Only cash or its equivalent shall be considered as payment meeting the above requirement.

This Order shall be effective on November 1, 1976.

IN WITNESS WHEREOF, I, J. Evan Goulding, Commissioner of Agriculture, have executed this Order and Notice thereof in the City and County of Denver, State of Colorado, this 29th day of October, 1976.

J. Evan Goulding, Commissioner

**ORDER BY THE COMMISSIONER OF AGRICULTURE DEFINING "PLACE OF BUSINESS"
PURSUANT TO THE COLORADO MILK MARKETING ORDER, DOCKET NO. A-20.**

In compliance with the provisions of Marketing Order, Docket No. A-20, dated September 25, 1963, as amended January 15, 1971, issued pursuant to Chapter 7, Article 3, Colorado Revised Statutes 1963, as amended; upon the recommendation of the Colorado Milk Marketing Board, it is hereby found and determined that a definition of the phrase "Place of Business" used in the definition and regulatory provisions of the Marketing Order is necessary.

Therefore, pursuant to the aforesaid authority and in compliance therewith, it is hereby ordered that "Place of Business" be interpreted to mean, wherever it is used in the Marketing Order, as follows:

"Place of Business" of a handler, handler-distributor or distributor shall mean only a structure of customary construction for permanent location, containing refrigerated storage space and office space; and specifically shall not include any equipment designed and customarily used for mobile purposes.

IN WITNESS WHEREOF, I, Clinton E. Jeffers, Commissioner of Agriculture have executed this Order and Notice thereof in the City of Denver, State of Colorado, this 15th day of February, 1972.

Clinton E. Jeffers Commissioner

ORDER BY THE COMMISSIONER OF AGRICULTURE CHANGING HOME SERVICE SAMPLING

In compliance with the provisions of Marketing Order, Docket No. A-20, dated September 25, 1963, as amended January 15, 1971, issued pursuant to Chapter 7, Article 3, Colorado Revised Statutes 1963, as amended; upon the recommendation of the Colorado Milk Marketing Board, it is hereby found and determined that the Home Service limitation of 60 cents retail value, for sampling, should be, and is hereby increased to 75 cents, retail value.

Section VII - 11 of the Colorado Milk Marketing Order, Docket No. A-20, is hereby amended to read as follows:

Milk Sampling

All sampling of milk and milk products to customers or prospective customers is prohibited except that milk or milk products may be used for sampling prospective customers at home or through store or other demonstrations, provided such product samples are removed from the original container and served in a quantity not exceeding three (3) ounces for consumption on the premises; or a handler, handler-distributor or distributor may sample a prospective home service customer one time only within a period of ninety (90) days. Such sample shall be limited to one item of not more than 75 cents, retail value, or such different amount as may be later specified by the Commissioner, and shall be limited to one person only in a family or single household. Further, a record must be made on all sampling of actual prospective home service customers, showing date, name and address of the prospective customer and the quantity of the product.

IN WITNESS WHEREOF, I, Clinton E. Jeffers, Commissioner of Agriculture, have executed this Order and Notice thereof in the City of Denver, State of Colorado, this 26th day of July, 1972.

Clinton E. Jeffers Commissioner

**ORDER BY THE COMMISSIONER OF AGRICULTURE RELATING TO THE FILING OF PRICES,
DISCOUNTS AND REBATES RELATIVE TO THE SALE OF MILK AND MILK PRODUCTS IN
THE STATE OF COLORADO.**

The Commissioner of Agriculture being advised that:

1. An Amended Milk Marketing Order regulating the marketing of milk and milk products in the State of Colorado was made effective by the Commissioner of Agriculture on April 1, 1970, which Amended Order provides for regulation of the activities of all handlers, handler-distributors and distributors marketing milk and milk products in the State of Colorado and for the filing of schedules of prices, discounts and rebates with respect to the marketing of milk and milk products, as defined in said order, in the State of Colorado.
2. The said Amended Milk Marketing Order requires the filing of such schedules of prices, discounts and rebates by handlers, handler-distributors and distributors of milk and milk products produced outside the State of Colorado.
3. The previously existing regulatory requirements did not require the filing of schedules of prices, discounts and rebates with respect to milk and milk products produced outside the State of Colorado, although such products were actually marketed in this State.

