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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

COMMISSION ON CIVIL RIGHTS

1. Effective upon publication in the FEDERAL REGISTER, § 6.160 (a) is added as set out below.

§ 6.160 *Commission on Civil Rights.* (a) Until November 9, 1959, Chief, Research and Planning Division.

2. Effective upon publication in the FEDERAL REGISTER, paragraph (a) of § 6.360 is amended and paragraphs (b) and (c) are added as set out below.

§ 6.360 *Commission on Civil Rights.* (a) One Executive Secretary to the Commission.

(b) Chief, Reports and Analysis Division.

(c) One Administrative Assistant to the Staff Director.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 58-4401; Filed, June 10, 1958; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR PEACHES

REVOCATION AND REINSTATEMENT

The revised United States Standards for Peaches published in the FEDERAL REGISTER on May 30, 1958 (23 F. R. 3759) and made effective on that date are hereby revoked and the prior United States Standards for Peaches that, otherwise, have been in effect since June 15, 1952 (17 F. R. 4473 and renumbered at 18 F. R. 7065 (§§ 51.1210-51.1223)) are hereby reinstated.

It is hereby found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective date of this action until 30 days after publication thereof in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.), in that (1) representatives of the peach industry have requested additional time for study of certain features and aspects of the aforementioned revised standards; and (2) revocation of the aforementioned revised standards (23 F. R. 3759) and reinstatement of the prior standards (17 F. R. 4473 and renumbered at 18 F. R. 7065) is in relief of restriction and no special preparation on the part of the industry for compliance therewith will be necessary.

(Sec. 205, 60 Stat., 1090, as amended; 7 U. S. C. 1624)

Done at Washington, D. C., this 5th day of June 1958 to become effective June 5, 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator, Marketing Services.

[F. R. Doc. 58-4403; Filed, June 10, 1958; 8:49 a. m.]

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

Subchapter A—Marketing Orders

[1015.301 Amdt. 9]

PART 1015—CUCUMBERS GROWN IN FLORIDA

LIMITATION OF SHIPMENT

a. *Findings.* 1. Pursuant to Marketing Agreement No. 118 and Order No. 115 regulating the handling of cucumbers grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937 as amended (48 Stat. 31, as amend-

(Continued on p. 4069)

CONTENTS

	Page
Agricultural Marketing Service	
Proposed rule making:	
Lemons, California and Arizona; handling	4085
Milk handling, various marketing areas:	
Chicago, Ill.	4084
New York-New Jersey	4076
South Bend-La Porte-Elkhart, Ind.	4087
Peaches; U. S. standards; extension of time	4076
Rules and regulations:	
Cucumbers, Florida; limitation of shipment	4067
Cucumbers; import restrictions	4069
Peaches, U. S. standards for; revocation and reinstatement	4067
Agriculture Department	
See Agricultural Marketing Service; Commodity Credit Corporation.	
Army Department	
See Engineers Corps.	
Civil Aeronautics Board	
Proposed rule making:	
Altimeter setting; air traffic rules	4102
Civil Service Commission	
Rules and regulations:	
Commission on Civil Rights; exceptions from competitive service	4067
Commerce Department	
See National Bureau of Standards.	
Commodity Credit Corporation	
Notices:	
Sales of certain commodities; monthly sales list, June 1958	4107
Defense Department	
See Engineers Corps; Navy Department.	
Employees' Compensation Appeals Board	
Rules and regulations:	
Regulations governing appeals; general provisions	4069
Rules of procedure; notice of hearing	4069

FEDERAL REGISTER

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CONTENTS—Continued

Employment Security Bureau Page
Rules and regulations:
Regulations to implement Temporary Unemployment Compensation Act of 1958; responsibilities of Puerto Rico, Virgin Islands and State agencies 4070

Engineers Corps Page
Rules and regulations:
Anchorage regulations; Kennebec River, Maine, and Hudson River, at Coeymans and Cedar Hill, N. Y. 4073
Flood control regulations; Palisades Dam and Reservoir, Snake River, Idaho 4073
Navigation regulations; York River, Va. 4073

Federal Civil Defense Administration
Notices:
Assistant Administrator, Resources and Requirements, et al.; delegation of authority with respect to authorizing disposal of surplus property having a single item acquisition cost of $2,500 or more 4106

Federal Communications Commission
Notices:
Hearings, etc.:
Birch Bay Broadcasting Co. 4112
Entertainment Service, Inc., et al. 4113
Hemet-San Jacinto Valley Broadcasting Co. et al. 4114
KBR Stations, Inc., and Kenneth E. Shaw 4112
Rivers, Inc. (WJAZ) and F. Keith Brown 4113
WLBE, Inc. (WLBE) 4113
Proposed rule making:
Forestry Conservation Radio Service; assignments of frequencies in certain bands to stations pursuant to a geographic assignment plan 4105
Interference protection to frequencies utilized for radio astronomy 4103
Rules and regulations:
Frequency allocations and radio treaty matters; deletion of allocation of 90–110 kc band to fixed and maritime mobile services 4075

Federal Power Commission
Notices:
Cities Service Oil Co. et al. 4110
Jade Oil & Gas Co., Inc. 4109
Northern States Power Co. 4108
Sohio Petroleum Co. 4109
Texas Gas Transmission Corp. 4109

Food and Drug Administration
Rules and regulations:
Antibiotic and antibiotic-containing drugs, general regulations for certification of; certification fees; revocation of amendments 4072
Chlortetracycline ophthalmic 4072
Penicillin tablets 4072

Health, Education, and Welfare Department
See also Food and Drug Administration.
Rules and regulations:
Use of facilities by students and other qualified individuals 4074

Indian Affairs Bureau Page
Proposed rule making:
Flathead Indian Irrigation Project, St. Ignatius, Mont.; operation and maintenance charges 4102

Interior Department
See Indian Affairs Bureau; Land Management Bureau.

Interstate Commerce Commission
Notices:
Fourth section applications for relief 4132
Motor carrier alternate route deviation notices 4131
Motor carrier applications 4115
Rules and regulations:
Temporary Authorities Board and Transfer Board, special rules of practice governing procedure of 4075

Labor Department
See Employees' Compensation Appeals Board; Employment Security Bureau.

Land Management Bureau
Notices:
Withdrawal and reservation of lands, proposed:
New Mexico 4106
Wyoming 4106

National Bureau of Standards
Notices:
Organization and functions 4110

Navy Department
Rules and regulations:
Dispositions of cases involving physical disability; composition 4072
Proceedings in civil courts; service of process upon personnel of the Naval Establishment 4072

Securities and Exchange Commission
Proposed rule making:
Securities Act of 1933, general rules and regulations; deferral of action on proposed rule making 4106

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Page
Title 5
Chapter I:
Part 6 4067
Title 7
Chapter I:
Part 51 4067
Proposed rules 4076
Chapter IX:
Part 927 (proposed) 4076
Part 941 (proposed) 4084
Part 953 (proposed) 4085
Part 967 (proposed) 4087
Part 1015 4067
Part 1070 4069

CODIFICATION GUIDE—Con.

Title 14	Page
Chapter I:	
Part 60 (proposed)	4102
Title 17	
Chapter II:	
Part 230 (proposed)	4106
Title 20	
Chapter IV:	
Part 501	4069
Part 502	4069
Chapter V:	
Part 613	4070
Title 21	
Chapter I:	
Part 146	4072
Part 146a	4072
Part 146c	4072
Title 25	
Chapter I:	
Part 221 (proposed)	4102
Title 32	
Chapter VI:	
Part 720	4072
Part 725	4072
Title 33	
Chapter II:	
Part 202	4073
Part 207	4073
Part 208	4073
Title 45	
Subtitle A:	
Part 9	4074
Title 47	
Chapter I:	
Part 2	4075
Part 3 (proposed)	4103
Part 4 (proposed)	4103
Part 5 (proposed)	4103
Part 6 (proposed)	4103
Part 7 (proposed)	4103
Part 9 (proposed)	4103
Part 10 (proposed) (2 documents)	4103, 4105
Part 11 (proposed)	4103
Part 16 (proposed)	4103
Part 20 (proposed)	4103
Part 21 (proposed)	4103
Title 49	
Chapter I:	
Part 1	4075

ed; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Florida Cucumber Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment for 30 days or any other period beyond the date hereinafter specified (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of cucumbers, in the manner set forth below, on and after the effective date of this amendment, (iii) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) information regarding the committee's recommendations has been made available to producers and handlers in the production area, and (v) this amendment relieves restrictions on the handling of cucumbers grown in the production area.

b. *Order as amended.* The provisions of § 1015.301 (b) (1) (22 F. R. 8148, 8219, 8810, 8976, 9251, 9589, 9916, 9917; 23 F. R. 1169, 2838), are hereby amended to read as follows:

(b) *Order.* During the period from June 6, 1958, through July 31, 1958, the following regulations shall be effective with respect to all varieties of cucumbers grown in the production area; (1) No person may handle cucumbers, except for conversion into pickles or relishes, unless the cucumbers meet the requirements of U. S. No. 2, or better, grade.

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

Dated: June 6, 1958, to become effective June 6, 1958.

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

[F. R. Doc. 58-4426; Filed, June 10, 1958; 8:54 a. m.]

Subchapter B—Prohibitions of Imported Commodities

[Cucumber Reg. 1, Amdt. 5]

PART 1070—CUCUMBERS

IMPORT RESTRICTIONS

Pursuant to regulations issued under Marketing Agreement No. 118 and Order No. 115 (22 F. R. 6083), regulating the handling of cucumbers grown in Florida, and in accordance with the requirements of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), amended paragraph (b) *Import restrictions* of § 1070.1 *Cucumber Regulation No. 1*, as amended; 22 F. R. 9045, 9690, 9917; 23 F. R. 1169, 2839 is amended to read as follows:

(b) *Import restrictions.* During the period from June 9, 1958 to July 31, 1958, both dates inclusive, and subject to the general regulations (Part 1060 of this subchapter) applicable to the importation of listed commodities and the requirements of this section, no person may import any cucumbers of any variety unless such cucumbers meet the requirements of U. S. No. 2, or better, grade.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendatory regulation beyond that herein specified (5 U. S. C. 1001 et seq.) in that (i) the requirements established by this amended import regulation are issued pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), which make such amended regulation mandatory; (ii) the regulations hereby established for cucumbers that may be imported into the United States comply with grade, size, quality and maturity restrictions imposed upon domestic cucumbers under Marketing Agreement No. 118 and Order No. 115 (§ 1015.301; 22 F. R. 8148, 8219, 8810, 8976, 9251, 9589); (iii) compliance with this cucumber import regulation should not require any special preparation by importers which cannot be completed by the effective date hereof; and (iv) this amendment relieves restrictions on the importation of cucumbers.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c. Interprets or applies sec. 401, 68 Stat. 906, 1047; 7 U. S. C. 608e)

Dated: June 6, 1958, to become effective June 9, 1958.

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

[F. R. Doc. 58-4425; Filed, June 10, 1958; 8:53 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter IV—Employees' Compensation Appeals Board, Department of Labor

PART 501—REGULATIONS GOVERNING APPEALS

PART 502—RULES OF PROCEDURE

ALTERNATE SERVICE BY CERTIFIED MAIL

The regulations and rules contained in Parts 501 and 502 of Title 20, Code of Federal Regulations, provide that notices and orders under Part 501 and notices under Part 502 may be served personally upon the person to whom directed, or in the alternative sent to such person by registered mail. The effect of this amendment is to provide that the alternative service also may be effective by "certified mail".

Pursuant to section 32 of the United States Employees' Compensation Act (39 Stat. 749; 5 U. S. C. 783), Reorganization Plan No. 2 of 1946 (60 Stat. 1051; 3 CFR 1943-1948 Comp., p. 1064), and Reorganization Plan No. 19 of 1950 (64 Stat. 1271; 3 CFR, 1950 Supp., p. 171), Parts 501 and 502 of Title 20 of the Code of Federal Regulations are hereby amended as follows:

I. Section 501.6 (e) is amended to read:

(e) Any notice or order required under this part to be given or served, may

be served personally upon the person to whom directed, or sent to such person by certified or registered mail.

2. Section 502.4 (a) is amended to read:

(a) *To whom sent.* Notice of hearing shall be sent by the Board to the Director, Bureau of Employees' Compensation, and to all other parties in interest. Hearings will be set upon such notice as will afford adequate opportunity to be present, but shall not be set earlier than 10 days from the date of the notice, unless waiver of such notice is filed. Such notice (Form AB–3) may be served personally upon the person to whom it is directed, or may be sent to such person by certified or registered mail. Such notice shall disclose the issues to be heard.

(Sec. 3, 60 Stat. 1095)

This amendment shall become effective immediately upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 5th day of June 1958.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F. R. Doc. 58-4410; Filed, June 10, 1958; 8:50 a. m.]

Chapter V—Bureau of Employment Security, Department of Labor

PART 613—REGULATIONS TO IMPLEMENT THE TEMPORARY UNEMPLOYMENT COMPENSATION ACT OF 1958; RESPONSIBILITIES OF PUERTO RICO, THE VIRGIN ISLANDS AND STATE AGENCIES

Pursuant to section 207 of the Temporary Unemployment Compensation Act of 1958 (P. L. 441, 85th Congress, 72 Stat. 171), and in accordance with section 3 of the Administrative Procedure Act (5 U. S. C. 1002), Title 20 of the Code of Federal Regulations is hereby amended by adding a new Part 613 thereto. This part shall contain the regulations to implement the Temporary Unemployment Compensation Act of 1958 and to effectuate that program in all of the areas to which it applies. The regulations contained in the amendment relate to grants and benefits payable by the United States under the act, and shall become effective immediately upon publication in the FEDERAL REGISTER. The amendment shall read as follows:

Sec.
613.1 Definitions.
613.2 Effective period of the program.
613.3 Exhaustion of rights under unemployment compensation laws.
613.4 Date of exhaustion.
613.5 Maximum aggregate amount.
613.6 Weekly benefit amount.
613.7 Restrictions on eligibility.
613.8 Application of unemployment compensation law.
613.9 Application of interstate benefit payment plan.
613.10 Overpayments.
613.11 Appeals.
613.12 Information and services furnished by non-participating state agencies.
613.13 Extension of UCV and UCFE agreements.
613.14 Temporary unemployment compensation in Puerto Rico and the Virgin Islands.

AUTHORITY: §§ 613.1 to 613.14 issued under sec. 207, 72 Stat. 176. Interpret or apply secs. 101–104, 201–207, 72 Stat. 171–176.

§ 613.1 *Definitions.* As used in this part, unless the context clearly indicates otherwise,

(a) "Act" means Temporary Unemployment Compensation Act of 1958.

(b) "Base period" means (1) for individuals who exhausted their rights under an unemployment compensation law administered by the State of Wisconsin, the period specified in the agreement between the State and the Secretary; (2) for individuals who exhausted their rights under title IV of the Veterans' Readjustment Assistance Act of 1952 only for the purpose of section 206 of the act, the period of military service upon which a veteran established his eligibility for the benefits provided by said title IV; and (3) for all other individuals, the base period prescribed in the applicable State unemployment compensation law.

(c) "Benefit year" means (1) for individuals who exhausted their rights under an unemployment compensation law administered by the State of Wisconsin, the period specified in the agreement between the State and the Secretary; (2) for individuals who have exhausted their rights under title IV of the Veterans' Readjustment Assistance Act of 1952 the period of eligibility prescribed by that title, except that with respect to individuals who exhausted their rights under a combination of a State unemployment compensation law and title IV of the Veterans' Readjustment Assistance Act of 1952, the benefit year prescribed in the applicable State law; and (3) for all other individuals, the benefit year prescribed by the applicable State unemployment compensation law.

(d) "First claim" means the first request for determination of benefit status filed by a temporary unemployment compensation claimant on the basis of which a maximum aggregate amount and a weekly benefit amount under the act are established, whether or not temporary unemployment compensation is paid.

(e) "Initial State" means either a participating State or a limited participating State, administering the unemployment compensation law under which an individual last exhausted his right to unemployment compensation prior to making his first claim for temporary unemployment compensation.

(f) "Limited participating State" means Puerto Rico, the Virgin Islands, and a State which has an extended agreement with the Secretary under section 103 of the act.

(g) "Maximum aggregate amount" means the total amount of compensation payable to an individual under the act.

(h) "Monetary determination" means the determination made under an unemployment compensation law with respect to an individual's benefit year of the total amount of benefits payable to him and the weekly amount of such benefits.

(i) "Participating State" means a State which has an agreement with the Secretary under section 102 of the act.

(j) "Secretary" means the Secretary of Labor of the United States.

(k) "State" includes the 48 States, Alaska, Hawaii and the District of Columbia.

(l) "State agency" means any agency of a State administering a State unemployment compensation law and the agencies in Puerto Rico and the Virgin Islands cooperating with the United States Employment Service under the Wagner-Peyser Act (48 Stat. 133).

(m) "Temporary unemployment compensation" means the unemployment compensation provided by the act.

(n) "Unemployment compensation law" means any one or more of the following laws: The unemployment compensation law of a State, title XV of the Social Security Act, or title IV of the Veterans' Readjustment Assistance Act of 1952.

(o) "Week" means a week as defined in the applicable State unemployment compensation law.

(p) "Weekly benefit amount" means the amount of weekly compensation, including dependents' allowances, payable under the act.

§ 613.2 *Effective period of the program.* Compensation under the act shall be payable for weeks of unemployment beginning on or after June 19, 1958, or if a later date is specified in the agreement between the State and the Secretary entered into pursuant to the act, for weeks beginning after such later date. Compensation shall not be paid for weeks of unemployment which begin on or after April 1, 1959.

§ 613.3 *Exhaustion of rights under unemployment compensation laws.* (a) An individual is deemed to have exhausted his rights under an unemployment compensation law when a benefit year had been established for him under such law administered by a participating State and his rights to benefits thereby established expire after June 30, 1957, or such later date as the State has designated in its agreement with the Secretary.

(b) An individual is deemed to have exhausted his rights under title IV of the Veterans' Readjustment Assistance Act of 1952 and title XV of the Social Security Act when a benefit year had been established for him under either of such laws administered by a limited participating State and his rights to benefits thereby established expire after June 30, 1957, or such later date as the State has designated in its agreement with the Secretary.

§ 613.4 *Date of exhaustion.* (a) The date of exhaustion for an individual shall be the date of the end of the week in which his current benefit year expires or the date of the end of the last week in such benefit year for which he was entitled to receive benefits, whichever is earlier.

(b) The date of exhaustion for an individual with respect to whom a dis-

qualification has been imposed shall be the date of the end of the week for which all benefits payable have been received, after deferment of, or reduction in, benefits, or after cancellation or exclusion of wage or benefit credits where a benefit year was established and such credits have been canceled or excluded.

(c) The date of exhaustion for an individual whose claim for temporary unemployment compensation is based solely on expiration of his rights under title IV of the Veterans' Readjustment Assistance Act of 1952 shall be the date of the end of the week as of which he received a total of $676, or in which his period of eligibility under said act ends, whichever occurs earlier.

§ 613.5 *Maximum aggregate amount.* (a) Upon the filing of a first claim the initial State shall compute the maximum aggregate amount to which a claimant is entitled, in accordance with this section.

(b) The maximum aggregate amount for a claimant shall be 50 percent of the total amount (including dependents' allowances, but excluding any temporary additional unemployment compensation) which was payable to him for the benefit year under the unemployment compensation law administered by the initial State: *Provided, however,* That the maximum aggregate amount shall be reduced by the amount of any temporary additional unemployment compensation paid, and the maximum aggregate amount shall reflect any adjustments due to a change in the number of dependents within the benefit year, if such adjustments are made under the applicable unemployment compensation law.

(c) The maximum aggregate amount for a claimant whose claim for temporary unemployment compensation is based on exhaustion of his rights under the unemployment compensation law of a State and title IV of the Veterans' Readjustment Assistance Act of 1952, or under said title IV and title XV of the Social Security Act, during the same week, will be 50 percent of the total amount under both title IV and the State unemployment compensation law, or both title IV and title XV, which was payable to him with respect to the benefit year established under said State law or title XV.

(d) The total amount payable to a claimant for the benefit year with respect to which his last exhaustion occurred, prior to filing his first claim, shall be determined by the initial State in accordance with the applicable unemployment compensation law administered by it. If no cancellation or reduction of benefit rights is involved, the maximum aggregate amount payable under the act shall be 50 percent of the amount to which the claimant was entitled based on applicable base period wages, whether or not such amount was paid.

§ 613.6 *Weekly benefit amount.* (a) The weekly benefit amount, which the initial State shall establish for an individual upon his filing of a first claim, shall be the weekly amount, including dependents' allowances, established by the monetary determination made by such State. Where the applicable unemployment compensation law provides for a change in the weekly amount due to a change in the number of dependents within the benefit year, the weekly benefit amount shall be appropriately adjusted.

(b) If after an individual files a first claim, he again becomes entitled to and exhausts benefits under an unemployment compensation law of a participating State, the weekly benefit amount for subsequent weeks of temporary unemployment compensation will be redetermined on the basis of the weekly amount of his most recent regular benefits.

(c) The weekly amount of temporary unemployment compensation payable to an individual for a week of less than full-time work shall be determined in accordance with the applicable State unemployment compensation law on the basis of the weekly benefit amount, including dependents' allowances, as specified in this section.

§ 613.7 *Restrictions on eligibility.* (a) Temporary unemployment compensation shall not be paid to an individual who:

(1) Has been paid the maximum aggregate amount provided by § 613.5, or

(2) Has a right to payment of benefits under any State or Federal unemployment compensation law other than the act, or

(3) Is disqualified to receive benefits under an unemployment compensation law administered by a participating State or a limited participating State (so long as such disqualification continues in effect), or

(4) Has not exhausted his rights in accordance with § 613.3, or

(5) Has been determined to be ineligible for temporary unemployment compensation under section 206 of the act.

(b) Temporary unemployment compensation shall not be paid to any individual who is an alien if at any time after the first day of his base period and before the week with respect to which he claims temporary unemployment compensation, he was employed by (1) a foreign government, or agency or instrumentality thereof, which at the time of his employment was Communist or under Communist control; or (2) any organization which at the time of his employment was registered under section 7 of the Subversive Activities Control Act of 1950, or with respect to which there was in effect a final order of the Subversive Activities Control Board requiring said organization to register under section 7 of such Act or determining that the organization was Communist-infiltrated.

(c) A State agency shall, in accordance with information furnished by the Secretary, determine whether claimants who are aliens have been employed during the prescribed period by an agency, instrumentality, organization or government described in paragraph (b) of this section. Any individual who, upon request of a State agency, refuses to furnish the information necessary to determine his eligibility under section 206 of the act shall be ineligible to receive such compensation until the information is furnished and the State agency determines that he is entitled to such compensation.

§ 613.8 *Application of unemployment compensation law.* (a) A participating State shall apply to an individual's claims for temporary unemployment compensation, the unemployment compensation law administered by it under which such individual most recently exhausted his rights to benefits, except that employment and wage qualifying or requalifying requirements necessary to establish benefit year and waiting period requirements shall not be applicable to such claims.

(b) A limited participating State shall apply to an individual's claims for temporary unemployment compensation, title IV of the Veterans' Readjustment Assistance Act of 1952 or title XV of the Social Security Act under which such individual most recently exhausted his rights to benefits, except that employment and wage qualifying or re-qualifying requirements necessary to establish a benefit year and waiting period requirements shall not be applicable to such claims.

§ 613.9 *Application of interstate benefit payment plan.* For the purposes of interstate benefit payments and interstate appeals any State or Puerto Rico, or the Virgin Islands that has an agreement with the Secretary under the act shall act as agent or liable State in accordance with the Interstate Benefit Payment Plan to the extent of its participation in the payment of temporary unemployment compensation under its agreement. Any other State may act as an agent State in accordance with the Interstate Benefit Payment Plan with respect to claims for temporary unemployment compensation filed by an individual who exhausted his rights under an unemployment compensation law administered by a participating State or a limited participating State.

§ 613.10 *Overpayments.* (a) If, after a determination and an opportunity for a fair hearing thereon, a State agency or a court of competent jurisdiction finds that a claimant has received an overpayment of temporary unemployment compensation as a result of false statements knowingly made or material facts knowingly withheld, he shall be liable to repay any such outstanding overpayment. In the discretion of the State agency, such amounts may be deducted from future compensation payable to him under the act following the date on which such finding was made, as provided in section 203 of the act.

(b) In cases of overpayment, where there has been no finding by a State agency or court of competent jurisdiction that there has been an intent to defraud, the determinations specified below shall be made under the applicable unemployment compensation law or laws:

(1) Whether a claimant who had received an overpayment of temporary unemployment compensation which he has not repaid shall receive any future compensation payable under the act, or

(2) Whether he shall be liable to repay such overpayment, or

(3) Whether he shall be permitted to offset any future compensation payable to him under the act against such outstanding overpayment, or

(4) Whether a waiver of such overpayment may be permitted.

§ 613.11 *Appeals.* Determinations made by a State agency with respect to a claimant's entitlement to temporary unemployment compensation shall be subject to review in the same manner and extent as determinations under the applicable unemployment compensation law.

§ 613.12 *Information and services furnished by non-participating State agencies.* The agency of a State other than a participating State or a limited participating State may furnish to the Secretary such information or services as he may find necessary or appropriate in carrying out the provisions of the act and the Secretary will reimburse the State agency for the costs thereof.

§ 613.13 *Extension of UCV and UCFE agreements.* (a) Where agreements made between a State and the Secretary to effectuate title IV of the Veterans' Readjustment Assistance Act of 1952 and title XV of the Social Security Act, are extended to effectuate the act, temporary unemployment compensation shall be paid for weeks of unemployment beginning June 19, 1958, or effective date of extension, whichever is later. Where there is such an extension, temporary unemployment compensation shall be paid in accordance with the applicable sections of this part.

(b) Where there has been an extension as provided in paragraph (a) of this section, an individual who simultaneously exhausts his rights under a State unemployment compensation law and either title IV of the Veterans' Readjustment Assistance Act of 1952 or title XV of the Social Security Act, temporary unemployment compensation shall be paid to him only to the extent that he would have received temporary unemployment compensation if he had exhausted his rights only under said title IV or title XV.

§ 613.14 *Temporary unemployment compensation in Puerto Rico and the Virgin Islands.* (a) Any individual in Puerto Rico and the Virgin Islands who has exhausted his rights under title IV of the Veterans' Readjustment Assistance Act or title XV of the Social Security Act, shall be paid temporary unemployment compensation in accordance with the applicable sections of this part.

(b) Any individual whose claim for temporary unemployment compensation, based on his exhaustion of rights under title IV of the Veterans' Readjustment Assistance Act of 1952, has been denied shall be entitled to a fair hearing and review in accordance with §§ 607.13 to 607.30 of this chapter. Any individual whose claim for temporary unemployment compensation, based on his exhaustion of rights under title XV of the Social Security Act, has been denied shall be entitled to a fair hearing and review in accordance with §§ 611.7 to 611.11 of this chapter.

Signed at Washington, D. C., this 5th day of June 1958.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F. R. Doc. 58-4411; Filed, June 10, 1958; 8:50 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter C—Drugs

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

CERTIFICATION FEES; REVOCATION OF AMENDMENTS

The order amending §§ 146.8 and 146.26 (F. R. Doc. 58-4235), published on June 5, 1958 (23 F. R. 3924), is hereby revoked in its entirety. Amendments covering the sections involved will be published at a later date.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371)

Dated: June 9, 1958.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F. R. Doc. 58-4453; Filed, June 10, 1958; 8:56 a. m.]

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PENICILLIN TABLETS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507 (b) (1), 59 Stat. 463, as amended; 21 U. S. C. 357 (b) (1)) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), the regulations for the certification of penicillin and penicillin-containing drugs (21 CFR 146a.27; 21 CFR, 1956 Supp.; 22 F. R. 349) are amended by changing paragraph (a) to read as follows:

§ 146a.27 *Penicillin tablets*—(a) *Standards of identity, strength, quality, and purity.* Penicillin tablets are tablets composed of sodium penicillin, calcium penicillin, potassium penicillin, crystalline penicillin O, crystalline penicillin V, crystalline potassium penicillin V, benzathine penicillin G, or procaine penicillin, with or without one or more suitable sympathomimetic agents, analgesic substances, antihistaminics, and caffeine and with or without one or more suitable and harmless vitamin substances, buffer substances, diluents, binders, lubricants, colorings, and flavorings. They may also contain probenecid or one or more suitable sulfonamides. The potency of each tablet is not less than 50,000 units, and if it is less than 100,000 units it is unscored. Its moisture content is not more than 1.0 percent if it contains sodium penicillin, calcium penicillin, potassium penicillin, or crystalline penicillin O; not more than 2.0 percent if it contains procaine penicillin; not more than 3.0 percent if it contains crystalline penicillin V; and not more than 8.0 percent if it contains benzathine penicillin G. If it contains crystalline potassium penicillin V, its moisture content is not more than 1.5 percent unless the person who requests certification has submitted to the Commissioner information adequate to prove that his drug is stable when it has a moisture content not exceeding 3 percent. The penicillin used conforms to the standards prescribed for such drug by the regulations in this chapter, except the standards for sterility and pyrogens. Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the amendment has been drawn in collaboration with interested members of the affected industry, and it would be against public interest to delay providing therefor.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: May 29, 1958.

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

[F. R. Doc. 58-4388; Filed, June 10, 1958; 8:45 a. m.]

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

CHLORTETRACYCLINE OPHTHALMIC

In F. R. Doc. 58-3201, published in the FEDERAL REGISTER of April 30, 1958 (23 F. R. 2857), amendment 5, to § 146c.206 (c) (1) (iii), the words "36 months" are corrected to read "48 months". (See 23 F. R. 2098)

Dated: June 5, 1958.

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

[F. R. Doc. 58-4389; Filed, June 10, 1958; 8:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

Subchapter C—Personnel

PART 720—PROCEEDINGS IN CIVIL COURTS

PART 725—DISPOSITION OF CASES INVOLVING PHYSICAL DISABILITY

MISCELLANEOUS AMENDMENTS

1. Section 720.6 (e) is deleted.

2. Section 725.6 (a) is revised to read as follows:

(a) *In general.* A physical evaluation board will be composed of competent and mature officers of sound judgment who are familiar with board procedures and, in particular, with the regulations and instructions pertaining to physical evaluation boards and physical standards. A physical evaluation board considering the case of a party who is a member of the naval service on extended active duty shall consist of three commissioned officers as members, two of whom shall be non-medical officers and one of whom shall be a medical officer. There shall also be appointed a counsel for the board, and, unless waived by the party, a counsel for the party. There shall not be such disparity in rank and experience among the members of the board as might tend to operate to inhibit and influence junior members in expressing their opinions. When the party whose physical fitness is under consideration is a member of the Regular Navy or the Regular Marine Corps, two members shall, whenever practicable, be senior in rank to such party. In the absence of objection by the party, the seniority of the members of the board shall be considered as waived. When the party is a member of a Reserve component, all members of the board who act on the case shall be senior to the party and, if available, a majority of them shall be Reserve officers. In any instance where a majority of Reserve members is not available, the board will include not less than one Reserve officer among its members, and the record shall contain a certificate by the convening authority as to the unavailability of Reserve officers of the requisite seniority to constitute a majority of the board.

(Sec. 6011, 70A Stat. 375; 10 U. S. C. 6011)

By direction of the Secretary of the Navy.

[SEAL] CHESTER WARD,
Rear Admiral, U. S. Navy,
Judge Advocate General of the Navy.

JUNE 4, 1958.

[F. R. Doc. 58-4408; Filed, June 10, 1958; 8:50 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 207—NAVIGATION REGULATIONS

KENNEBEC RIVER, MAINE; HUDSON RIVER AT COEYMANS AND CEDAR HILL, N. Y.; YORK RIVER, VA.

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), § 202.3 is hereby prescribed establishing a special anchorage area in Kennebec River at Randolph, Maine, wherein vessels not more than 65 feet in length, when at anchor, shall not be required to carry or exhibit anchor lights, as follows:

§ 202.3 *Kennebec River at Randolph, Maine.* The area comprises that portion of the waterway beginning at a point on the shoreline 450 feet upstream from the east end of the Gardiner-Randolph Highway bridge at latitude 44°13'54", longitude 69°46'06", thence extending 213° (True) to the upstream end of the east bridge pier at latitude 44°13'49", longitude 69°46'11", thence extending along the shoreward side of the pier to its downstream end at latitude 44°13'47", longitude 69°46'10", thence 113° (True) to a point on the shoreline 350 feet downstream from the east end of the bridge at latitude 44°13'46", longitude 69°46'05", thence along the shore to the point of beginning.

NOTE: The area is principally for use by yachts and other recreational craft. Fore and aft moorings will be allowed. Temporary floats or buoys for marking anchors in place will be allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so placed that no vessel, when anchored, shall at any time extend beyond the limits of the area. All anchoring in the area shall be under the supervision of the local harbor master or such authority as may be designated by authorities of the Town of Randolph, Maine.

[Regs., May 27, 1958, 800.212—ENGWO] (Sec. 1, 54 Stat. 150; 33 U. S. C. 180)

2. Pursuant to the provisions of section 1 of an Act of Congress approved April 22, 1940 (54 Stat. 150; 33 U. S. C. 180), paragraphs (v) and (w) of § 202.60 are hereby prescribed designating special anchorage areas in Hudson River, at Coeymans and Cedar Hill, New York, wherein vessels not more than 65 feet in length, when at anchor, shall not be required to carry or exhibit anchor lights, as follows:

§ 202.60 *Port of New York and vicinity.* * * *

(v) *Hudson River, at Coeymans, New York.* That portion of the waters of the westerly side of Hudson River, west of Coeymans Middle Dike, north of a line bearing due west from a point 700 feet south of Upper Hudson River Light No. 43, and south of a line bearing due west from Upper Hudson River Light No. 45, except for an area 125 feet wide, adjacent to and east of the bulkhead fronting the Village of Coeymans and Barren Island Dike.

(w) *Hudson River, at Cedar Hill, New York.* That portion of the westerly side of the Hudson River, adjacent to Cedar Hill Dike, 250 feet in width, bounded on the south by the northerly side of the cut in the dike at the junction of the Vloman Kill and the Hudson River, and extending northerly therefrom 1,600 feet.

[Regs., May 27, 1958, 800.212—ENGWO] (Sec. 1, 54 Stat. 150; 33 U. S. C. 180)

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 Appropriation Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3), § 207.128 is hereby amended with respect to paragraphs (a) (1), (2) and (b) (2) redesignating the boundaries of the prohibited and restricted areas in York River, Virginia, and modifying the regulations pertaining thereto, as follows:

§ 207.128 *York River, Va.; naval prohibited and restricted areas*—(a) *The areas*—(1) *Naval mine service-testing area (prohibited).* A rectangular area surrounding Piers 1 and 2, Naval Mine Depot, beginning at a point on the shore line at latitude 37°15'07" N., longitude 76°32'18" W.; thence to latitude 37°15'27" N., longitude 76°31'48" W.; thence to latitude 37°15'-05" N., longitude 76°31'27" W.; thence to a point on the shore line at latitude 37°14'51" W., longitude 76°31'50" W.; and thence along the shore line to the point of beginning.

(2) *Naval mine service-testing area (restricted).* A rectangular area adjacent to the northeast boundary of the prohibited area described in subparagraph (1) of this paragraph, beginning at latitude 37°16'09" N. longitude 76°32'29" W.; thence to latitude 37°16'23" N., longitude 76°32'00" W.; thence to latitude 37°15'27" N., longitude 76°30'54" W.; thence to latitude 37°15'05" N., longitude 76°31'27" W.; thence to latitude 37°15'27" N., longitude 76°31'48" W.; thence to latitude 37°15'24" N., longitude 76°31'52" W.; and thence to the point of beginning.

* * * * *

(b) *The regulations.* * * *

(2) Trawling, dragging, and net-fishing are prohibited, and no permanent obstructions may at any time be placed in the area described in paragraph (a) (2) of this section. Upon official notification, any vessel anchored in the area will be required to vacate the area during the actual mine-laying operation. Vessels entering the area during mine-laying operations by aircraft must proceed directly through the area without delay, except in case of emergency. Naval authorities are required to publish advance notice of mine-laying and/or retrieving operations scheduled to be carried on in the area, and during such published periods of operation, fishing or other aquatic activities are forbidden in the area. No vessel will be denied passage through the area at any time during either mine-laying or retrieving operations.

[Regs., 27, May 1958, 800.21 (York River, Va.)—ENGWO] (Sec. 4, 28 Stat. 362, as amended, secs. 1-4, 40 Stat. 892, 893, as amended; 33 U. S. C. 1, 3)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 58-4386; Filed, June 10, 1958; 8:45 a. m.]

PART 208—FLOOD CONTROL REGULATIONS

PALISADES DAM AND RESERVOIR, SNAKE RIVER, IDAHO

Pursuant to the provisions of section 7 of the Act of Congress approved December 22, 1944 (58 Stat. 890; 33 U. S. C. 709), the following § 208.91 is hereby prescribed to govern the use and operation of Palisades Dam and Reservoir on Snake River, Idaho, for flood control purposes.

§ 208.91 *Palisades Dam and Reservoir, Snake River, Idaho.* The Bureau of Reclamation shall operate Palisades Dam and Reservoir in the interests of flood control as follows:

(a) Storage space in Palisades Reservoir and Jackson Lake combined shall be kept available for flood control purposes in accordance with the Flood Control Storage Reservation Diagram currently in force. Not less than 75 percent of the total flood control space shall be made available in Palisades Reservoir.

(b) Releases from Palisades Reservoir shall be restricted to quantities which will not cause downstream flows at the Heise gaging station to exceed 20,000 cubic feet per second, insofar as this control can be accomplished with combined reservoir capacity not exceeding 1,400,000 acre-feet in Palisades Reservoir and Jackson Lake.

(c) When the total active capacity of the reservoir has been evacuated and when the forecasted runoff indicates that storage capacity in excess of 1,400,000 acre-feet may be required for Palisades Reservoir and Jackson Lake combined to control the flows at Heise gaging station to 20,000 cubic feet per second, releases in excess of 20,000 cubic feet per second prior to June 1 will be planned on the basis of the following rule curve:

May 1–July 31 forecasted volume (acre-feet):	Required discharge[1] (c. f. s.)
Less than 4,100,000	20,000
4,100,000	23,000
4,300,000	24,000
4,600,000	25,000
4,900,000	26,000
5,300,000	27,000
5,600,000	28,000
6,000,000	29,000
6,300,000 or larger	30,000

[1] Applicable only when exceeded by natural inflow.