NOW, THEREFORE, pursuant to the provisions of Chapter 6, Article III, Colorado Revised Statutes, 1963, as amended, and the Colorado Milk Marketing Order, Docket No. A-20, the Commissioner determines and orders that with respect to the filing of prices for the sale of regulated products:

1. An out-of-state handler who ships products into Colorado directly to wholesale customers or for distribution through handler-distributors or distributors must post a wholesale price for the products in each marketing area where the products are sold. Any handler-distributor or distributor selling such products must either utilize the price posted by the handler or post his own price, which may not be lower than the handler's price.
2. Where an out-of-state handler processes and ships products to a Colorado handler and such products are packaged under a label that is generally used by the out-of-state handler, the same rule as in paragraph 1 shall apply. The price charged by the out-of-state handler to the Colorado handler need not be posted and may be negotiated. The Colorado handler, however, may not post or use prices lower than those posted by the out-of-state handler.
3. Where an out-of-state handler packages products for a Colorado handler under the Colorado handler's brand name, the out-of-state handler will not be required to post a price. In such cases, the Colorado handler must post a wholesale price for the product and any distributors of that handler may not use a price lower than the price posted by the handler.
4. Schedules of prices to be used by an out-of-state handler must be signed and filed by the out-of-state handler. However, there is no objection to Colorado handlers assisting in the preparation of such schedules, bearing in mind that only 1 price may be filed for each product by each out-of-state handler in a marketing area.

IN WITNESS WHEREOF, I, Clinton E. Jeffers, Commissioner of Agriculture, have executed this order and notice thereof, in the City of Denver, State of Colorado, this 29th day of April, 1970.

Clinton E. Jeffers, Commissioner

COLORADO DEPARTMENT OF AGRICULTURE 1525 Sherman Street Denver, Colorado 80203
(Amends Regulation No. 14-1-24, Issued January 26, 1973)

ORDER BY THE COMMISSIONER OF AGRICULTURE RELATIVE TO THE ESTABLISHMENT OF MILK MARKETING AREAS WITHIN THE STATE.

Pursuant to the provisions of Chapter 7, Article 3, Colorado Revised Statutes, 1963, as amended, known as "The Colorado Agricultural Marketing Act of 1939," the Commissioner of Agriculture believes that, in order to effectuate the declared policies of the Article, the following regulation under the Colorado Milk Marketing Order, Docket No. A-20, is necessary and is hereby issued.

Section 3 of Regulation No. 5 under the Colorado Milk Marketing Order, Docket No. A-20, is hereby amended to read as follows:

3. In order to establish a more orderly milk marketing system in Colorado, the state is hereby divided into ten (10) marketing areas, as follows:

AREA I. Area I shall consist of the counties of Denver, Arapahoe, Douglas, Elbert, Clear Creek, and those portions of Adams, Jefferson, and Gilpin Counties not included in Area IX.

AREA II. Area II shall consist of the counties of El Paso, Huerfano, Las Animas, Otero, Crowley, Lincoln, Kiowa, Bent, Prowers, Baca, Teller, Custer and that portion of Washington County which lies south and west of a line which begins at a point on the Adams County line that is located 1 mile north of U.S. Highway 36 and extends in an easterly direction to a point 1 mile north and 3 miles east of the town of Anton; thence in a southerly direction to the junction of Lincoln, Kit Carson and Washington Counties.

AREA III. Area III shall consist of the counties of Larimer and that portion of Weld County not included in Area IX.