(d) When the forecasted runoff for the period June 1 through July 31 exceeds 2,500,000 acre-feet, and when, after June 1, the available space is not within 10,000 acre-feet of the space required by the Flood Control Storage Reservation Diagram currently in force, the releases from the reservoir may be increased so that the flow at Heise gaging station will exceed 20,000 c. f. s. up to a limit of 30,000 c. f. s. to the extent of 1,000 c. f. s. for each 5,000 acre-feet of deficient storage space, except that the release shall not be greater than the natural inflow. The change in discharge will be made in such manner as to minimize the adverse downstream effects.

(e) In no case will releases be made which will cause the flow of Snake River at Heise gaging station to exceed 30,000 c. f. s. except as may be agreed upon by the Corps of Engineers and Bureau of Reclamation in the case of exceedingly large floods or as provided in paragraph (f) or (h) of this section.

(f) The flood control regulations of the section are subject to temporary modification by the District Engineers, Corps of Engineers, if found necessary in time of emergency. Requests for and action on such modification may be made by any available means of communication, and the action taken by the District Engineer shall be confirmed in writing under date of the same day to the Office of the Regional Director of the Bureau of Reclamation in charge of the locality.

(g) The Flood Control Storage Reservation Diagram currently in force as of the promulgation of this section is that dated May 12, 1958, File No. SN-902-1/1, and is on file in the Office of the Chief of Engineers, Department of the Army, Washington, D. C., and in the Office of the Commissioner, Bureau of Reclamation, Washington, D. C. Revisions of the Flood Control Storage Reservation Diagram may be developed from time to time as necessary by the Corps of Engineers and the Bureau of Reclamation. Each such revision shall be effective upon the date specified in the approval thereof by the Chief of Engineers and the Commissioner of Reclamation, and, from that date until replaced, shall be the Flood Control Storage Reservation Diagram currently in force for purposes of this section. Copies of the Flood Control Storage Reservation Diagram currently in force shall be kept on file in and may be obtained from the office of the District Engineer, Corps of Engineers, and the Regional Director, Bureau of Reclamation, in charge of the locality.

(h) In the event that the reservoir level rises above elevation 5620 at the dam (top of spillway gates), care shall be taken that the maximum subsequent release from the reservoir does not exceed the corresponding rate of reservoir inflow.

(i) Nothing in the regulations in this section shall be construed to require dangerously rapid changes in magnitude of releases, or that releases be made at rates or in a manner that would be inconsistent with requirements for protecting the dam and reservoir from major damage.

(j) The Bureau of Reclamation shall currently procure basic hydrologic data, make determinations of required flood control reservation from the Flood Control Storage Reservation Diagram currently in force and make calculations of permissible releases from the reservoir as are required to accomplish the flood control objectives prescribed in this section.

(k) The Bureau of Reclamation shall keep the District Engineer, Corps of Engineers, Department of the Army, in charge of the locality, currently advised of hydrologic data and other operating criteria which affect the schedule of operation. Also, the Bureau of Reclamation shall keep the Watermaster, Water District No. 36, acting for the Department of Reclamation, State of Idaho, currently advised of reservoir releases.

[Regs., May 12, 1958, ENGWE] (Sec. 7, 58 Stat. 890; 33 U. S. C. 709)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 58-4387; Filed, June 10, 1958; 8:45 a. m.]

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 9—USE OF FACILITIES BY STUDENTS AND OTHER QUALIFIED INDIVIDUALS

Secs.
9.1 Purpose.
9.2 Policy.
9.3 Rules and restrictions.

AUTHORITY: §§ 9.1 to 9.3 issued under 37 Stat. 395, as amended; 20 U. S. C. 91.

§ 9.1 *Purpose.* To promote an increase in our Nation's scientific educational potential by making available the study and research facilities of the Department of Health, Education, and Welfare to qualified students and others.

§ 9.2 *Policy.* It is the policy of the Department to permit its operating agencies to allow duly qualified individuals, students, and graduates of institutions of learning in the several States, Territories, as well as the District of Columbia, to use the study and research facilities of the Department subject to rules and restrictions set forth in this part and as may be implemented. Nothing in this part shall restrict the existing authority of any operating agency such as section 301 (b) of the Public Health Service Act.

§ 9.3 *Rules and restrictions.* (a) Prior to the use of this authority each agency head must determine that it would be consistent with the programs of that agency for the agency to participate in this program and that agency facilities should be made available for the use of students and other authorized individuals. Facilities may be made available provided the use of such facilities will be of direct benefit to the educational objectives of students and other authorized individuals with the prospect of fruitful interchange of ideas and information between agency personnel and students, and such use will not interfere with agency programs.

(b) The official in charge of any Department research or study facility will not permit such use of the facility until he determines:

(1) That appropriate space and facilities are available.

(2) That the equipment is on hand and supplies required to carry on the study can be made available.

(3) That the proposed studies or research will not interfere with regular Department functions, nor require the subsequent acquisition of additional equipment, and

(4) That the proposed studies or research will have general value in a field of concern to the Department.

(c) No Department funds will be used to pay for direct support of such studies or research, other than replenishment of supplies and materials and administrative and other costs related to the maintenance and use of the space and facilities.

(d) No Department funds will be used to pay the salary costs of the research or studies or the cost of direct supervision for such studies or research, but the Department shall reserve the right in all instances to control the character and extent of studies and research where safety is involved or the public interest or Department programs are in any way affected.

(e) Operating agencies permitting students and others the use of facilities for the purpose stated in this part shall require each student or other individual to agree that the results of such research and study including any copyrightable material or patentable inventions result-

ing from the use of or access to the study and research facilities shall be dedicated to the Public and shall become a part of the public domain, except as otherwise authorized in accordance with Department policies and procedures.

(f) Proper safeguards for Government property will be instituted including arrangements for replacement of Government property damaged or lost by a student or other authorized individual.

(g) Each student and other authorized individual will be expected to use the facilities and equipment with customary care and otherwise conduct himself in such manner as to complete his studies within any time limits prescribed.

(h) Each student and other individual authorized to use Government facilities for study purposes may not be authorized to sign requisitions for supplies and equipment.

Dated: June 5, 1958.

[SEAL] M. B. FOLSOM, *Secretary.*

[F. R. Doc. 58-4390; Filed, June 10, 1958; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 2-21; FCC 58-553]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

FIXED AND MARITIME MOBILE SERVICES; DELETION OF ALLOCATION

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the fifth day of June 1958.

The Commission having under consideration deletion of the allocation of the 90-110 kc band to the fixed and maritime mobile services; and

It appearing that national defense considerations require that the primary use of the band 90-110 kc be limited forthwith to the radionavigation service to assure interference-free operation of that service as specifically requested by the Office of Defense Mobilization; and

It further appearing that there are presently no assignments in the 90-110 kc band to non-Government stations in the fixed or maritime mobile services and, therefore, no non-Government stations in these services will be displaced or otherwise affected by the rule amendment herein ordered; and

It further appearing that because of Government requirements involving national defense considerations, it would be impracticable and contrary to the public interest to comply with the public notice requirements of section 4 of the Administrative Procedure Act and that, because of the urgent nature of those requirements, the amendment should be made effective immediately;

It is ordered, That, under authority contained in sections 1, 4 (a), 4 (j), 303 (c), (f) and (r) of the Communications Act of 1934, as amended, Part 2 of the Commission's rules is amended, effective June 19, 1958, as set forth below.

Released: June 6, 1958.

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

Amendment of Part 2 of the Commission's rules, Frequency Allocation and Radio Treaty Matters; General Rules and Regulations:

1. Amend columns 8, 9, and 11 of the table of frequency allocations, § 2.104 (a) (5) to read as follows with respect to the 90-110 kc band:

Band	Service	Class of station	Frequency	Nature [OF SERVICES (of stations	
7	8	9	10	11	
90-110	Radionavigation.	a. Radionavigation land. b. Radionavigation mobile.	.....	RADIONAVIGATION	

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154)

[F. R. Doc. 58-4416; Filed, June 10, 1958; 8:51 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 1—GENERAL RULES OF PRACTICE

TEMPORARY AUTHORITIES BOARD AND TRANSFER BOARD

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 3d day of June A. D. 1958.

The special rules of practice governing the procedure of the Transfer Board being under consideration; and

It appearing that the Commission on April 1, 1958, amended the rules and regulations governing transfers of rights to operate as a motor carrier in interstate or foreign commerce (49 CFR Part 179) to provide for publication in the FEDERAL REGISTER, prior to their effective dates, of synopses of affirmative orders entered pursuant to those rules, and to give interested persons an opportunity, prior to such orders becoming effective, to bring pertinent facts to the Commission's attention, and to seek reconsideration or oral hearing in connection therewith:

It is ordered, That, to implement such action, § 1.225 of the special rules of practice be, and it is hereby, revised to read as follows:

§ 1.225 *Special rules of practice governing the procedure of the Temporary Authorities Board and the Transfer Board.* (a) The proceedings of the Temporary Authorities Board and the Transfer Board shall be informal. No transcription of such poceedings will be made. Subpoenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) A petition for reconsideration of an order of the Temporary Authorities Board or the Transfer Board may be filed by any interested person. Such petition and the reply thereto, will be governed by the Commission's general rules of practice, except as otherwise provided in paragraphs (c), (d) and (e) of this section.

(c) The original and four copies of every pleading, document, or paper permitted or required to be filed under this section, shall be furnished for the use of the Commission.

(d) A petition seeking reconsideration of an order of the Temporary Authorities Board entered under section 210a (a) of the Interstate Commerce Act must be filed within 20 days after the date of service of the order. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

(e) A petition seeking reconsideration of an affirmative order of The Transfer Board entered pursuant to the rules and regulations governing transfers of operating rights, Part 179 of this chapter, must be filed within 20 days following publication of a synopsis of such order in the FEDERAL REGISTER. In such a petition the matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. Within 20 days after the final date for filing of such petitions with the Commission, any interested person may file and serve a reply thereto.

It is further ordered, That this order shall be effective on July 1, 1958.

Notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, secs. 204, 205, 49 Stat. 546, as amended, 548 as amended; 49 U. S. C. 12, 17, 304, 305)

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 58-4415; Filed, June 10, 1958; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

U. S. STANDARDS FOR PEACHES

EXTENSION OF TIME

A proposal for revision of the United States Standards for Peaches was set forth in the notice which was published in the FEDERAL REGISTER on April 26, 1958 (23 F. R. 2802).

In consideration of data, comments, and suggestions received indicating the need for further study of the proposed changes, notice is hereby given of an extension until December 31, 1958, of the period of time within which written data, views, and arguments may be submitted by interested parties for consideration in connection with the aforesaid proposed revision of the United States Standards for Peaches.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

JUNE 5, 1958.

[F. R. Doc. 58-4404; Filed, June 10, 1958; 8:49 a. m.]

[7 CFR Part 927]

[Docket No. AO-71-A34]

HANDLING OF MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO 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), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the New York-New Jersey milk marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Utica, New York; Newark, New Jersey; and New York City, during the period February 3-10, 1958, pursuant to notices thereof which were issued January 21, 1958 (23 F. R. 481), and January 24, 1958 (23 F. R. 587).

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

1. Conditions under which milk produced on a handler's own farm should be wholly or partially exempt from regulation.

2. Conditions under which the handling of milk at a plant may be subject to either full or partial regulation at the option of the handler.

3. The assignment of milk to Class I-A at plants not expressly designated as regular pool plants.

4. Uses of skim milk to which the fluid skim differential should apply.

5. The plant at which classification should be determined for fluid cream products, half and half, and cultured or flavored milk drinks.

6. The zone limit for plants at which nearby location differentials are payable.

7. The times specified for filing reports, announcement of the uniform price and payments into and out of the producer-settlement fund.

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

Issue No. 1. It is concluded that the order should be amended to set forth more specifically than at present the conditions under which milk produced on a handler's own farm is exempt from regulation. Definitions of a "producer-handler" and of "own farm milk" should be added. Provision should be made for (1) complete exemption from the pricing and pooling provisions of the order for own farm milk of any handler designated as a producer-handler, and (2) exemption from pricing and pooling of up to an average of 800 pounds per day of own farm milk of any other handler in any month in which the average daily volume of milk handled which is from sources other than his own farm does not exceed 1,600 pounds.

The definition of a producer-handler should provide specific requirements to be met by a handler to qualify for designation as a producer-handler whose milk is fully exempt from the pricing and pooling provisions of the order. Accordingly, the definition should require that the handler (1) file an application with the market administrator, (2) handle no milk, fluid skim milk or cream other than from a milk production, processing and distributing unit owned, operated and controlled by the handler (except as hereinafter provided), and (3) does not directly or indirectly control or manage the operations of another handler or plant or is controlled or managed directly or indirectly by another handler. The definition also should provide that the designation of a producer-handler be cancelled upon a finding by the market administrator that these requirements are not being met, with termination to be effective on the first day of the month following the month in which the requirements were not met. The designation is to be cancelled if the producer-handler transfers during any month except during June through November, and then only after prior notification to the market administrator, a dairy herd, cattle barn or milking parlor to another person who uses such facilities or resources in producing milk delivered to the plant of another handler. The designation also is to be cancelled if such resources and facilities previously used by another person for the production of milk delivered to another handler is added to the producer-handler's designated milk production facilities and resources during any month except during December through May, after prior notice to the market administrator, or if such resources and facilities added were a part of the designated production resources and facilities during the preceding 12 months.

The exceptions noted with respect to requirement No. (2) are that if the producer-handler handles in any month more than an average of 100 pounds of milk per day other than that received from his designated unit, the designation be cancelled effective the first of such month, and that the designation be cancelled effective the first of the month following the third month in any six-month period in which a producer-handler handles less than an average of 100 pounds per day of milk or any quantity of skim milk or cream other than that derived from his designated production resources and facilities.

A second exception relating to requirement No. (2) is that title to milk production, processing or distributing facilities constituting the producer-handler's operation may be in the name of a relative or the estate of a relative if the handler seeking designation is other than a corporation and demonstrates that he has and exercises the same degree of control and management of the operation as would be the case if all such facilities and resources were all actually owned by the handler. It should be required that the market administrator publicly announce the names, plant and farm locations of designated producer-handlers and those whose designations have been cancelled.

In the event the plant of the handler was operated by a handler previously disqualified as a producer-handler, the handler operating the plant cannot be designated as a producer-handler unless the plant has received no milk except from designated production resources and facilities of a producer-handler for at least 12 months following the date of cancellation.

The term "own farm milk" should be defined as milk received at a plant from a dairy farm operated by the person who also is the operator of such plant, and provision should be made for the market administrator to publicly announce the name and plant location of any handler

receiving own farm milk. The announcement should not include the name of any person designated as a producer-handler nor any person who handles no milk of other producers and who sells no more than 100 quarts per day of Class I-A milk in the marketing area other than to other plants.

The order now provides complete exemption from pricing and pooling for all milk received at a handler's plant from the handler's own farm if no milk is received at the plant from any other source, and provides an exemption of up to an average of 800 pounds per day of milk received at a handler's plant from the handler's own farm if milk is received at such plant from other plants but not from dairy farmers.

As found in the Department's decision of June 10, 1957 (22 F. R. 4194), the objectives of these provisions were to provide full exemption from regulation for handlers who depend entirely on their own production as a source of supply and who do not burden the pool with any surplus or excess milk and to exempt from regulation a vast majority of handlers with own farm milk who receive some milk from other plants. It was the purpose of these provisions that individuals who are basically dairy farmers and who own, operate and control all facilities and resources of a milk producing, processing and distributing unit should be exempt from regulation.

It was recognized in the June 10, 1957, decision that the exemption thereby accorded own farm milk together with extension of regulation to include considerable urban territory in Upstate New York and Northern New Jersey would provide some competitive advantage to handlers with own farm milk who prior to the effective date of regulation were in competition with handlers buying milk from producers for which no minimum price was established or for which the Class I-C price was paid. Since August 1, 1957, these competing handlers have been fully regulated and required to account for milk used in fluid form at the Class I-A price. While this situation was recognized, it was not the objective that these provisions provide unwarranted incentives for producers to become distributors or for handlers with own farm milk to expand in numbers or in volume by employing numerous practices to qualify for exemption from pricing and pooling at the expense of or to the detriment of producers under the order. It was not intended that the exemption then provided for handlers with own farm milk result in according them a competitive advantage of sufficient magnitude over handlers whose supply is fully regulated to constitute a major competitive factor in the market or to threaten the stability of the market and the effectiveness of the order in achieving its primary objectives.

These unintended and undesirable consequences already have developed to some degree and their further development is in prospect under the prevailing economic conditions and existing order provisions. Considerable incentive is afforded for (1) producers to become distributors, (2) handlers with own farm milk to expand fluid sales at retail and wholesale prices lower than those of competing fully regulated handlers, and (3) handlers with own farm milk to take advantage of opportunities afforded under existing provisions of the order to increase the volume of exempt own farm milk by entering into contractual arrangements or otherwise adjusting their operations in such a way as to qualify more milk either for the limited or unlimited exemptions provided.

The fact that the amended order has been in effect only a few months, and that at the time of the hearing, data on own farm milk were available only through October 1957 results in only a limited statistical measure of change in the number of handlers with exempt own farm milk or in the volume of exempt milk. However, even during this limited period for which data are available (August–October), the total volume of exempt milk utilized in Class I-A in the Upstate New York and the Northern New Jersey portions of the marketing area increased from 5.5 to 6.1 million pounds, an increase of 10 percent, while during the same period the total volume of pool milk utilized for fluid purposes in these areas decreased from 201.0 to 193.8 million pounds, or a decline of 4 percent.

The total volume of exempt milk used in Class I-A expressed as a percent of total pool milk for fluid use in all districts of the marketing area, exclusive of the New York Metropolitan District, increased from 2.7 to 3.1 percent from August to October 1957. The volume of exempt Class I-A milk in relation to Class I-A milk of regulated handlers in some of the districts is a substantial share of the total fluid sales. For example, while the percentage of exempt I-A milk to pool I-A milk varied considerably among districts during October 1957, it was 3.5; 6.4; 4.3; 2.4; 1.8; 13.9; 10.6; and 2.0 percent, respectively, of pool Class I-A milk in the Nearby, Capital, Mohawk Valley, Syracuse, Binghamton, Elmira, South Central and Northern New Jersey Districts. To a varying degree among districts, exempt own farm milk sold in competition with fully regulated handlers is of sufficient volume and a large enough proportion of total sales in the district to have considerable influence on the retail pricing of milk in these areas.

In some districts, exempt handlers have cut retail and wholesale prices below prevailing prices of fully regulated handlers in efforts to increase their fluid sales with the result that fully regulated handlers have lost some fluid sales to handlers with exempt own farm milk. In some districts such practices have tended to detract from the effectiveness of the order in promoting orderly and stable marketing conditions and these practices and resultant undesirable conditions may be expected to expand into other districts and magnify in intensity in the near future unless the order is appropriately amended. These practices have prevailed most extensively in the Capital District and in Northern New Jersey.

In addition to marketwide statistics relative to own farm milk, actual or prospective increases in the volume of exempt own farm milk may be expected. A number of individual handlers who now qualify for either full or partial exemption reported increases in their production and fluid sales ranging from 5 to 20 percent. Some of these handlers also intend to increase their fluid sales areas in the immediate future. One handler who is now partially exempt, and who heretofore has purchased milk from a pool plant to supply an increase in fluid demand during July, August, and September, reported that he plans to increase his own farm production of milk from 60,000 to 130,000 pounds per month to provide a larger volume of milk for fluid distribution.

Instances were cited of steps already taken by producer-distributors to qualify for exemption of own farm milk. At least four producers who prior to August 1, 1957, were having their milk pasteurized and packaged at the plant of another handler have since sought permission from the State of New York to equip their own pasteurizing plants. Sale of milk in gallon jugs, recently authorized by the State of New York, was reported to provide an attractive means by which a producer can become a distributor since a smaller capital investment is required and such type of distribution otherwise lends itself to small operations.

The present order provisions permit, if not encourage, handlers with own farm milk who are fully or partially exempt from regulation to enter into various contractual arrangements to increase the volume of their milk exempt from regulation. In some instances, these practices have resulted in producers under the order carrying the seasonal and day-to-day reserve supplies of milk associated with such handler's fluid sales without sharing in the benefits accruing from such fluid sales.

Sixteen of 106 handlers with exempt own farm milk (63 fully exempt and 43 partially exempt) either leased or owned and leased the farms they claimed to operate. Some leases were made immediately before and some since the effective date of the order on August 1, 1957. It is possible under the present order provisions for a handler to lease any number of cows or farms during periods in which additional milk is needed and terminate the lease when the milk is no longer required to supply fluid sales. This is an attractive means by which a handler with own farm milk can balance out of the pool and permit producers to carry his burden of surplus. After such a lease is terminated the milk from such cows and farms can be delivered to a pool plant by the owner and the blend price received. It is also possible that a handler with some own farm milk may lease the cows, barns and land of any number of dairy farmers who previously delivered milk to his plant as producers and qualify for full exemption as all the milk would be considered as own farm milk. The leasing arrangements may specify that the dairy farmers receive payments of approximately the same amounts as previously paid when the individuals were producers delivering to the handler's plant. Under such cir-

cumstances, the handler is basically a handler and not a dairy farmer and should not be given a competitive advantage over competing fully regulated handlers but should be considered the same as any other fully regulated handler who receives milk from producers, who is required to participate in market-wide equalization and who is required to pay producers the minimum uniform prices.

Under the present order language a multiple farm operator can produce exempt milk from one farm while delivering milk to regulated handlers from any number of other farms and receive the uniform price for the milk. Cows can be shifted or the milk may possibly be shifted in a concealed manner from the farm or farms from which milk is delivered to regulated handlers to the farm on which exempt milk is produced. Such practices enable an exempt handler to balance from the pool the day-to-day and seasonal surplus associated with the fluid sales exempt from pricing and pooling while producers under the order receive no benefits from the exempt handler's fluid sales.

Some handlers with own farm milk have taken full advantage of the order provisions to qualify for full exemption of own farm milk. Prior to August 1, 1957, there were 27 handlers in the State of New York who in addition to handling their own milk also purchased milk from other producers and who have since that date discontinued receiving milk from other producers. A number of handlers who are now exempt testified at the hearing that they ceased purchasing milk from other producers after August 1, 1957, so that they could qualify their own farm milk for exemption.

It is recognized that emergency conditions and conditions of an unusual nature may arise in which a designated producer-handler may find it necessary to receive limited quantities of milk for limited periods of time from sources other than his own production unit. In view of the restrictive requirements to be fulfilled for designation as a producer-handler and the provisions requiring that a producer-handler cannot regain designation for 12 months once it is cancelled, it is reasonable to permit a producer-handler to receive some milk from other sources under emergency or unusual conditions. Accordingly, provision is made that a designated producer-handler will not lose his designation until after the third month in any six-month period in which he receives not more than an average of 100 pounds per day of milk or any skim milk or cream derived from sources other than from the production resources and facilities designated as constituting a part of the producer-handler's unit. However, provision is made for cancellation of the designation of a producer-handler as of the first of any month in which he receives more than an average of 100 pounds per day of milk other than from his designated unit. These limited exceptions to the requirement that a producer-handler handles only milk, skim milk or cream from his designated production resources and facilities will provide needed flexibility but at the same time will not permit producer-handlers to balance out of the pool to an extent detrimental to the interests of other producers.

If qualification as a producer-handler depended only on whether he receives milk from sources other than his designated unit, a producer-handler, although receiving no milk, could receive unlimited quantities of skim milk and cream from pool sources at any time and depend on the pool to carry a portion of his surplus burden. As it is intended that full exemption be provided for handlers who handle only milk from a production, processing and distributing unit in which all facilities and resources are owned, operated and controlled by the handler and who do not depend on producers under the order to carry their burden of surplus, a producer-handler should be precluded from handling not only milk but also fluid skim milk or fluid cream derived from sources other than from his designated unit except in limited amounts and for limited periods of time as herein provided.

The provisions herein provided that a handler operating a plant which was previously operated by a handler whose designation as a producer-handler has been cancelled cannot obtain designation as a producer-handler sooner than 12 months following such cancellation and that a producer-handler cannot relinquish and then later add (except during specified periods) resources and facilities which constitute a part of his designated source of supply will prevent producer-handlers from depending on the pool to carry the seasonal surplus associated with their fluid sales. Without these requirements, a producer-handler could choose to become fully regulated or add production resources and facilities to his designated unit during periods when additional supplies of milk are required and revert to full exemption from pricing and pooling during any months when his own production is adequate to supply the demand for fluid milk, or release production resources and facilities when they are not needed. Such practices would be in direct conflict with the objective of providing full exemption from pricing and pooling for handlers who distribute only milk from their production units and who are not dependent upon the pool in any way except in cases of an emergency nature for which provision is made.

Exempt milk of a producer-handler should not be allowed to displace milk of other producers for fluid use when such other producers do not share in the fluid sales of the exempt producer-handler. Accordingly, as presently provided with respect to own farm milk, any milk received from the production, processing and distribution facilities of a producer-handler at the plant of another handler (except certified milk as hereinafter provided) should be considered as a receipt of nonpool milk at the plant of such other handler and be subject to compensatory payments if assigned to Class I–A or Class II.

Instances have occurred in which handlers under the order have received milk at their plants from handlers who were fully exempt from pricing and pooling and have not considered the milk as nonpool milk as they were not aware that the handler delivering the milk was exempt from regulation. In some instances, such milk has been received by handlers for a considerable period of time without their knowing that an obligation for compensatory payments was being incurred. To provide proper notification to regulated handlers of persons who are designated as producer-handlers so that any milk received from such persons will be assigned as nonpool milk, the market administrator should be required to publicly announce the names, plant and farm locations of designated producer-handlers and of those whose designations have been cancelled. The announcements should be controlling with respect to the accounting at regulated handler's plants for milk received from producer-handlers on and after the first of the month following the date of announcement.

Handlers with own farm milk who are not designated as producer-handlers should be allowed an exemption of up to an average of 800 pounds of own farm milk per day in any month in which the volume of milk, other than own farm milk, handled does not exceed an average of 1600 pounds per day. This will permit a handler to supply the equivalent of two medium size routes with milk received from other plants or from dairy farmers without losing limited exemption on his own farm milk. Currently, partially exempt handlers with own farm milk are given an incentive to conceal receipts of milk from neighboring dairy farmers when additional supplies of milk are required in order to preserve their exemption. There appears to be no sound basis for distinguishing, for limited exemption purposes, between handlers with own farm milk who obtain additional limited supplies from other plants and those obtaining such additional supplies from other producers. In either instance the pool will be protected since such additional supplies will be pooled.

Prior to the effective date of the amended order on August 1, 1957, a considerable number of small handlers with own farm milk "custom bottled" milk for one or more other dairy farmers. These handlers were not eligible for partial exemption on their own farm milk if they continued to engage in this practice after August 1, 1957, since milk so received for custom bottling is considered to be received from producers. The change herein provided under which such a handler remains eligible for a limited exemption on his own farm milk so long as other source milk also is limited to not more than an average of 1600 pounds per day will permit him to do "custom bottling" for two or three other producers of average size without loss of his exemption. This change will permit more flexibility of operations without adversely affecting the interests of other producers.

Provision for limited exemption on own farm milk applicable to those receiving no more than an average of 1600 pounds of milk per day from other sources will tend to confine eligibility to

those who are engaged primarily in milk production but who also distribute their own milk and other milk on a limited scale. On the other hand, this limited exemption will not be applicable to those handlers engaged primarily in the processing and distribution of relatively large volumes of milk but who incidentally obtain a relatively minor part of their milk from their own farms.

An exemption of up to an average of 800 pounds per day will provide full exemption of own farm milk for 28 of 57 handlers who claimed partial exemption in 1957 and for 31 of 57 handlers with own farm milk who did not claim any exemption in 1957 provided, in each instance, their receipts from other sources do not exceed an average of 1600 pounds per day. Receipts of own farm milk by those handlers averaged less than 800 pounds per day. The remaining 29 handlers claiming partial exemption in 1957 and the remaining 26 claiming no exemption in 1957 would be eligible for an 800-pound daily exemption if their other source receipts are within the specified limit.

Milk received at the plant of a fully regulated handler from a handler with own farm milk to which the limited exemption applies should be allocated to the lowest possible classification at the second handler's plant. No provision for treating any such milk as nonpool milk in instances where it must be assigned to Class I–A or Class II is necessary (as is provided with respect to milk received from a designated producer-handler) since, considering the volume limitation provided, there can be no significant displacement of producer milk in these classes by exempt own farm milk.

The market administrator should be required to publicly announce the names and plant locations of handlers with own farm milk for the purpose of identifying the milk required to be so allocated. Such announcements should not include the names of designated producer-handlers or the names of handlers receiving no milk from other dairy farmers and who sell no more than an average of 100 quarts of Class I–A milk per day directly to consumers in the marketing area. Those to be so excluded from the list are producers essentially rather than handlers.

The State of New York exempts from milk dealers' license requirements a farmer (individual or partnership but not a corporation) selling only on the farm where produced not more than 100 quarts daily average of milk in any one month to consumers coming to such farm for it. It would not be administratively feasible to attempt to designate such persons as handlers with own farm milk and require that any milk delivered by such persons to a pool plant be assigned to the lowest classification possible. Accordingly, any milk delivered by such persons should be considered as being received from producers.

The present provisions of the order for exempting own farm milk from pricing and pooling apply to milk produced in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and permit a producer of such milk to dispose of to other handlers for fluid use in Class I–A that portion of his production in excess of that marketed as certified milk. Such disposition displaces priced producer milk in Class I–A thus adversely affecting the interests of other producers. Accordingly, it is concluded that milk produced in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and which is marketed as certified milk should continue to be exempt from pricing and pooling in the same manner as own farm milk of other designated producer-handlers, and that any milk so produced, other than that marketed as certified milk, delivered from the farm where produced to a pool plant of another handler should be considered as having been received from a producer and priced and pooled the same as other producer milk.

It was contended at the hearing by handlers with own farm milk that they were entitled to exemption from pricing and pooling because of alleged higher costs of production than other producers caused by operating conditions normally associated with and peculiar to their type of business enterprise, and that, because of their higher production cost, an exemption would not provide them with a competitive advantage over fully regulated handlers. It was contended that their higher costs of production were due to (1) higher labor costs, (2) maintenance of "show places" from which the industry in general benefits by promoting the sale of more milk for fluid use, (3) use of land with higher value and subject to higher taxation by virtue of being located near urban centers, and (4) maintenance of more even seasonal pattern of production.

These reasons as justification for an exemption are not valid. Cost of production cannot be used as a sound basis for granting an exemption from pricing and pooling any more than it can be used as the sole criterion for establishing minimum order prices. If production costs were used as a criterion for exemption of producer-handlers it logically would follow that comparable exemptions also be provided for milk received by fully regulated handlers from other producers with higher than average production cost. Aside from the administrative difficulties involved in its application, such a criterion for exemption would be in direct conflict with the principles of the classified system of pricing, market-wide pooling and the requirements of the act for establishing minimum order prices.

It was not demonstrated that all or a majority of the producers who also are engaged in distribution have production costs higher than many other producers; that their production is seasonally more even than that of many other producers; that the labor employed is any less productive than that of other producers; that the majority of such producer-handlers maintain production and processing facilities of higher quality than those of other producers and of the handlers to whom they deliver or that when "show places" are maintained that they should not be regarded as a form of advertising the cost thereof being freely incurred as an integral part of the cost of distribution the same as similar costs are incurred by fully regulated handlers in the normal course of business.

No change should be made in the order to provide full or partial exemption for milk delivered by a dairy farmer to a handler's plant for processing and packaging and with packaged fluid milk being returned to the dairy farmer for distribution directly to consumers. As a means of carrying out the purpose of the order, each milk handler operating a plant at which milk is received from farmers is required to account for the utilization of all milk so received and is held responsible for payment for that milk at the minimum prices established. The practice of attempting to impose these obligations upon persons other than those handlers operating plants receiving milk from farmers would provide opportunities and incentives for engaging in practices constituting a threat to market stability and orderly marketing, thus tending to defeat the purposes of the order.

An unwarranted incentive would be provided for producers to have their milk "custom bottled" and become handlers or distributors in an effort to increase their returns by obtaining more than their proportionate share of the fluid sales in the market, to the detriment of other producers, and handlers would be encouraged to engage in the practice of "custom bottling" as a means of escaping the obligation of paying the established minimum prices for the milk so handled and thus obtain undue competitive advantage over other handlers.

Issue No. 2. Provisions of the order relating to temporary pool plants should be amended to provide (1) that a plant from which Class I–A milk is distributed in the marketing area, and which now is a nonpool plant unless the handler operating the plant exercises the option to be a pool plant, would be a pool plant automatically unless the handler exercises the option to be a nonpool plant, and (2) that such provision for full regulation as a pool plant, unless the handler chooses to be a nonpool plant, be applicable to a plant otherwise subject to regulation under another Federal order in which no provision is made for marketwide equalization regardless of the relative volumes of milk distributed from the plant in the two marketing areas involved.

At the present time, the order provides that a plant distributing milk directly to consumers in the marketing area but in a quantity insufficient to make that plant a pool plant automatically may become a pool plant at the option of the operating handler if not less than 55 percent of the milk received from farmers at that plant is classified as Class I–A or Class I–B. This option is not available, however, to plants which otherwise would be regulated under another Federal order unless the volume of Class I–A milk at the plant is larger than the volume of its Class I–B sales in the other Federal marketing area. At present, if the plant

distributing the milk in the marketing area does not exercise its option to be a pool plant, an obligation is incurred to make compensatory payments on any nonpool milk distributed in the marketing area. Thus, a plant which is not regulated under another Federal order and which receives no milk from pool plants would be required to pay to the producer-settlement fund the difference between the Class III price and the Class I–A price for any Class I–A milk distributed in the marketing area. By making such payments the operator avoids pooling his Class I–B milk distributed outside of the marketing area.

A reversal of the present option provision, as proposed at the hearing, to provide that such a plant automatically is a pool plant unless the operator exercises an option to remain a nonpool plant, would not change the economic position of a plant. The change would mean, however, that nonpool status for the plant could be attained only by positive action by the handler rather than merely resulting from inaction on his part. Such a change appears desirable and should be made in order that nonpool status, and the resultant prospective or possible obligation for compensatory payments, will be the result of a choice positively exercised by the handler operating the plant.

All other Federal milk marketing orders in the Northeast provide for excluding from regulation thereunder any plant which is regulated by the New York-New Jersey order. Some of such other orders provide for marketwide equalization and some do not. In contrast to handlers subject to no minimum price regulation or to regulation with no provision for marketwide equalization, a handler subject to regulation under a Federal marketing order with provisions for marketwide equalization is not in a position to increase returns to his producers by increasing the proportion of his milk disposed of for Class I–A use except to the relatively minor extent that such higher Class I utilization increases the returns to all producers in the market through the mechanics of marketwide pooling. This difference in the impact on the handlers under regulation of an order providing for marketwide equalization compared to other handlers not involved in marketwide pooling is recognized under existing provisions of the order providing for compensatory payments on nonpool milk disposed of for fluid use in the marketing area. Thus, under existing provisions of the order a handler subject to regulation under the Philadelphia order (Order No. 61) incurs an obligation for compensatory payments on nonpool milk disposed of in the Order No. 27 marketing area at a rate equal to the difference between the Order No. 27 Class I–A and Class III prices and with his obligation to producers under Order No. 61 reduced by an equivalent amount. The return to producers under the Philadelphia order for such milk is the same as for milk disposed of for manufacturing rather than for fluid purposes.

Since under existing provisions of the order a handler subject to regulation under the Philadelphia order incurs an obligation for compensatory payments on milk disposed of in the Order No. 27 marketing area at the same rate as is applicable to nonpool milk from sources not subject to regulation under another order, such a regulated handler should have the same unrestricted choice as an unregulated handler of either being a pool plant subject to full regulation under the order or of being a nonpool plant subject to compensatory payments. Handlers subject to regulation under another Federal order with provisions for marketwide equalization are in essentially the same position as handlers subject to regulation under Order No. 27 insofar as their ability to influence the returns to their own producers by means of their own utilization is concerned. Handlers subject to this type of regulation incur an obligation for compensatory payments, if any, only in the amount by which the Order No. 27 Class I–A price exceeds the Class I–A price under the other order. Thus, there is no need to afford as much freedom for this type of handler to become subject to full regulation under Order No. 27 as is afforded to other handlers not so regulated. Unrestricted freedom to shift back and forth between orders with provisions for marketwide pooling to take advantage of month-to-month differences in class prices could result in disorderly marketing conditions and adversely affect the interests of producers under both orders.

Accordingly, the present provisions should continue to provide that a handler subject to regulation under another order providing for marketwide equalization be eligible for designation as a temporary pool plant under Order No. 27 only if the volume of Class I–A milk at the plant exceeds the volume of Class I–B milk at the plant disposed of in the marketing area defined under the other order.

Issue No. 3. The order should be changed (by amending § 927.35 (a) (1)) to provide that, if a handler operating a plant which is not an expressly designated pool plant (pursuant to § 927.25 or § 927.28) but from which Class I–A milk is distributed on routes in the marketing area so elects, milk received from pool plants may be assigned to such Class I–A milk prior to the assignment of milk received at the nonpool plant directly from dairy farmers to such Class I–A sales.

The order presently requires that milk received at a nonpool plant directly from dairy farmers first be assigned to Class I–A milk distributed from the plant on routes in the marketing area unless the volume of such Class I–A milk is not sufficient to qualify the plant as a temporary pool plant pursuant to paragraph (a) or (b) of § 927.29. Accordingly, under present provisions of the order, a handler operating a plant from which the volume of Class I–A milk distributed on routes in the marketing area is not large enough to subject the plant to full regulation, may first assign milk received at his plant from pool plants to his Class I–A sales, and thereby avoid compensatory payments on nonpool milk assigned to Class I–A, provided the volume of his receipts from pool plants equals or exceeds his volume of Class I–A sales.

The difficulty encountered by this type of handler as the order presently is written, however, is that when he attempts to reduce the volume of milk received directly from farmers to compensate for the volume received from pool plants, the volume of his Class I–A sales, although remaining constant, becomes a larger percentage of his receipts directly from farmers, thereby making him subject to full regulation as a temporary pool plant pursuant to § 927.29. The change herein provided will eliminate this difficulty and permit more flexibility in the application of the order to the "fringe operator" type of handler. The change will tend to minimize the impact of the order on this type of handler and at the same time avoid either giving him any undue competitive advantage over other handlers or adversely affecting the pool.