AREA IV. Area IV shall consist of the counties of Garfield, Pitkin, Delta, Gunnison, Mesa, Ouray, Eagle, Montrose, San Miguel and the northern half of Hinsdale, and that portion of Saguache County west of the Continental Divide.

AREA V. Area V shall consist of the following counties and portions of counties which lie on the east side of the Continental Divide, as follows: Saguache, Hinsdale, San Juan, Mineral, Rio Grande, Archuleta, Conejos, Alamosa, and Costilla.

AREA VI. Area VI shall consist of the counties of Park, Lake, Summit, Chaffee, and Fremont.

AREA VII. Area VII shall consist of the county of Pueblo, Colorado.

AREA VIII. Area VIII shall consist of the following counties and portions of counties which lie on the west side of the Continental Divide, as follows: San Juan, Mineral, Rio Grande, Archuleta, La Plata, Montezuma, and Dolores.

AREA IX. Area IX shall consist of all of Boulder County and following portions of Weld, Adams, Jefferson, and Gilpin Counties, as follows:

Beginning at a point on the north boundary line of Boulder County five (5) miles northwest of the junction of Colorado Highway 7 and Colorado Highway 66, and continuing easterly along the northern Boulder County line to and across the east boundary line of Boulder County into Weld County to Interstate Highway No. 25; then south in Weld County on Interstate Highway No. 25 into Adams County, continuing south on a line across Colorado Highway 7 to a point two (2) miles south of Colorado Highway 7; then approximately four (4) miles west to the east boundary of Boulder County; then south along the Boulder County line to include the entire town of Broomfield; then west on the Boulder County line to Colorado Highway 93; then south on Colorado Highway 93 to junction of Colorado

Highway 93 and 72; then northwest on Colorado Highway 72 to the southern Boulder County line; then west on the Boulder County line to Colorado Highway 119; then 2 miles south on Colorado Highway 119 and return to include the town of Rollinsville; then continue west, following the Boulder County boundary line to the point of beginning.