Issue No. 4. The fluid skim differential should apply to skim milk disposed of in the form of fluid skim milk if it is for human consumption as fluid skim milk and not to skim milk disposed of as fluid skim milk for other uses including that disposed of to commercial food processing or manufacturing establishments, other than dairy plants, for use in processed or manufactured food products. Provisions of the order setting forth the mechanics of accounting for skim milk in connection with application of the fluid skim differential should be revised for the purpose of clarification.

Practices employed in the disposition of skim milk in the expanded marketing area to which the order has applied since August 1, 1957, are different from those in the marketing area as previously constituted. Thus, the fluid skim differential, under existing provisions of the order, is applicable to skim milk dispositions in circumstances not encountered prior to expansion of the marketing area. In the territory added to the marketing area effective August 1, 1957, fluid skim milk in bulk is disposed of from handlers' plants to such establishments as bakeries and soup, candy and margarine manufacturers; whereas, such dispositions in the former marketing area were extremely limited or nonexistent.

It was found in the decision of June 10, 1957 (22 F. R. 4194) providing for expansion of the marketing area that (1) application of the fluid skim differential is a method of attaching a fluid price to skim milk used in products which essentially are fluid milk products, and (2) the fluid skim differential provisions of the order (existing prior to August 1, 1957) should be applied in the expanded marketing area to the same products and at the same rate as presently applicable to the (former) marketing area. There is no basis in this record for a different conclusion but there is evidence that the conclusion is not properly implemented under existing provisions of the order and that the amendments herein provided are needed for that purpose.

It appears probable that amendment of the order, as herein provided, to make the differential applicable to fluid skim

milk disposed of in consumer packages or dispenser units will make it applicable to virtually all skim milk disposed of as fluid skim milk for consumption in fluid form, since no other method of disposing of fluid skim milk for consumption as such is known to be presently permitted under applicable health authority regulations. However, to insure against a possible loophole, provision should be made for application of the differential also to any skim milk disposed of in bulk for human consumption as fluid skim milk.

It was contended at the hearing that even though such application of the fluid skim differential was not heretofore intended, experience under the order since August 1, 1957, indicates that the differential should apply to fluid skim milk disposed of for manufacturing purposes such as in the manufacture of margarine. It was pointed out in this connection that the volume of skim milk subject to the differential had about tripled in the first month after expansion of the marketing area in contrast to a 70 percent increase in population of the area, and had remained at a high level through December, the last month for which statistics are available. These statistics are of extremely doubtful validity, however, in support of a conclusion that margarine and other manufacturers are paying and will continue to pay a fluid price for skim milk. The statistics are based on handlers' reports which, it was indicated, did not include skim milk sales to margarine manufacturers as being a disposition subject to the fluid skim differential. Moreover, a substantial part of the increased volume of skim milk subject to the differential reasonably may be attributed to the abandonment of country classification (coincident with expansion of the marketing area) and the application of the differential to skim milk in milk separated in the New York metropolitan district which formerly was reported as Class I-A milk to which the differential did not apply.

Experience since expansion of the marketing area reveals the need, in the interest of clarity, for revision of order language to indicate more specifically than at present the point at which a determination is to be made as to whether the fluid skim differential is applicable, and the forms in which products may move prior to such determination. Accordingly, provision is made herein for amending § 927.33, relating to the plant at which classification is to be determined, so that it will apply not only to whole milk and cream as at present but also to products containing skim milk to which the fluid skim differential may be applicable in essentially the same manner as at present with respect to the classification of whole milk depending upon disposition of butterfat.

Issue No. 5. Provision of the order relating to the plant at which classification is to be determined (§ 927.33) should be amended to apply to interplant movements of butterfat and skim milk in the form of fluid cream products, half and half, or cultured milk drinks in essentially the same fashion as now provided in the case of movements of butterfat and skim milk in the form of cream.

The order presently provides that milk the butterfat from which leaves a plant in the form of cream is to be classified at the plant or plants to which the cream is shipped (with specified exceptions) rather than at the plant where the cream was separated. Milk shipped in the form of cream from a pool plant where separated to the New York metropolitan district and there disposed of as fluid cream is classified in Class II. However, if such cream is used in the manufacture of ice cream in the New York metropolitan district or is shipped from the plant where received in the New York metropolitan district to a purchaser outside the district, the milk is classified in Class III. On the other hand, in the case of fluid cream products, half and half, or cultured milk drinks containing less than 3 percent or more than 5 percent butterfat shipped to the New York metropolitan district, there is no provision for following such products beyond the plant of receipt in the New York metropolitan district and, consequently, the milk involved is classified in Class II on the basis of such movement even though such products are moved from the plant where received in the New York metropolitan district to a plant or purchaser outside the district or are there manufactured. The amendment herein provided will allow the same degree of flexibility involving movements of fluid cream products, half and half, or cultured milk drinks into and out of the New York metropolitan district as is now the case regarding such movements of cream and will tend to provide a higher degree of equality of treatment between handlers who are involved in such movements and those who are not.

Issue No. 6. It is concluded that the provision of the order (§ 927.71 (b) (5)) specifying the zone limit for plants at which nearby location differentials are payable on milk received from farms located within zones up to 120 miles should be amended by (1) changing the plant zone limit of 131–140 miles to 141–150 miles for plants located in the specified counties and towns, (2) adding Schenectady County, New York, to those counties now specified, and (3) changing the zone limit for other plants from 111–120 miles to 131–140 miles.

These changes should be made primarily to achieve a more logical and orderly pattern of payments to producers eligible to receive the nearby location differential. No change is being made in the provision confining payment of nearby location differentials only to those producers (with specified exceptions) whose farms are located within the 120-mile zone (and no such change was proposed). Moreover, the changes made herein constitute only a relatively minor adjustment in, rather than complete elimination of, the presently prescribed zone limitation for plants at which nearby location differentials are payable. There is no abandonment of the principle set forth in the decision of June 10, 1957 (22 F. R. 4194) that nearby location differentials should be paid only on milk received at plants within a specified territory since "nearby differentials of this type are designed to reflect the fact that under competitive conditions milk produced in this area has a traditional outlet as fluid milk at plants located in the nearby area."

The presently prescribed limitation as to plant location, however, is not fully serving the purpose of distinguishing in the most equitable and logical manner between those producers who are eligible for the differential and those who are not. Most of the peculiar situations relating to eligibility of certain producers result from the employment of a method of determining farm zones which is different from the method of determining zones for plants. Plant zones are based on highway mileage to the plant; whereas, farms are zoned by highway mileage to the nearest point in the township, or other minor civil division, in which the farm (milkhouse) is located.

The result is that there are instances where producers operating farms zoned within 120 miles who deliver their milk to a plant located in the same town as the farm but who are not eligible to receive the differential because the plant is in the 121–130 or perhaps the 131–140 mile zone, while other producers in the same neighborhood are eligible for and do receive the differential because their milk is received at a plant located within the 120-mile zone. This and similar situations where two or more plants are equally accessible to producers, but where some of the plants are inside the 120-mile zone and some outside, have generated a degree of discontent among producers similarly situated. The situation provides an incentive for producers to shift from plants to which they historically have delivered their milk, and a competitive advantage to the handler operating the plant at which the differential is payable.

Extending from 120 miles to 140 miles the zone limit for plants at which the nearby location differential is payable will provide a more gradual and orderly pattern of producer payments without any significant increase in the number of additional producers eligible to receive the differential or in the total amount of money required to pay the differentials. There are 31 plants located in the 121–140 mile zone at which milk is received from approximately 2,500 producers. About 1,760 of these producers are on farms zoned beyond 120 miles and would remain ineligible for the differential irrespective of the plant to which they deliver. The remaining 740 producers whose farms are zoned within 120 miles are the maximum number of additional producers who could qualify for the differential. All of these producers presently are eligible provided they shift to a plant zoned within 120 miles. Over 600 of these 740 producers are on farms zoned in the 111–120 mile zone and thus would become eligible for a differential at the rate of only five cents per hundredweight. If the additional producers in each zone made eligible for the differential deliver the same volume of milk as those presently receiving the differential, the total monthly increase in

aggregate amount paid will approximate $5,000.00 and a percentage increase of from one to one and one-half percent. The effect on the uniform price would be negligible.

The extension of the zone limit (from 131–140 to 141–150) for plants in the territory now specified along the eastern border of the State of New York northward into the Capital District, and the addition of Schenectady County to those now specified is designed to accomplish substantially the same purposes as the extension generally of the zone limit for other plants to 140 miles as herein provided. A relatively few additional producers in and around the Capital District will become eligible for the differential including a few now delivering to a plant in Schenectady who delivered to a plant of the same handler located in Albany until the Albany plant was closed in November 1956.

Issue No. 7. It is concluded that (1) the provision of the order (§ 927.50) now requiring each handler to report specified information to the market administrator on or before the 10th day of each month should be amended to require that, if such reports are filed by mail, they be postmarked no later than the 8th day of the month, and if not so mailed that they be physically delivered to the office of the market administrator by no later than the close of business on the 10th day of the month, and (2) the day by which the market administrator is required (by § 927.67) to announce the uniform price should be changed from the 14th to the 15th of each month.

Experience in the submission by handlers of monthly reports and in the handling and processing of such reports in the office of the market administrator incident to the computation of the uniform price since expansion of the marketing area effective August 1, 1957, has demonstrated the need for a longer period of time between the date on which handlers' reports are received in the office of the market administrator and the date by which the market administrator is required to announce the uniform price. The job of computation and announcement of the uniform price as presently required by the 14th of each month currently requires a greater amount of overtime work by the personnel involved than can be continued indefinitely.

The need for additional time is directly associated with the expansion of the marketing area by amendment of the order effective August 1, 1957. Several factors are involved, however. The number of reports received each month has more than doubled since August 1957. Beginning with August 1957, the number of reports received each month has ranged from 960 to 990 compared with an average of 420 theretofore. The physical handling of this increased volume of reports requires more time. In addition, the order amendments effective August 1, 1957, require the performance of functions not previously required, including the checking of reports in connection with pooling options, exemption of own farm milk, receipts from plants with exempt milk and nearby location differentials.

The second factor involved is that a substantially larger number, and a larger proportion of the total number, of reports filed originate from points located a greater distance from the market administrator's office than was the case prior to August 1. Nearly one-half (198) of the monthly reports filed prior to August 1957 came from points in or near the metropolitan area. These reports from nearby points usually were received in the office of the market administrator by not later than the 10th of the month. Some were mailed and some were delivered by messenger. The remainder, or those transmitted by mail from the distant points usually were received on the 10th, 11th, or 12th of the month.

Since August 1957, the number of reports from nearby points (about 220) is only slightly larger than heretofore and is a substantially smaller proportion of the total. In general, since August these reports from nearby sources have been received by the 10th of the month and, as previously, some are delivered by messenger and some are mailed. However, a substantially increased number of reports from more distant points, and a larger proportion of the total heretofore, have not been received in the office of the market administrator until after the 10th of the month. Such reports have been received on each day from the 10th through the 14th and in each month since August an average of 50 reports, most of which were claimed to have been mailed by the 10th, were not received until after the 14th of the month. Information contained in these latter reports was obtained by long distance telephone for use in computing the uniform price. Such telephone calls, together with a larger number of calls regarding reports after they have been received, are time consuming.

There is no need for specifying an earlier date by which all handlers' reports are to be filed. Certain handlers, particularly multiple plant operators, and cooperatives which file reports for plants operated by buying dealers, are experiencing considerable difficulty in reporting by not later than the 10th as presently required. The majority of the reports filed by these handlers are prepared in or near the metropolitan area and are not the reports constituting the problem from the standpoint of the market administrator. The major part of the problem is caused by the late receipt of reports transmitted by mail from more distant points.

A later date for announcing the uniform price also was considered. In this connection, announcement of the uniform price more than one day later than at present would leave insufficient time thereafter for handlers to perform the work involved in making payments to producers by not later than the 25th of the month as presently required. No proposal was considered for a later date for paying producers. It was not indicated that changing from the 14th to the 15th the day for announcing the uniform price would necessitate any change in the dates presently provided for payments into and out of the producer-settlement fund.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. 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.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the New York-New Jersey marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Add new §§ 927.14 and 927.15 as follows:

§ 927.14 *Own farm milk.* (a) Own farm milk means milk received at a plant from a farm operated by the person who is the operator of such plant.

(b) The market administrator shall publicly announce the name of any handler operating a pool plant receiving

own farm milk and the location of the plant operated by such handler. This public announcement shall not include the name of any person meeting the definition of producer-handler as specified in § 927.15, or any person receiving no milk from other dairy farmers and selling no more than 100 quarts per day of Class I–A milk to persons in the marketing area other than to other plants.

§ 927.15 *Producer-handler.* Producer-handler means a handler who, following the filing of an application pursuant to paragraph (a) of this section, has been so designated by the market administrator upon determination that the requirements of paragraph (b) of this section have been met. Such designation shall be effective on the first of the month after receipt by the market administrator of an application containing complete information on the basis of which the market administrator determines that the requirements of paragraph (b) are being met, except that the effective date of designation shall be the same as the effective date of this provision if applications therefore are filed not later than 15 days after such effective date. The effective date of designation shall be governed by the date of filing new applications in instances where applications previously filed have been denied. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section.

(a) Application: Any handler claiming to meet the requirements of paragraph (b) of this section may file with the market administrator, on forms prescribed by the market administrator, an application for designation as a producer-handler. The application shall contain the following information:

(1) A listing and description of all resources and facilities used for the production of milk which are owned or directly or indirectly operated or controlled by the applicant.

(2) A listing and description of all resources and facilities used for the processing or distribution of milk or milk products which are owned, or directly or indirectly operated or controlled by the applicant.

(3) A description of any other resources and facilities used in the production, handling or processing of milk or milk products in which the applicant in any way has an interest and the names of any other persons having or exercising any degree of ownership, management, or control in the applicant's operation either in his capacity as a handler or in his capacity as a dairy farmer.

(4) A listing and description of the resources and facilities used in the production, processing and distribution of milk which the applicant desires to be determined as his milk production, processing and distribution unit in connection with his designation as a producer-handler: *Provided*, That all milk production resources and facilities owned, operated or controlled by the applicant either directly or indirectly shall be considered as constituting a part of the applicant's milk production unit in the absence of proof satisfactory to the market administrator that some portion of such facilities or resources do not constitute an actual or potential source of milk supply for the applicant's operation as a producer-handler.

(5) Such other information as may be required by the market administrator.

(b) Requirements: (1) The handler owns the plant which he operates in his capacity as a handler and also owns, in his capacity as a dairy farmer, the milking herd, the buildings housing the milking herd, and the land on which such buildings are located, all of which constitute the milk production, processing, and distributing facilities and resources of the handler's operation as a producer-handler: *Provided*, That, if the applicant is other than a corporation, title to such facilities and resources may be in the name of a relative or the estate of a relative if the control and management of the entire operation by the applicant is tantamount to ownership.

(2) The handler in his capacity as a handler handles no milk, fluid skim milk, or cream except that received from the milk production facilities and resources designated as constituting the applicant's operation as a producer-handler.

(3) The handler is not, either directly or indirectly, associated with control or management of the operation of another plant or another handler, nor is another handler so associated with his operation.

(4) In case the plant of the applicant was operated by a handler whose designation as a producer-handler previously has been cancelled pursuant to paragraph (c) of this section, no milk, cream, or fluid skim milk has been received at the plant during the 12 months preceding the application except from the milk production facilities and resources designated as constituting the applicant's operation as a producer-handler.

(c) Cancellation: The designation as a producer-handler shall be cancelled under conditions set forth in subparagraphs (1) and (2) of this paragraph or, except as specified in subparagraphs (3) and (4) of this paragraph, upon determination by the market administrator that any of the requirements of paragraph (b) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met.

(1) A dairy herd, cattle barn or milking parlor is transferred to another person who uses such facilities or resources in producing milk for delivery to another handler, unless such transfer is in the months of June through November, and with prior notice to the market administrator. This provision, however, shall not be deemed to preclude the occasional sale of individual cows from the herd.

(2) A dairy herd, cattle barn or milking parlor, previously used for the production of milk delivered to another handler, is added to the designated milk production facilities and resources of the producer-handler, except in the months of December through May, after prior notice to the market administrator, or if such facilities and resources were a part of the designated production facilities and resources for the preceding 12 months. This provision, however, shall not be deemed to preclude the occasional purchase of individual cows for the herd.

(3) If the producer-handler handles more than an average of 100 pounds per day of milk other than that from the designated milk production facilities and resources, the cancellation of designation shall be effective the first of the month in which he received such milk.

(4) If the producer-handler handles an average of 100 pounds or less per day of milk, or any skim milk or cream other than that derived from the designated milk production facilities and resources, the designation shall be cancelled effective on the first of the month following the third month in any six-month period in which the producer-handler received such milk or milk products.

(d) The market administrator shall publicly announce the name, plant and farm location of persons designated as producer-handlers, and those whose designations have been cancelled. Such announcements shall be controlling with respect to the accounting at plants of other handlers for milk received from each producer-handler on and after the first of the month following the date of such announcement.

(e) Burden of establishing and maintaining producer-handler status: The burden rests upon the handler who is designated as a producer-handler (and upon the applicant for such designation) to establish through records required pursuant to § 927.54 that the requirements set forth in paragraph (b) of this section have been and are continuing to be met and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

2. Amend § 927.29 (d) to read as follows:

(d) Any plant which for any month is not a pool plant because of failure to meet the requirements of paragraph (a), (b), or (c) of this section from which Class I–A milk is distributed in the marketing area other than to another plant shall be a pool plant in any month if at least 55 percent of the milk received from dairy farmers at the plant during such month is classified in Class I–A and Class I–B: *Provided*, That such plant shall not be a pool plant if the handler operating the plant elects at the time of filing the report pursuant to § 927.50 not to have the plant designated a pool plant, and to make payments into the producer-settlement fund at the rate specified in § 927.83 (b) for any nonpool milk or skim milk which, on the basis of products distributed in the marketing area to purchasers other than other plants, is classified as Class I–A, Class II or as skim milk subject to the fluid skim differential: *Provided further*, That such plant shall not be a pool plant, if in the absence of this provision, milk received from farmers at the plant would be classified and priced under another order issued pursuant to the act, with a provision for marketwide equalization, and if the percentage of the milk received from dairy farmers at the plant which is classified as Class I–B and dis-

posed of in the marketing area defined in such other order is greater than the percentage of such milk classified as Class I–A.

3. Amend § 927.33 by:

(a) Changing the proviso therein to read as follows: "*Provided*, That if the butterfat in such milk is shipped in the form of milk, cream, fluid cream products, half and half, or cultured or flavored milk drinks, or if the skim milk in such milk is shipped in the form of milk, fluid skim milk, condensed skim milk, half and half, cream, or cultured milk drinks to another plant or plants, it shall be classified, subject to the provisions of paragraphs (a) and (b) of this section, at the plant to which shipped, and there shall be no limit on the number of interplant movements in such forms, except as set forth in paragraphs (a) and (b) of this section. For purposes of this section, classification of skim milk shall mean the determination of whether the skim milk is assigned to a product or use to which the fluid skim milk differential may be applicable."