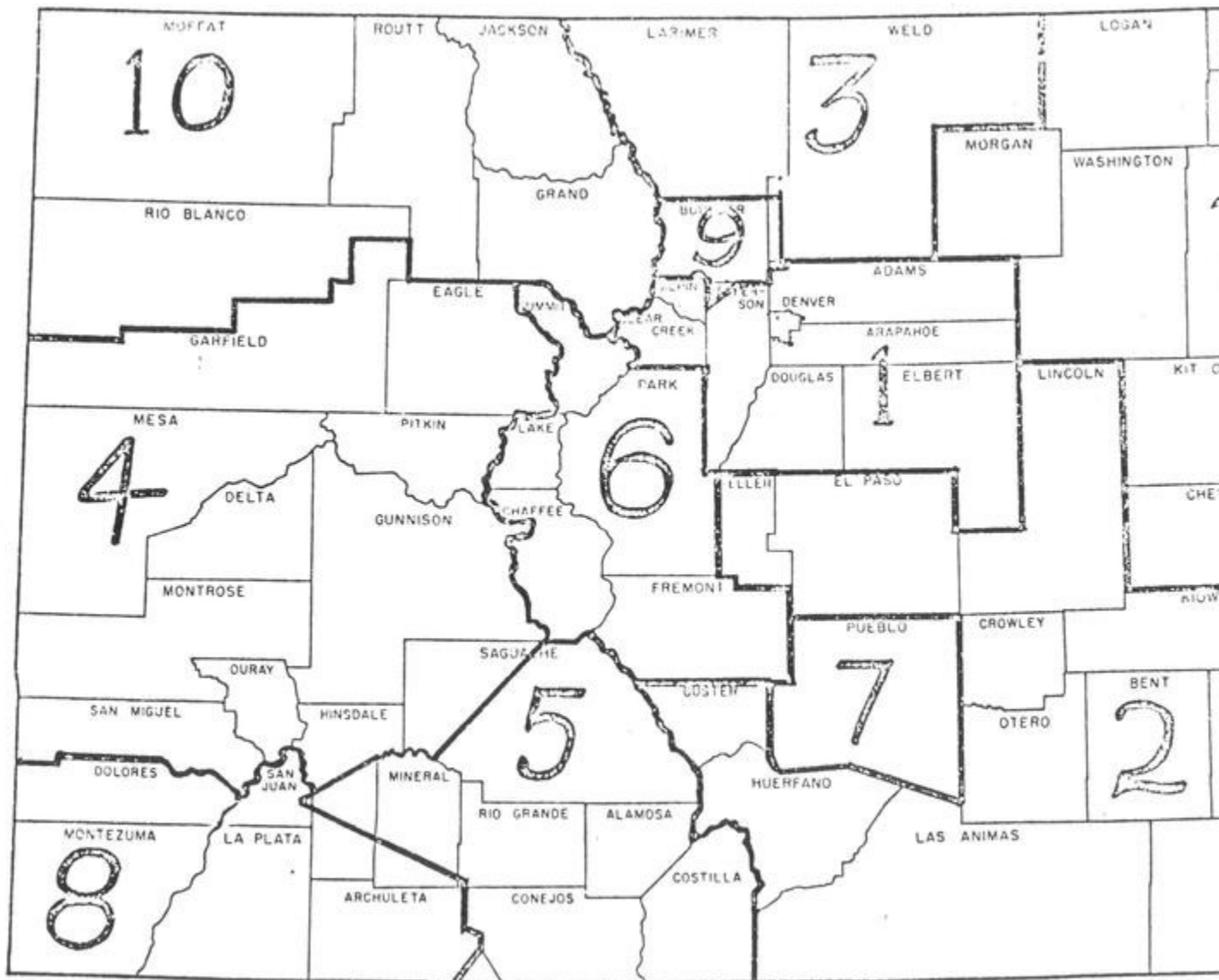
AREA X. Area X shall consist of the counties of Moffat, Routt, Jackson, Rio Blanco, and Grand.

AREA XI. Area XI shall consist of the counties of Morgan, Logan, Sedgwick, Phillips, Yuma, Kit Carson, Cheyenne and that portion of Washington County which lies north and east of a line which begins at a point on the Adams County line that is located 1 mile north of U. S. Highway 36 and extends in an easterly direction to a point 1 mile north and 3 miles east of the town of Anton; thence in a southerly direction to the junction of Lincoln, Kit Carson and Washington Counties.

The revised boundaries of Area II, III and XI, all as set out by this regulation, are to become effective July 1, 1975.

IN WITNESS WHEREOF, I, Roy R. Romer, Commissioner of Agriculture, have executed this Order and Notice thereof, in the City of Denver, State of Colorado, this 25th Day of June 1975.

Roy R. Romer Commissioner



COLORADO STATE PLANNING

**ORDER BY THE COMMISSIONER OF AGRICULTURE RELATIVE TO UNFAIR PRACTICES AND
OTHER PROVISIONS OF SECTION VI SUB-SECTION E OF MILK MARKETING ORDER
DOCKET NO. A-20.**

Pursuant to the provisions of Chapter 7, Article 3, Colorado Revised Statutes 1953, as amended, known as "The Colorado Agricultural Marketing Act of 1939," specifically including, but not restricted to, Section 7-3-10 of such Act, under which the Colorado Milk Marketing Order, Docket No. A-20, was established, the Commissioner of Agriculture believes that, in order to effectuate the declared policy of the article, the following regulations are necessary and are hereby issued.

All provisions contained in Section VI, sub-section E, items 1 through 14 of Milk Marketing Order, Docket No. A-20, shall be in full force and effect on and after December 1, 1963, excepting that part of sub-paragraph (a) of item 6, sub-section E of Section VI relating to the time of the sale of equipment. The beginning date of this six months period shall be December 1, 1963, and the terminating date shall be

June 30, 1964

IN WITNESS WHEREOF, I, Paul W. Swisher, Commissioner of Agriculture, have executed this Order and Notice thereof, in the city of Denver, state of Colorado, this 8th day of November, 1963.