(b) Amending paragraphs (a) and (b) to read as follows:

(a) Except as set forth in paragraph (b) of this section, the classification of milk shipped in the form of milk and of milk the butterfat from which is shipped in the form of cream, fluid cream products, half and half, or cultured or flavored milk drinks, and of skim milk which is shipped in the form of fluid skim milk, condensed skim milk, half and half, cream, or cultured milk drinks to a nonpool plant shall be determined at the nonpool plant (unless such nonpool plant is in the marketing area, receives no milk from dairy farmers and is engaged substantially either in distributing packaged milk or cream in the marketing area or in shipping bulk milk or cream to a pasteurizing and bottling plant in the marketing area), unless the handler operating the pool plant from which such shipments were made to the nonpool plant elects in writing in his monthly reports to have the classification of such milk and skim milk determined at the pool plant from which such shipments were made to the nonpool plant.

(b) The classification of milk shipped in the form of milk more than 65 miles from the plant where received from dairy farmers and of milk the butterfat from which is shipped in the form of cream, fluid cream products, half and half, or cultured milk drinks more than 65 miles from the plant where such product is made to a plant outside Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York State, Ohio, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, or the District of Columbia shall be determined at the plant from which the milk or milk product is so shipped.

4. Amend § 927.35 (a) (1) by changing the proviso to read as follows: "*Provided*, That if such Class I–A milk is not sufficient to qualify such plant as a pool plant pursuant to paragraph (a) or (b) of § 927.29, or if the handler operating the plant elects at the time of filing a report pursuant to § 927.50 to not make such assignment, no assignment pursuant to this subparagraph is to be made by the handler."

5. Amend § 927.35 (a) (5) to read as follows:

(5) Notwithstanding other provisions of this paragraph, milk received (except packaged milk produced in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and which is received for marketing as certified milk), from a handler listed by the market administrator as a producer-handler pursuant to § 927.15, shall be considered to be nonpool milk with respect to assignments pursuant to this section and payments pursuant to § 927.63: *Provided*, That milk received from a producer-handler who produces milk in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and which is not received for marketing as certified milk, shall be treated as producer milk at the plant and not subject to the provisions of § 927.65 (h).

6. Add a new subparagraph (6) in § 927.35 (a) to read as follows:

(6) Milk received at a handler's plant from a producer who is also a handler listed by the market administrator pursuant to § 927.14 as receiving own farm milk shall be considered as received first at such producer's plant and shall be assigned as far as possible to pool milk classified in Class III. Milk received from producers who are also handlers but who are not listed by the market administrator pursuant to either § 927.14 or § 927.15 shall be considered as having been received from a producer.

7. Amend § 927.35 (e) by eliminating the proviso.

8. Amend § 927.44 by deleting the words prior to the word "deduct" and substitute the following: "For skim milk, other than that derived from Class I-A or Class I-B milk subject to the pricing provisions of § 927.40 (a) or (c), which skim milk is utilized or disposed of in the marketing area in the form of milk, fluid skim milk in consumer packages, dispenser units, or in bulk for human consumption as fluid skim milk, half and half, or cultured milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, or which skim milk is not established to have been otherwise utilized or disposed of, the handler shall pay a fluid skim differential per hundredweight computed as follows: * * *"

9. Amend § 927.50 by changing that portion thereof preceding paragraph (a) to read as follows:

§ 927.50 *Monthly reports.* Each handler (except a handler receiving own farm milk and not required to be listed pursuant either to § 927.14 or § 927.15) shall report each month to the market administrator for the preceding month in the manner and on the forms prescribed by the market administrator, with respect to milk or milk products received at each of his pool plants, and at each of his plants where milk or milk products subject to payments under §§ 927.83 and 927.84 were handled, the information set forth in paragraphs (a) to (f) of this section. Such report, if transmitted by mail, shall bear a postmark no later than the 8th day of the month, and if not so mailed, shall be delivered physically to the office of the market administrator no later than the close of business on the 10th day of the month.

10. Amend § 927.54 by changing paragraph (e) thereof and by adding new paragraphs (f) and (g) to read as follows:

(e) Make inspection of buildings and their surroundings, facilities, and equipment for verification purposes and to ascertain what constitutes a plant and the production resources and facilities of a producer-handler's operation.

(f) Verify that the requirements for designation as a producer-handler have been and are being met.

(g) Verify all other information required by this part to be reported.

11. Amend § 927.65 (h) (2) and (3) to read as follows:

(2) Own farm milk not in excess of an average of 800 pounds per day if the handler is not a producer-handler and if the volume of milk, other than own farm milk, handled does not exceed an average of 1600 pounds per day.

(3) All milk handled by a designated producer-handler which is derived from such producer-handler's production resources and facilities.

12. Amend § 927.67 by changing the words "14th day of each month" to "15th day of each month."

13. Amend § 927.71 (b) (5) by (1) adding Schenectady County, New York, to those presently listed therein, (2) changing the phrase "131–140 mile zone" to "141–150 mile zone", and (3) changing the phrase "111–120 mile zone" to "131–140 mile zone."

Issued at Washington, D. C., this 6th day of June 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 58-4429; Filed, June 10, 1958; 8:54 a. m.]

[7 CFR Part 941]

[Docket No. AO-101-A23]

HANDLING OF MILK IN CHICAGO, ILLINOIS, MARKETING AREA

NOTICE OF HEARING 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), notice is hereby given of a public hearing to be held at the LaSalle Hotel, Madison and LaSalle Streets, Chicago, Illinois, beginning at 10:00 a. m., c. d. t., on June 17, 1958, with respect to proposed amendments to the tentative marketing agreement and to

the order, regulating the handling of milk in the Chicago, Illinois, marketing area.

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

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Pure Milk Association:

Proposal No. 1. Amend § 941.66 (b) to read:

(b) Ships during the delivery period at least 30 percent of the pounds of butterfat in, or at least 30 percent of the volume of, milk received from dairy farmers at such plant, as milk, skim milk, concentrated milk, condensed skim milk, or cream in fluid form to (and is physically received in) a plant(s) which operates in the manner described in paragraph (a) of this section, irrespective of whether or not such plant(s) receives milk from dairy farmers: *Provided*, That * * *."

Proposal No. 2. Amend § 941.66 (b) (2) and (3) by deleting in the first sentence of each subparagraph the words "September, October and November" and substituting in their place the words "August, September and October."

Proposal No. 3. Amend § 941.66 (b) (4) to read:

(4) Any plant which, during the three-month period of August, September and October ships, or is credited (pursuant to subparagraph (2) of this paragraph) with shipments of, at least 30 percent of the pounds of butterfat in, or at least 30 percent of the volume of milk received from dairy farmers at such plant, as milk, skim milk, concentrated milk, condensed skim milk, or cream in fluid form to (and is physically received in) a plant(s) which operates in the manner described in paragraph (a) of this section, irrespective of whether or not such plant(s) receives milk from dairy farmers, shall be a pool plant beginning with November of the same year and continuing through July of the following year, * * *

Proposal No. 4. Make such other changes or amendments as may be helpful, needed or required to make the order and identification of respective sections or parts thereof conform with any amendments adopted after hearing upon foregoing proposals.

Copies of this notice of hearing and the order may be procured from the market administrator, 73 West Monroe Street, Chicago 3, Illinois, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Issued at Washington, D. C., this 6th day of June 1958.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 58-4428; Filed, June 10, 1958; 8:54 a. m.]

[7 CFR Part 953]

[Docket No. AO 144-A8]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO AMENDED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047) and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in Room 229 Federal Building, 312 North Spring Street, Los Angeles, California, beginning at 9:00 a. m., P. d. s. t., June 30, 1958, with respect to proposed further amendments to the amended marketing agreement and Order No. 53, as amended (7 CFR Part 953), hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of lemons grown in California and Arizona. The proposed amendments have not received the approval of the Secretary of Agriculture.

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

The following amendments to the marketing agreement and order have been proposed by the California Citrus League:

I. *Change in make-up and organization of Lemon Administrative Committee.* (1) Delete the provisions of §§ 953.20, 953.21, 953.22, 953.23, and 953.28 and substitute in lieu thereof the following:

ADMINISTRATIVE BODY

§ 953.20 *Establishment and membership.* There is hereby established a Lemon Administrative Committee consisting of thirteen members; for each of whom there shall be an alternate member who shall have the same qualifications as the member for whom each is an alternate. Eight of the members and their respective alternates shall be growers. Four of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations. One member of the committee and an alternate of such member shall be nominated as provided in § 953.22 (f). The eight members of the committee who shall be growers are referred to in this part as "grower" members of the committee and the four members who shall be handlers or employees of handlers, or employees of central marketing organizations are referred to in this part as "handler" members of the committee.

§ 953.21 *Term of office.* The term of office of each initial member and alternate member of the committee shall begin on the date designated by the Secretary, and shall terminate on October 31, 1959. The term of office of each subsequent member and alternate member of the committee shall be for a period of two years, and such terms shall begin on November 1: *Provided*, That such members and alternates shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified.

§ 953.22 *Nominations.* (a) The time and manner of nominating members and alternate members of the committee shall be prescribed by the Secretary.

(b) Any cooperative marketing organization, or the growers affiliated therewith, which handled more than 50 percent of the total volume of lemons during the fiscal year in which nominations for members and alternate members of the committee are submitted, shall nominate four grower members, four alternate grower members, two handler members, and two alternate handler members of the committee. At least one of the nominees for member or alternate member shall be from and represent district 3, and at least one of the nominees for member or alternate member shall be from and represent district 1.

(c) All cooperative marketing organizations which market lemons and which are not qualified under paragraph (b) of this section, or the growers affiliated therewith, shall nominate two grower members, two alternate grower members, one handler member, and one alternate handler member.

(d) All growers who are not affiliated with a cooperative marketing organization which markets lemons shall nominate two grower members, two alternate grower members, one handler member, and one alternate handler member.

(e) When voting for nominees, each grower shall be entitled to cast one vote which shall be cast on behalf of himself, his agents, subsidiaries, affiliates and representatives. The votes of cooperative marketing organizations voting pursuant to paragraph (c) of this section shall be weighted in accordance with the volume of lemons handled during the fiscal year in which such nominations are made.

(f) The members of the committee selected by the Secretary pursuant to § 953.23 shall meet on a date designated by the Secretary and, by a concurring vote of at least seven members, shall nominate a member and an alternate member of the committee, which persons shall not be growers or handlers, or employees, agents, or representatives of a grower or handler (other than a charitable or educational institution which is a grower or handler), or of a central marketing organization.

§ 953.23 *Selection.* From the nominations made pursuant to § 953.22 (b) or from other qualified growers and handlers, the Secretary shall select four grower members of the committee and an alternate to each of such grower members; also two handler members of the committee and an alternate to each of such handler members. From the nominations made pursuant to § 953.22 (c)

or from other qualified growers and handlers, the Secretary shall select two grower members of the committee and an alternate to each of such grower members; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 953.22 (d) or from other qualified growers and handlers, the Secretary shall select two grower members of the committee and an alternate to such grower member; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 953.22 (f) or from other qualified persons, the Secretary shall select one member of the committee and an alternate to such member.

(2) Delete the provisions of § 953.28, and substitute in lieu thereof the following:

§ 953.28 *Procedure.* (a) Seven members of the committee shall constitute a quorum and any action of the committee shall require seven concurring votes.

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

II. *Size regulation.* (1) Insert new §§ 953.65, 953.66, and 953.67, as follows:

§ 953.65 *Recommendations for size regulation.* (a) Whenever the committee finds that the supply and demand conditions for sizes of lemons make it advisable to regulate the handling of sizes of lemons during any period, it shall recommend to the Secretary the sizes of lemons grown in each prorate district which it deems advisable to be handled during said period. The committee shall promptly submit such findings and recommendations, together with supporting information, to the Secretary.

(b) In making its recommendations the committee shall give due consideration to the factors referred to in § 953.51 (b).

§ 953.66 *Issuance of size regulations.* Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the handling of lemons by size would tend to effectuate the declared policy of the act, he shall fix the sizes of lemons grown in each such prorate district which may be handled during the specified period. The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give adequate notice thereof to all handlers.

§ 953.67 *Exemptions from size regulation.* In the event lemons are regulated pursuant to § 953.66, the committee shall issue one or more exemption certificates to any producer who furnishes evidence satisfactory to the committee that he will be prevented by reason of such regulation from having as large a proportion of lemons handled as the average proportion of lemons which may be handled by all other producers in the same prorate district. Such exemption certificate shall permit the respective producer to whom the certificate is issued to handle or have handled a percentage of his lemons equal to the percentage determined as aforesaid. Shipments of lemons under exemption certificates issued pusuant to this section shall be subject to and limited by such regulations as may be effective under § 953.52 at the time of the respective shipment. The committee shall adopt, with the approval of the Secretary, procedural rules by which such exemption certificates will be issued to producers. Such exemption certificates may be transferred to handlers when accompanied by lemons covered by such certificates.

III. *Allotment base on lemons available for current shipment based on "tree count" in District No. 3.* (1) Add a new § 953.14, as follows:

§ 953.14 *Lemons available for current shipment.* As used in § 953.53 (j) "lemons available for current shipment" means all lemons as measured by the total tree crop.

(2) Amend paragraph (b) of § 953.53 by inserting immediately following the first comma the words, "in districts 1 and 2."

(3) Add to § 953.53 a new paragraph (j), (1), (2), (3), (4), and (5), as follows:

(j) In district 3 allotments shall be computed on the basis of lemons available for current shipment. Each handler in district 3 who submits an application for a prorate base and for allotment as provided in this part shall support such application by such evidence as the committee may require and shall furnish to the committee in such application the following information: The name and address of the producer or duly authorized agent, if any, for each grove or portion thereof, the fruit of which is included in the quantity of lemons available for current shipment by the applicant; an accurate description of the location of each such grove or portion thereof, including the number of acres contained therein, and an estimate of the total quantity of lemons available for current shipment by the applicant in terms of a unit of measurement designated by the committee.

(1) Such application shall include only such lemons available for current shipment which the applicant controls (i) by a bona fide written contract giving the applicant authority to handle such lemons, or (ii) by having legal title or possession thereof, or (iii) by having executed a bona fide written agreement to purchase such lemons. If an applicant controls lemons pursuant to subdivision (i) or (iii) of this subparagraph he shall submit a copy of each type of such contract to the committee, together with a statement that no other types of contracts are used, and shall maintain a file of all original contracts evidencing such control which shall be subject to examination by the committee.

(2) If the quantity of lemons available for current shipment by any person is increased or decreased by the acquisition or loss of the control required by subparagraph (1) of this paragraph, such person shall submit promptly a report thereon to the committee upon forms made available by it, which report shall be verified in such manner as the committee may require.

(3) If any person gains or loses control of lemons as required by subparagraph (1) of this paragraph, there shall be a corresponding increase or decrease in the quantity of lemons available for current shipment by such person. If it is determined by the committee that any person who has lost control of lemons as required by subparagraph (1) of this paragraph has handled a quantity of such lemons less than the quantity that could have been handled under the allotments issued thereon, the quantity of lemons available for current shipment by such person shall be adjusted by deducting therefrom, over such period as may be determined by the committee, a quantity of lemons equivalent to the quantity upon which allotments were issued but which were not utilized thereon.

(4) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted such report a reasonable opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in the establishment of a smaller or a larger quantity of lemons available for current shipment than that to which a person was entitled under this part, such quantity shall be increased or decreased, over such period as may be determined by the committee, by an amount necessary to correct the error, omission, or inaccuracy.

(5) Each week during the marketing season when volume regulation is likely to be recommended for district 3, the committee shall compute the total quantity of lemons available for current shipment by each person who has applied for a prorate base and for allotments in such district. On the basis of such computation, the committee shall fix a prorate base for each person who is entitled thereto. Such prorate base shall represent the ratio between the total quantity of lemons available for current shipment by each applicant and the total quantity of lemons available for current shipment in such district by all such applicants. The committee shall notify the Secretary of the prorate base fixed for each person and shall notify each such person of the prorate base fixed for him.

IV. *Exclusion of State of California north of the 37th Parallel from the order.* (1) Add a new § 953.15 as follows:

§ 953.15 *Production area.* "Production area" means the State of Arizona and that part of the State of California south of the 37th Parallel.

(2) Amend § 953.64 by adding immediately after the word "Districts" at

the beginning of the section the following: "The production area shall be divided into three prorate districts, as follows:"

(3) Amend paragraph (a) of § 953.64 to read as follows:

(a) "District 1" shall include that part of the State of California south of the 37th Parallel which is north of a line drawn due east and west through the Tehachapi Mountains.

V. *Elimination of transfer of allotments for a consideration.* (1) Delete the provisions of § 953.60 and substitute in lieu thereof the following:

§ 953.60 *Transfer of allotments.* No allotments may be transferred from one handler to another except pursuant to the provisions of § 953.59.

VI. *Three year limitation on keeping of records.* (1) Amend paragraph (b) of § 953.62 by inserting immediately after the word "transactions" the second time that it appears in this paragraph, the words, "for a period of three years," so that the phrase reads, "* * * shall keep records which will accurately reflect all such allotment transactions for a period of three years, and such records shall be * * *"

VII. *Exemptions from regulations of minimum quantities or types of shipments.* (1) Amend the provisions of § 953.80 by adding immediately after the first sentence the following: "The committee may, with the approval of the Secretary, establish minimum quantities and types of shipments which shall be free from all regulation under this subpart."

(2) Delete the second sentence of § 953.80 and substitute in lieu thereof the following: "The committee may prescribe adequate safeguards to prevent lemons which are exempted from regulation under this section from entering commercial fresh fruit channels of trade contrary to the provisions of this subpart."

VIII. *Clarification of the definition of handle.* (1) Revise § 953.7 to read as follows:

§ 953.7 *Handle.* "Handle" means to buy, sell, consign, transport, or ship lemons (except as a common or contract carrier of lemons owned by another person), or in any other way to place lemons in the current of commerce, between the State of California and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of Arizona. The term "handle" does not include (a) the sale of lemons on the tree; (b) the transportation of lemons to a packinghouse for the purpose of having such lemons prepared for market and such preparation for market; (c) and the storage of lemons within the production area under such rules and regulations as the committee, with the approval of the Secretary, may prescribe.

IX. *Requirement for marketing policy meetings.* (1) Insert a new § 953.50 as follows:

§ 953.50 *Marketing policy.* Prior to the recommendation for regulation for prorate districts 1 and 3 and in prorate district 2 on or before November 15 of each year, the committee shall hold for each of said districts a marketing policy meeting and shall thereafter submit to the Secretary its marketing policy for each district for the ensuing season. Such marketing policy shall contain the following information: (a) The available crop of lemons in the prorate district, including estimated quality and composition of sizes; (b) the estimated utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (c) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (d) level and trend of consumer income; (e) estimated supplies of competitive citrus commodities; and (f) any other pertinent factors bearing on the marketing of lemons. In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this section.

X. *Annual report.* (1) Delete § 953.31 (j) and substitute the following:

(j) To prepare and mail as soon as practicable after the close of each fiscal year an annual report to the Secretary and to each handler and grower of record. This annual report covering the operations of the previous fiscal year to contain at least:

(1) A complete review by prorate districts of the weekly regulatory operations and lemon movement during the fiscal year as conducted under the marketing policy established pursuant to § 953.50.

(2) A complete review by prorate district of the data upon which prorate bases are determined.