Paul W. Swisher Commissioner of Agriculture

ORDER BY THE COMMISSIONER OF AGRICULTURE RELATIVE TO UNFAIR PRACTICES AND OTHER PROVISIONS OF SECTION VI SUB-SECTION "E" OF MILK MARKETING ORDER, DOCKET NO. A-20.

Pursuant to the provisions of Chapter 7, Article 3, Colorado Revised Statutes 1953, as amended, known as "The Colorado Agricultural Marketing Act of 1939", specifically including, but not restricted to, Section 7-3-10 of such Act, under which the Colorado Milk Marketing Order, Docket No. A-20, was established, the Commissioner of Agriculture believes that, in order to effectuate the declared policy of the articles, the following regulations are necessary and are hereby issued:

1. All requirements of items 1 and 2 of sub-section E of Section VI of Milk Marketing Order, Docket No. A-20, shall be effective on November 14, 1963.

All handlers and distributors shall file with the Commissioner a schedule of all existing loans and endorsements as set forth in sub-paragraph (a) of item 2, sub-section E of Section VI of Milk Marketing Order, Docket No. A-20, within 20 days after the effective date November 14, 1963.

2. All provisions contained in Section VI, sub-section E, items 3 through 14 of Milk Marketing Order, Docket No. A-20, shall be in full force and effect on and after December 1, 1963.
3. The six-month period referred to in sub-paragraph (a) and (b) of item 6, sub-section E of Section VI of Milk Marketing Order, Docket No. A-20, is hereby extended to seven (7) months beginning on December 1, 1963, and ending on June 30, 1964.
4. This regulation shall supercede the regulations issued by me, relating to Section VI, sub-section E, items 1 through 14, of Milk Marketing Order, Docket No. A-20, on the 8th day of November 1963.

IN WITNESS WHEREOF, I, Paul W. Swisher, Commissioner of Agriculture, have executed this Order and Notice thereof, in the City of Denver, State of Colorado, this 12th day of November 1963.

/S/ Paul W. Swisher COMMISSIONER

ORDER BY THE COMMISSIONER OF AGRICULTURE RELATIVE TO AN ADVERTISING AND SALES PROMOTION PROGRAM OF SECTION V OF MILK MARKETING ORDER DOCKET NO. A-20

Pursuant to the provisions of Chapter 7, Article 3, Colorado Revised Statutes 1953, as amended, known as "The Colorado Agricultural Marketing Act of 1939", specifically including, but not restricted to, Section 7-3-10 of such Act, under which the Colorado Milk Marketing Order, Docket No. A-20, was established, the Commissioner of Agriculture believes that, in order to effectuate the declared policy of the article, the following regulations are necessary and are hereby issued.

All the provisions contained in Section V of Milk Marketing Order, Docket No. A-20, shall be in full force and effect on and after this date.

IN WITNESS WHEREOF, I, Paul W. Swisher, Commissioner of Agriculture, have executed this Order and Notice thereof, in the City of Denver, State of Colorado, this 5th day of May, 1964.

Paul W. Swisher Commissioner of Agriculture

**REGULATION BY THE COMMISSIONER OF AGRICULTURE RELATIVE TO THE REQUIRED USE OF
A UNIFORM PRICE POSTING FORM BY ALL HANDLERS AND DISTRIBUTORS IN THE MILK
MARKETING AREAS WITHIN THE STATE**

Pursuant to the provisions of Chapter 7, Article 3, Colorado Revised Statutes, 1963, as amended, known as "The Colorado Agriculture Marketing Act of 1939," the Commissioner of Agriculture believes that, in order to effectuate the declared policies of the Article, the following regulation under the Colorado Milk Marketing Order, Docket No. A-20, is necessary and is hereby issued.