XI. *Reapportion of committee members.* (1) Add a new § 953.31 (k) as follows:

(k) With the approval of the Secretary, to reapportion the number of grower members or handler members on the Lemon Administrative Committee who are nominated pursuant to § 953.22. Any such changes shall be based, insofar as practical, upon the proportionate amount of lemons handled by the respective types of marketing organizations, provided that each such grower group described in § 953.22 shall be entitled to nominate at least one grower and one handler member together with their respective alternates.

The following amendment to the marketing agreement and order has been proposed by Pure Gold, Incorporated:

XII. *The establishment of the prorate base on a fixed storage count.* (1) Amend paragraph (b) of § 953.53 by inserting immediately following the first comma the words, "in districts 1 and 2."

(2) Delete the provisions of paragraph (c) of § 953.53 and substitute in lieu thereof the following:

(c) In computing the quantity of lemons which, for the applicable two-week period, each handler has available for shipment, the committee shall compute the quantity of lemons which meet the requirements of marketing under State laws and which each handler has picked from the trees and brought to an established shipping point approved by the committee within the area of production during the applicable two-week period, and shall allow with regard to such lemons a storage life of twenty weeks. Such lemons to be counted must be in containers approved by the committee.

(3) Delete the provisions of paragraphs (d), (e), and (h) and redesignate paragraph (f) as paragraph (d) and paragraph (g) as paragraph (e).

The Fruit and Vegetable Division, Agricultural Marketing Service, has proposed that consideration be given to making such other changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D. C., or the Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South Broadway, Room 1005, Los Angeles 15, California.

Dated: June 6, 1958.

[SEAL] F. R. BURKE,
Acting Deputy Administrator,
Marketing Service.

[F. R. Doc. 58-4427; Filed, June 10, 1958; 8:54 a. m.]

[7 CFR Part 967]

[Docket No. AO-170-A11]

HANDLING OF MILK IN SOUTH BEND-LA PORTE-ELKHART, INDIANA, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO 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), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the South Bend-La Porte, Indiana, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later

than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at South Bend, Indiana, on March 18, 19, and 20, 1958, pursuant to notice thereof which was issued February 6, 1958 (23 F. R. 876) and notice of postponement of hearing issued February 25, 1958 (23 F. R. 1257).

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

(1) Expansion of the marketing area to cover several counties,

(2) Adoption of delivery performance requirements for plants participating in the marketwide pool; inclusion of a definition of "reload point",

(3) Introduction of compensatory payments on certain milk partially regulated,

(4) Modification of the base and excess plan to permit the computation of bases for new producers entering the regulated market as the result of any marketing area expansion,

(5) Revision of the price formulas for Class I milk and Class II milk; and introduction of price adjustments for location,

(6) Adoption of provisions by which announced class prices would be expressed in terms of prices per hundredweight of milk of 3.5 percent butterfat content, plus or minus a butterfat differential for butterfat test variation in each class, in lieu of separately computed class prices for skim milk and butterfat,

(7) Revision of the administrative assessment provision, and

(8) Certain order revisions for administrative purposes.

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) The marketing area should be enlarged to include all territory geographically located within the perimeter boundaries of the counties of La Porte, St. Joseph, and Elkhart, Indiana, together with all incorporated communities therein. The name of the marketing area should be changed to "South Bend-La Porte-Elkhart, Indiana, marketing area".

The South Bend-La Porte, Indiana, marketing area as defined at the present time includes the cities of Michigan City and La Porte, in La Porte County, and the cities of South Bend and Mishawaka, in St. Joseph County, all in the State of Indiana. Territory outside the corporate limits of such cities but located within the respective counties named is not a part of the marketing area.

Producers proposed the expansion of the marketing area to cover such named counties in their entirety, including all incorporated communities lying therein and also the entire county of Elkhart, together with its incorporated places.

One handler proposed the inclusion of the same areas suggested in the producers' proposal plus the Indiana counties of Starke, Marshall, Kosciusko, Fulton, and Pulaski in their entirety. This proposal was abandoned by proponent during the course of the hearing and in view of the lack of evidence as to the need for regulation of the latter five counties, it is concluded that such counties should not be made a part of the defined marketing area.

Extension of regulation to La Porte, St. Joseph, and Elkhart counties, however, will correct unstable marketing conditions caused by lack of uniformity in the buying prices for milk in these counties. It will provide also a framework for orderly marketing and insure an adequate supply of Grade A milk for consumers. Basically, an order provides for:

(a) A regular and dependable method for determining prices to producers at levels contemplated under the Agricultural Marketing Agreement Act, as amended;

(b) The establishment of uniform pricing to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(c) An impartial audit of handlers' records of receipts and utilization further to insure uniform prices for milk purchased;

(d) A means for insuring accurate weights and tests of milk;

(e) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns from the sale of reserve milk; and

(f) Marketwide information on receipts, sales, and other data relating to milk marketing in the area.

In this instance the order also would establish for producers supplying the annexed area, as well as maintain for the producers currently affected by the order, uniform rules for the operation of a base and excess plan to encourage more even production of milk seasonally.

The suburban communities in St. Joseph County, adjacent to the city of South Bend, represent a regular outlet for a substantial proportion of the total Class I milk business of South Bend (regulated) handlers. A very large percentage of the fluid milk sold in St. Joseph County is processed in plants under the South Bend-La Porte order and thus is subject to order pricing. Some fluid milk sold in the county in competition with order-priced milk is distributed by persons not under price regulation of any kind and for a long period such distribution has presented difficult competitive problems for regulated handlers as the result of price advantage in the purchase of milk from dairy farmers. Since the adoption in July 1957 of statewide regulations in Indiana requiring the sale of Grade A milk only for fluid consumption, all milk distributed in St. Joseph County from milk plants located in that county or in other counties has been required to meet quality standards substantially the same as those applicable to milk sold in the city of South Bend. Such milk thus may reasonably be priced on a basis equivalent to South Bend approved milk. The elimination of differences in the pricing of milk purchased from dairy farmers for sale in the county will tend to promote orderly marketing.

At the present time there are no unregulated plants distributing milk in La Porte County. Although the county has not issued a formal health ordinance as have St. Joseph and Elkhart Counties, all milk distributed in the county meets the State quality requirements for milk to be sold for fluid consumption as Grade A milk through inspection by the health authorities of the city of La Porte and Michigan City. Since regulated plants service this county with its complete milk requirements at the present time and the county is a part of the regular distribution area for a substantial proportion of the Grade A milk processed in such plants, its inclusion in the marketing area is practicable and desirable to avoid repetition of the pricing disadvantages which have been experienced by regulated handlers operating in St. Joseph County. La Porte County should be included in the marketing area.

South Bend handlers distribute milk in Elkhart County in competition with milk distributors at Elkhart and with milk distributors from locations outside either county. Also farms of dairy farmers delivering milk to Elkhart distributors are interspersed with those of producers whose milk is shipped to South Bend and currently priced by the order. Farm prices for milk in the South Bend and Elkhart milksheds have fluctuated widely, with consequent supply problems for the South Bend market. The Elkhart market has been subject to recurring resale price disturbances with detrimental effect on farm prices for milk. At other times, when milk prices in the Cleveland market (at Goshen, Indiana) have been relatively attractive, Elkhart prices to farmers have been sufficiently high to attract milk from South Bend plants, without regard to the adequacy of supplies for such plants.

The adoption of price regulation for the Elkhart market will promote greater stability of supplies for both markets and, with the prices recommended herein, will provide more assurance for consumers that adequate supplies will be available in both markets which have had periodic difficulties in maintaining sufficient supplies. Further, competitive difficulties resulting from differences in the cost of purchasing milk from farmers will be avoided as between South Bend and Elkhart dealers and between Elkhart dealers and distributors more distantly located who have established outlets in Elkhart County. It is concluded that Elkhart County should be included in the marketing area.

In view of the addition of the City of Elkhart, a principal community, to the marketing area, it is concluded that henceforth the marketing area should be referred to as the "South Bend-La Porte-Elkhart, Indiana, marketing area".

(2) Performance requirements for plants to participate in the marketwide pool and a definition of "reload point" should be provided.

The major producers' association proposed that delivery performance stand-

ards be established for plants to participate in the marketwide pool. Proponents submitted that a "pool plant" should be defined as either (a) a plant which is approved by a health authority having jurisdiction in the marketing area for the processing and distribution of milk in fluid form and from which (i) at least 10 percent of the plant's volume of Class I and Class II milk is disposed of on routes lying entirely or partially within the marketing area, and (ii) either 50 percent of its receipts of producer milk is disposed of as Class I milk, or 65 percent of such receipts is disposed of in Class I and Class II milk combined; or (b) a plant or reload point from which not less than 50 percent of the receipts of milk or butterfat is disposed of to a plant as defined in (a) above. Proponents, in a separate proposal, also suggested an increase in the level of the Class II price, and conditioned their support of the use of Class II milk utilization as a basis of pool plant qualification on the adoption of a Class II price increase.

Several handlers joined in a separate, but similar, proposal to establish delivery performance standards as a basis for pool plant qualification. However, as noted elsewhere in this decision, handlers proposed to discontinue the use of a separate classification and price for milk used in the manufacture of cottage cheese, and to price milk in this use at the current Class III price level.

Under the present order all milk eligible for distribution as fluid milk which is received at an "approved plant" from which Class I milk is disposed of in the marketing area is fully regulated and pooled. A plant may become fully regulated during any month of the year by making only token sales of Class I milk in the marketing area. While the present provisions have functioned to serve their intended purposes of pricing and pooling only that milk customarily associated with the market, recent changes in procurement practices, i. e., the procurement of milk from greater distances, and the proposed expansion of the marketing area, make advisable more precise standards for determining the milk to be eligible for pooling. Such standards are necessary to specify adequately, for regulatory purposes, that milk which may be said to be identified primarily with this market.

The order provides for the distribution of producer returns by means of a marketwide pool. Since the marketwide pool results in payments to all producers on an average utilization for the market, individual handlers are relieved, in large measure, of responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. Whatever utilization of milk a handler may have, his minimum rate of pay to producers will be the same as that of other handlers in the market because handlers whose proportion of utilization in Class I is greater than the market average make payments into the producer-settlement fund and those whose proportion of utilization in Class I is less than the average for the market receive payment from the fund, in order that all producers may receive uniform prices. Thus, under certain circumstances, the operators of plants engaged principally in the manufacture of milk into manufactured dairy products, or in supplying other fluid markets, have an incentive to place their plants under the regulation for the sole purpose of obtaining payment from the producer-settlement fund. If a distributor loses some portion of fluid sales in another marketing area temporarily, he may seek to join the South Bend-La Porte-Elkhart market pool in order to continue to pay farmers a blended price on such milk, even though it is used in lower-priced manufacturing uses. If unregulated operators are entirely free to decide when they will or will not share in the market pool, their decisions normally will be made to join the pool when they will draw payments from the equalization fund. Thus, status of a plant with respect to the pool may be the determining factor in guiding the operations of the plant operator. The South Bend-La Porte-Elkhart market, however, would gain no advantage from the payment of equalization on such supplies. Such a distribution of equalization payments, in fact, would reduce the blended price to dairy farmers regularly supplying the market, thereby having an adverse effect on returns to those producers furnishing milk supplies upon which this market depends. The scope of pooling and the plan for distributing returns for Class I sales under the order, therefore, must be such that the Class I use values will serve the purpose for which they are intended, i. e., to insure a sufficient and dependable supply of milk for the market.

A major problem in establishing or maintaining a marketwide pool is to fix standards which will accommodate the sharing of Class I sales among only those producers who are an essential and regular part of the milk supply for the marketing area. In order not to extend regulation beyond the point necessary to accomplish the objectives of the statute, standards adopted should be flexible enough to include in the pool only those plants having significant association with this market and to permit intermittent shipments and casual sales of milk, without pooling, by plants the primary function of which is the supplying of milk for other markets, but which are found to be distributing milk in the area on the basis of a small, perhaps accidental, shipment.

It is concluded that delivery performance should be the measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing, pooling and payment provisions of the order. A 50-percent requirement on Class I disposition will identify those distributing plants which, in the first place, are primarily employed in a fluid milk business as contrasted to a milk manufacturing operation. The requirement that at least 10 percent of the distributing plant's Class I sales be made within the marketing area on routes is designed to include in the pool only those plants which have more than an incidental association with this market.

The requirement that 50 percent of the monthly receipts of milk from dairy farmers at a supply-type plant be moved to a distributing-type plant which is qualified as a pool plant, in order that the supply plant may participate in the pool, will identify those supply plants with the primary function of supplying such milk as is needed over and above the quantities delivered from farms of individual producers directly to the marketing area. At the present time there is only one plant (actually a reload point) of this type at which the total volume of Grade A milk received is an integral part of the supply for the marketing area. There is no indication that such plant would have difficulty in meeting the delivery requirements adopted. A supply-type plant with less than 50 percent of its receipts supplied to the marketing area in any month should be considered a source primarily for some other market. It is expected that such limitation on pool participation, in practice, will affect only plants which have no previous record of service to the marketing area but for which area outlets may be sought in the future.

Milk from sources other than those meeting Grade A requirements may be utilized for cottage cheese to be sold in parts of the marketing area. If performance standards for pooling were based on Class II milk utilization as well as Class I milk, it would be possible for a plant the major function of which is the manufacture and sale of such product to qualify for pooling, and dairy farmers producing milk not meeting Grade A quality standards would receive the marketwide blended price. The pricing and pooling provisions are designed to return to producers a blended price which will bring forth an adequate supply of Grade A milk for the market's fluid needs. Since it is not required uniformly that Grade A milk be used in cottage cheese, it would be inappropriate for a plant to qualify for pooling on the basis of Class II sales. It is concluded, therefore, that Class II utilization should not be used as a basis for pool qualification.

A witness for another cooperative association suggested that performance standards for supply plants might be made more liberal than the 50 percent requirement for each month. There was no evidence introduced at the hearing to show that any supply plant or reload point which is presently regulated, or that reasonably might be expected to become associated with the market through extension of the marketing area, would have difficulty in meeting the performance requirements adopted. As previously pointed out, handlers in this market are predominantly in Class I milk operations and have limited facilities for the handling of milk for manufacturing uses. With the diversion privileges offered by the order, less strict delivery performance would increase the possibilities of "pool riding" with milk not intended to serve as a Class I milk operation.

There is no provision in the current order for the pricing of milk at reload points. It was proposed, however, that a definition of "reload point" be incor-

porated into the order so that all producers would be equitably treated in the distribution of returns for their milk on the basis of the location to which their milk is delivered.

The conversion from can handling to bulk tank handling of milk presents additional problems in the handling and pricing of milk. When milk comes to the market in cans from great distances the milk of individual producers is dumped, weighed, tested and assembled in storage tanks in the country supply plant and cooled for shipment by over-the-road tanks to the processing plant. Upon receipt at such plant the handler becomes responsible for accounting for the milk and the plant is also the point of pricing.

When milk is collected from distant farms by the bulk tank method, it may be measured in the farm bulk tank, sampled for butterfat, pumped into a bulk tank truck, and delivered either to a supply plant or to a reloading point where, in turn, the tank loads of milk hauled from the farms are pumped directly into large over-the-road tank trucks and delivered to a distributing plant. In the case of the one reload point being used in this market individual records of each farmer's deliveries are kept as well as facilities maintained for washing and sanitizing the tank trucks and for the testing of butterfat samples.

One Order 67 handler currently reloads milk from individual farm pick-up tanks into over-the-road tankers and delivers the milk to his distributing plant. Since a reload point under the bulk handling method serves a function similar to that of a supply plant under the can handling method, it should be treated in the same manner insofar as pricing, location differentials to handlers, and performance requirements for pool status are concerned. It is concluded that a definition of reload point and its application to pricing, location differentials, and performance requirements will facilitate the pricing and orderly marketing of milk under Order 67. The term "reload point" should be defined to mean any location at which milk moved from the farm in a tank truck is commingled with other milk before entering a plant, except that reloading operations on the premises of a plant shall be considered as a part of the plant's operations.

(3) The order should be amended to provide compensatory payments on other source milk (except that priced under another order) disposed of as Class I milk in the marketing area.

Producers and handlers made similar proposals which would provide for compensatory payments on milk which is not priced by the order but is disposed of in the marketing area in Class I milk or Class II milk. Proponents suggested that such compensatory payments should be at the respective rate of the difference between the Class I or Class II price, depending on the class in which disposition was made, and the Class III price.

Since the order will provide for the identification of that milk which is subject to total regulation under the order, the possibility remains that some milk (i. e. other source milk) will be disposed of in the marketing area as Class I milk which will not be subject to total regulation.

It should be required that on all other source milk classified as Class I milk, a payment shall be made into the equalization fund at a rate equal to the difference between the Class I price and the Class III price. Payments at this rate are necessary to maintain the integrity of the pricing and pooling provisions of the order.

Essentially all other source milk which might be utilized as Class I milk in the marketing area would be produced as part of a supply intended primarily to meet the demand for milk for fluid consumption (or the equivalent of Class I milk uses under the order) in some area other than the area regulated by this order but not used for such purposes in the area for which it was produced. It could be only milk in excess of the amount needed for fluid disposition in the area for which it was produced. This is particularly so in view of the statewide Grade A milk law in Indiana. If the plant operator with such milk could not find a Class I sale for such milk within the Order 67 marketing area, it would be necessary for him to convert the milk into a manufactured milk product. The most likely surplus disposition of this other source milk would be as butter and nonfat dry milk, or as cheese. Its value, therefore, to the plant operator would be a surplus milk value. The Class III price for milk under the South Bend-La Porte-Elkhart order is based on the value of milk converted into butter and nonfat dry milk, and this is the price which regulated handlers are required to pay for milk when they convert it into these products in their own plants or dispose of reserve supplies to manufacturing plants. The Class III price, therefore, is an accurate and fair representation of the value to the receiving plant operator of surplus milk from an unregulated plant which is disposed of for Class I purposes in the marketing area.

If unregulated plant operators were allowed to dispose of surplus milk for Class I purposes in the regulated marketing area without some compensating, or neutralizing, provision of the order, it is clear that the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress, as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning a reasonable level of prices to the producers for the regulated marketing area, would be defeated. Moreover, inefficiencies in the marketing of milk would be encouraged, since there would be incentive for the regulated handlers to obtain milk for Class I uses not from the regular and normal sources of supply for the market but from other sources of supply generated solely as a result of the price advantage created for unregulated milk by the regulation itself. Providing for some method of compensating for, or neutralizing the effect of, the advantage created for unregulated milk is, therefore, an essential and necessary provision of this order.

Because the value for Class I milk in the regulated market is established by the level of the Class I price provided for in the order and the true value of other source milk when disposed of in the marketing area is the Class III value, a payment computed as the difference between the Class III price and the Class I price will remove the advantage which other source milk otherwise would have. Although from the standpoint of health standards, ungraded milk is not to be used for Class I purposes, the possibility remains that this grade of milk may find its way at times into such uses. When this occurs, the same rate of payment should apply to such milk, normally used in manufactured milk products, since its value is established by a lack of eligibility, on a Grade A standard, for regular use as Class I milk.

On the other hand, such payments should not apply to milk entering this marketing area from a plant regulated under another order since its proper classification and price will be determined pursuant to the other order, and if used in Class I milk as defined in this order will be priced equivalently (with due allowance for the transportation cost between markets) under the other order.