1. All handlers required to file with the Commissioner of Agriculture one complete schedule of wholesale and/or retail prices on milk or milk products for the marketing area in which such sale or offer to sell is made, including prices to be used by distributors of the handler, shall utilize the uniform price posting form attached hereto and made a part hereof. This uniform price posting form shall be used and all prices entered for each item sold each time a change in price on any item is made or a new item is added to the prices then on file and in effect with the Commissioner of Agriculture. This Order shall be implemented and be in effect by the Colorado Milk Administrative Committee no later than July 1, 1967.
2. All handlers are required to furnish to the Commissioner of Agriculture (through the Milk Administrative Committee office) for each separate posting, a list setting forth the names of all handlers to which the schedule of prices was mailed, reflecting the certified number used in mailing the uniform price posting form to each handler doing business in the area of the posting.

IN WITNESS WHEREOF, I, John P. Orcutt, Commissioner of Agriculture, have executed the Order and Notice thereof in the City of Denver, State of Colorado, this 21st day of April, 1967.

John P. Orcutt Commissioner of Agriculture

Handler: _____

Area: _____

Address: _____

Date Mailed: _____

Effective Date: _____

ITEM	Home			ITEM	Home		
	Del.	Whlsc.	Dock		Del.	Whlsc.	Dock
Homo Whole Milk				Buttermilk			
10-Ot. Pak				Disp. Gal.			
Disp. Gal.				$\frac{1}{2}$ Gal.			
Gal.				Qt.			
$\frac{1}{2}$ Gal.				10-oz.			
Qt.				$\frac{1}{2}$ Pt.			
Pt.				Whipping Crm.			
10-oz.				Disp. Gal.			
$\frac{1}{2}$ Pt.				Qt.			
Homo Whole Milk				$\frac{1}{2}$ Pt.			
Other Labels				Coffee Cream			
Gal.				Disp. Gal.			
$\frac{1}{2}$ Gal.				Qt.			
2% Skim Milk				$\frac{1}{2}$ Pt.			
10-Ot. Pak				Half & Half			
Disp. Gal.				Disp. Gal.			
Gal.				Qt.			
$\frac{1}{2}$ Gal.				Pt.			
Qt.				Cottage Cheese			
1% Skim Milk				Bulk lb.			
10-Ot. Pak				5# - per lb.			
Gal.				2# - per unit			
$\frac{1}{2}$ Gal.				24 oz.			
$\frac{1}{2}$ Skim Milk				1 lb.			
$\frac{1}{2}$ Gal.				12-oz.			
Qt.				Sour Cream			
Skim Milk				Bulk Gal.			
10-Ot. Pak				Bulk per lb.			
Disp. Gal.				12-oz.			
Gal.				8-oz.			
$\frac{1}{2}$ Gal.				Egg Nog			
Qt.				% Qt.			
10-oz.				% Qt.			
$\frac{1}{2}$ Pt.				% Qt.			
Chocolate Milk				Hot Drink			
Disp. Gal.				$\frac{1}{2}$ Gal.			
Qt.				Qt.			
Pt.				Dips			
10-oz.				Bulk lb.			
$\frac{1}{2}$ Pt.				8 oz.			
Choc. Drink				Yogurt			
or Skim				$\frac{1}{2}$ Pt.			
Disp. Gal.				Redd Whip			
$\frac{1}{2}$ Gal.				Can			

* Denotes new price change.

Authorized Signature _____

Area: _____

Effective Date:

ITEM	Home	
	Del.	Whlslr Dock
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Authorized Signature

Retail Home Delivery Discount:

<u>Percent</u>	<u>Per Delivery</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Ice Cream Monthly</u>
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<u>Percent</u>	<u>Per Delivery</u>	<u>Weekly</u>	<u>Monthly</u>
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[illegible]

Authorized Signature