There may be other situations in which plant operators may find it economical or desirable to make shipments of small quantities of milk to the marketing area and yet it would be neither necessary nor desirable in terms of effective regulation to bring the plants fully under regulation. For instance, a plant which is associated with another market may find it advantageous to ship milk to a plant regulated by the order in order to have such milk converted into manufactured milk products. It would be quite possible, through misunderstanding or error, for such milk, which was intended for utilization in Class III products, to be assigned a Class I classification. In such circumstances it would not be practical or desirable to place the plant under full regulation. The application of compensatory payments as prescribed will accommodate such situations.

If milk is distributed as Class I milk within the marketing area or routes from a nonpool plant, it is necessary to require payments to be made into the producer-settlement fund on such milk, also, in order to maintain reasonable uniformity of cost of milk and equity among all handlers. Accordingly, there is included in the amended order a provision that each handler operating routes in the area from a nonpool plant shall make payment at the difference between the Class I and Class III price per hundredweight on that volume of "other source milk" distributed as Class I milk in the marketing area. As previously stated, all milk produced for consumption in fluid form in the State of Indiana must meet minimum Grade A requirements and is subject to statewide sanitary standards. As a consequence of this code of sanitary requirements and reciprocal arrangements existing with other state and local health authorities, any milk wherever produced which has approval by the health authorities for fluid consumption is eligible from a sanitation standpoint for sale in the South Bend-LaPorte-Elk-

hart marketing area. Because of this, small quantities of milk may be disposed of in the regulated marketing area as Class I milk from plants which are not normal or regular sources of supply for the marketing area. If any small, incidental, or accidental shipment of milk into the marketing area were to bring under total regulation all the milk at the plant from which such shipment was made, undue hardship might result for the operator of such plant and for the farmers delivering the milk involved.

Under the definition of "pool plant" any plant, no matter where located, which becomes an integral part of the South Bend-La Porte-Elkhart market may be brought under regulation by delivery performance in the manner required, and any such plant may be removed from full regulation when it no longer operates in a way that brings it within the scope of the pool plant qualification section of the order. In each case the decision as to whether a plant will be fully regulated under the order, or will not be subject to total regulation, may be determined by the decision of the plant operator.

In view of the competitive circumstances in this market relating to the production and sale of cottage cheese as discussed elsewhere in this decision, no compensatory payment should apply on milk disposed of as Class II milk.

(4) The "base and excess plan" of distributing among producers the proceeds from the sale of milk should not be revised.

Producers proposed that the base and excess plan be revised to permit the computation of bases for those producers brought onto the market through marketing area expansion by the same method as is used for computing the bases of regular producers now on the market. Such revision would eliminate from the category of "new producers", for base-allotment purposes, any producers brought onto the market by such means. The proposed method of calculation was intended to apply in 1958 only and therefore would not have significance unless the amended order were to become effective prior to August 1, 1958. If the marketing area were to be expanded, effective July 1, 1958, for example, the revised base computation provisions would apply to the month of July only since beginning August 1 a uniform (weighted average) price for all milk delivered is payable to all producers for several months following and a new base effective on deliveries in the April–July 1959 period is computed for each producer on his deliveries in the fall months of 1958.

On the basis that the marketing area expansion cannot take place prior to August 1, 1958, it is concluded that this proposal should not be adopted.

(5) (a) The supply-demand adjustment relative to the Class I price should be modified to provide closer Class I price alignment between the South Bend-La Porte-Elkhart market and other major markets.

The order presently provides for a Class I price determined from a basic formula price of midwest condensery prices or Chicago butter-nonfat dry milk prices, whichever provides the higher level, plus price differentials which average $1.10 annually, increased or decreased by a supply-demand adjustment identical to that computed under Order 41, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area.

Producers proposed that the supply-demand adjustment as computed under Order 41 and applied to Order 67 milk be eliminated and that a supply-demand adjustment based on supply and sales conditions in the local market be incorporated. A proponent witness testified that, at current prices, South Bend-La Porte-Elkhart producers have been attracted to the Cleveland market and to unregulated markets even though local supplies were inadequate at all times to meet handlers' needs for fluid milk.

Experience with the supply-demand adjustment as computed under Order 41 and applied to milk priced under Order 67 discloses that such adjustment factor does not fully reflect supply and demand conditions in the Order 67 marketing area at all times. With the expansion of the marketing area herein proposed, the use of the current supply-demand formula would be even less effective in reflecting local conditions.

Among the factors influencing the supply-demand situation in the South Bend-La Porte-Elkhart market which indicate the propriety of a modification of the supply-demand formula at this time are:

1. Competition for supplies from nearby fluid milk markets.

2. Costs involved in procuring additional supplies from locations beyond the immediate milkshed.

3. Recently effective uniform Grade A requirements on all fluid milk distributed within the marketing area.

4. The inadequacy of current milk supplies.

Cleveland (Order 75), Fort Wayne (Order 32), and Order 67 handlers, and unregulated dealers, all compete for supplies in the various parts of the Order 67 milkshed. The proposed extension of the marketing area to include Elkhart County will intensify competition for milk supplies between Order 67 handlers and the Cleveland market. In 1957 the Order 67 minimum Class I price, on a 3.5 percent butterfat basis, averaged $4.06 while in the same period the minimum Cleveland Class I price f. o. b. Goshen, Indiana (located in Elkhart County), averaged $4.34. If the 1957 Order 67 Class I price had not been decreased by the supply-demand adjustment in effect, the Cleveland Class I price f. o. b. Goshen would have exceeded the Order 67 price by only 10 cents instead of 28 cents per hundredweight. Class I utilization of milk for these markets averaged 71 and 73 percent, respectively, for the year. The 1957 Cleveland order minimum uniform price f. o. b. Goshen, Indiana, averaged $3.99 and the comparable Order 67 uniform price was $3.83. The minimum Class I price for 3.5 percent milk under the Fort Wayne, Indiana, order for 1957, official notice of which is taken, averaged $4.34 per hundredweight.

Prices for fluid milk reported paid to dairy farmers by unregulated dealers in nearby communities have been at times in excess of Order 67 Class I prices. One Michigan dealer who competes for supplies with Order 67 handlers paid prices for fluid milk for bottling as high as $4.70 per hundredweight on a 4 percent butterfat basis during recent winter months (or about $4.40 on a 3.5 percent butterfat basis). Several of the farmers from whom such dealer purchased milk formerly delivered their milk to Order 67 handlers.

Order 41 handlers distribute milk in the South Bend-La Porte marketing area from Chicago regulated plants and also offer local handlers competition for farm supplies of milk. Thus, it is recognized that the Class I price level under Order 67 must be reasonably related to Class I prices under Order 41 as well as to price levels in other nearby markets. However, Order 41 Class I prices announced for the 55–70 mile zone do not reveal entirely the prevailing price relationships between the two markets. The basic formula price under Order 41 is, for all practical purposes, the same as that of Order 67. The respective Class I price differentials, on an annual average basis, under the two orders are $0.90 and $1.10 per hundredweight. The Chicago Class I price is announced for a zone 55–70 miles from the City Hall in Chicago while the South Bend-La Porte Class I price is announced f. o. b. the marketing area. Although not computed f. o. b. market under the order, as in the case of the South Bend-La Porte market, the return for Class I milk delivered to market in Chicago, after the addition of an inner zone payment (4 cents per hundredweight) and consideration of that portion of the farm-to-plant hauling cost (14.5 cents per hundredweight on the average) borne by handlers, is appreciably higher than that for the 55–70 mile zone location from which the various zone Class I price differentials for the milkshed are computed. A reasonable price level for the South Bend-La Porte market must take such factors into account since they affect the South Bend handlers' ability to procure milk supplies in competition with this neighboring market.

Another important factor which has had recent impact on milk supplies available to Order 67 handlers is the Indiana Grade A law. This statute which became effective July 1, 1957, requires that all milk sold for fluid distribution anywhere in the State be produced on inspected farms and labeled as Grade A milk. Ungraded milk supplies in northern Indiana have decreased substantially in recent years, leaving relatively small quantities of Grade B milk available in this area for conversion to Grade A outlets. Inasmuch as the South Bend-La Porte-Elkhart milkshed area overlaps the procurement areas of numerous unregulated dealers serving such markets, who formerly were not required to purchase milk meeting the Grade A standard, such dealers now compete with Order 67 handlers for supplies of the higher quality.

One Order 67 handler has arranged for a regular supply of milk from Schullsburg, Wisconsin. This handler, who operates in the Chicago market from other plants, purchases the milk directly from producers who have converted to bulk farm tanks, reloads the milk into over-the-road tankers and transports it to his Order 67 bottling plant in Indiana. On the assumption that milk may be procured from Wisconsin farms at the Chicago Class I price for the zone in which the plant or reload point is located plus transportation to South Bend, the cost per hundredweight of such milk to the Order 67 handler, delivered to the market, would be greater than the current Order 67 Class I price. With decreasing supplies of Grade A milk available in the direct-delivery area in relation to overall fluid milk requirements, and taking account of the prices being paid at competing outlets, Order 67 handlers have the choice of obtaining their milk requirements from locations beyond Chicago or of paying prices sufficient to maintain production from direct-delivery producers. Therefore, it is reasonable to compute the Class I price under Order 67 on a basis that takes into account the costs of procuring more distant supplies.

On an annual average, handlers under Order 67 have maintained a reserve supply of milk above Class I milk requirements of approximately 26 percent. Such reserve, which may be regarded as appropriate to a reasonably balanced supply for this market, varies from about 18 percent in November, the month of lowest production, to approximately 34 percent in May, the month of highest production. Class I uses in January and February 1958 were 77.9 and 74.7 percent, respectively, of total producer receipts as compared with approximately 74.3 and 69.6 percent, respectively, for the same months last year. Normal percentages of Class I milk to producer receipts in these months in a balanced supply situation would approximate 76 and 75 percent, respectively. Although the market supply is becoming tighter with a lesser proportion of the total receipts being locally produced, the present supply-demand adjustment is having the effect of reducing Class I prices below the level needed to provide adequate supplies.

In view of the above, a price adjustment based on local supply-demand relationships is appropriate. The supply-demand adjustment should be designed to increase the Class I price when Class I utilization is relatively high in relation to supply and to decrease the Class I price when Class I utilization is relatively low. An appropriate price adjustment for each month may be made on the basis of utilization data for the second and third preceding months. The use of figures for the second and third preceding months will provide a reasonable indication of current market conditions and will be the latest figures available in advance of the month for which the price is being computed. The following table sets forth monthly utilization percentages considered as standard, or normal, for a balanced supply situation, and the month in which the price would be affected thereby:

Month for which price applies	Months used in computing current supply-demand ratio	Standard utilization percentage
January	October-November	80
February	November-December	79
March	December-January	77
April	January-February	76
May	February-March	75
June	March-April	73
July	April-May	69
August	May-June	67
September	June-July	70
October	July-August	74
November	August-September	75
December	September-October	76

The rate of adjustment should be 2 cents for each percentage point that the Class I utilization is above or below the standard utilization percentage. The total amount of the adjustment should be limited, however. Supply-demand adjustments applicable under Chicago Order No. 41 and Cleveland Order No. 75 are limited to plus or minus 24 and 25 cents per hundredweight, respectively. A limitation under this order of plus or minus adjustments of 24 cents per hundredweight with a floor of the Chicago minimum Class I price for the 55–70 mile zone will provide greater assurance of a reasonable price relationship with adjacent markets at all times.

Also, to accomplish the above purposes, the Class I price differentials for the months of December and July should be modified by decreasing the differential 20 cents (from $1.30 to $1.10) in December and increasing the differential 20 cents (from $0.90 to $1.10) in July. This seasonal modification of the Class I price differentials will provide for each month stated Class I price differentials 20 cents higher than the stated differentials for the 55–70 mile zone under the Chicago order. At the present time monthly differences in the differentials under the two orders vary from 0 to 40 cents per hundredweight with an average of 20 cents per hundredweight.

(b) A schedule of location adjustments applicable to the pricing of milk received at pool plants should be established in relation to the distance the plant is located from South Bend. The rate should be 10 cents per hundredweight for milk received at plants located not less than 55 miles but not more than 60 miles from the St. Joseph County Courthouse in Sound Bend, plus 1.6 cents for each 10 miles (or fraction thereof) in excess of 60 miles therefrom.

The present order does not provide for location differentials. Class and uniform prices for milk at regulated plants (or at reload points) located at various distances from the marketing area are the same as are applicable to milk received from farms at plants located within the marketing area.

Historically, there have been no outlying plants supplying milk in bulk to distributing plants in the South Bend-La Porte marketing area. For the most part handlers have purchased their milk from direct-delivery producers. In periods of short supply, handlers have purchased needed additional supplies from plants regulated under other Federal orders, particularly the Chicago order. As stated above, one Order 67 handler, in addition to purchasing milk from producers whose farms are located in the vicinity of his distributing plant location, began in recent months the purchase of milk from producers with farms located in southwest Wisconsin, approximately 255 miles from South Bend. The net uniform price for such milk, after hauling deductions, paid to the Wisconsin producers has been closely aligned with the uniform price computed under the Chicago order for the same location.

Producer proponents testified that although no particular problems had arisen, it might be possible in the absence of location differentials for inequities of cost among handlers and in the distribution of returns among producers to result.

Milk produced on farms or received at plants has a progressively lower value in relation to a given market as such farms or plants are located farther from the market. The difference in value is related to the cost of transporting milk to the market from the respective locations. It is economically sound and necessary to recognize such differences in value at pool plants to promote a uniform basis of determining milk costs for handlers and in distributing the returns for milk among producers. Producers are producing milk for the fluid milk market. The difference in value of producer milk for fluid purposes received at a country point as compared with a city distributing plant is the additional cost to the handler in getting the milk to the city plant. Returns to producers located near the market should reflect their location advantage. This may be done by establishing a schedule of location adjustments to apply at distant plants, and at reload points, in accordance with their respective distances from the markting area.

At this time only one handler regularly purchases milk at a considerable distance from the marketing area. As referred to, this milk is purchased in southwest Wisconsin and is reloaded at that location before being shipped in large tankers to his distributing plant. Such reload point is located approximately 255 miles from South Bend and 278 miles from the handler's plant. The hauling rate for the delivery of milk from that location to South Bend approximates 42 cents per hundredweight.

Proponents suggested that no location differential should apply within 70 miles from the County Court House in St. Joseph County. It was testified that custom and the basing point for pricing under Order No. 41 for Chicago are the basis for this proposal. As previously stated, Order 67 provides that prices shall be announced f. o. b. marketing area, whereas under Order No. 41 the Class I price is announced for the 55–70 mile zone and is supplemented by customary "inner zone" pricing arrangements. In comparing returns to direct-delivery producers under Chicago Order 41 with returns to direct-delivery producers under Order 67 consideration must be given to the previously men-

tioned customary and prevailing subsidies for hauling paid by Order 41 handlers and to the additional 4 cents per hundredweight required to be paid by Chicago handlers to all producers delivering milk to plants located in the marketing area, which payments are not reflected in the announced price for the 55-70 mile zone. The application of location differentials, as herein adopted, beginning at a 55-mile distance from South Bend will provide not only close alignment of farm returns for Class I milk at Order 41 plants in the Calumet area, which are the closest Order 41 plants to the South Bend-La Porte-Elkhart marketing area, and at Order 67 distributing plants, but also a close alignment at all points beyond the 55-mile zone. No adjustments for location are appropriate for points less than 55 miles from South Bend since country plants or reload points would not serve an economic purpose within this distance insofar as the maintenance of market supplies are concerned or provide a marketing function for producers. Also, within the 55-mile distance competing markets offer alternative outlets for milk at prices equivalent to or higher than the delivered-to-market price at South Bend.

Milk can be hauled in large quantities from distant points to plants in South Bend for approximately 1.6 cents per hundredweight for each 10 miles of distance. Even though no location differential should be provided within the 55-mile zone, the differential should apply on the basis of the total distance that the supply plant, or reload point, is located from South Bend.

The location differential allowed to handlers should apply only to that portion thereof which is actually needed for utilization as Class I milk at the distributing plant. In determining the quantity so utilized in Class I, allocation of Class I milk, for pricing purposes, should first be made to direct receipts from producers at the distributing plant. Any residual Class I milk should be allocated to the more distant plants, or reload points, in sequence beginning with the plant or reload point having the smallest location differential. This will assure that producers as a whole do not absorb excessive hauling costs for milk.

It is concluded that a schedule of location differentials shoud be adopted to apply in determining handler costs of Class I milk and producer payments applicable at various locations in the milkshed.

(c) The price differential (over basic formula price) for Class II milk should not be increased; the classification of milk used for cottage cheese (Class II milk) should not be changed.

Milk used to produce cottage cheese is classified as Class II milk and priced at the basic formula price plus 70 cents per hundredweight for August through February, and plus 45 cents per hundredweight for March through July.

Producers proposed to increase the Class II price 15 cents per hundredweight above the current level for each month. It is contended that current order Class II prices do not reflect the costs involved in producing Grade A milk for use in cottage cheese and that the return for such milk tends to reduce the uniform price. It is anticipated by proponents that even though, in the past, the use of milk from uninspected sources has been permitted for cottage cheese manufacture in portions of the enlarged marketing area, county health regulations will require, in the near future, the use of inspected milk for this product.

The separate classification and pricing for milk used to produce cottage cheese under Order 67 became effective March 1, 1957. Although the new Indiana Grade A milk law requires milk for fluid distribution to be derived from inspected sources, it does not require milk for cottage cheese to be derived from similar sources. While local health ordinances for portions of the marketing area indicate the necessity of using inspected milk for this product, the standards applicable throughout the marketing area are not uniform at this time and substantial quantities of cottage cheese produced from ungraded milk are sold in parts of the area.

In view of the lack of uniformity in the enforcement of requirements on milk used in the manufacture of cottage cheese, provision for higher pricing might well intensify the use of ungraded milk for this purpose, causing a net loss in returns to producers if equivalent quantities of producer milk were forced into the lower-priced Class III uses. Considering the prices of skim milk and butterfat from alternative sources for cottage cheese manufacture, and the availability of outside sources of cottage cheese in finished form, the Class II price level provided is designed to insure the maximum return to producers without a loss of market for inspected milk in this product.

Handlers proposed that milk for cottage cheese be classified with other manufactured dairy products and that, as a corollary change, the Class III classification be designated as Class II milk. The redesignated Class II milk would be priced, however, at the current Class III price level. They testified that at a previous hearing when the classification and pricing of cottage cheese was considered, it was anticipated that enforcement of regulations requiring inspected milk for cottage cheese would be uniform throughout the marketing area and that since it has not been, the lower pricing of milk so used is appropriate.

The extra value of producer (inspected) milk for making cottage cheese is recognized by handlers in practice and present pricing has not caused a reduction in cottage cheese sales. It is concluded that producers should receive the higher return provided by the Class II price for the quality of milk furnished for this product. Therefore, no change in classification should be made at this time.

(6) The order should be amended to provide that class prices be announced in terms of a hundredweight of milk containing 3.5 percent butterfat, with class butterfat differentials for butterfat test variations above or below 3.5 percent.

Class prices under the present order are set forth in terms of separate prices for the butterfat and skim milk contained in a hundredweight of milk used in each class. However, the market administrator calculates and publishes for informational purposes a price per hundredweight for each class on a 3.5 percent butterfat basis.

Revision of the order to provide for the announcement of class prices for a hundredweight of milk on a 3.5 percent butterfat basis with appropriate class price differentials for butterfat test variations above or below the basic test is desirable to provide for simplicity of calculations, better understanding of price levels, and statistical comparisons of prices under Order 67 with prices of other markets. Expression of prices in these terms will not, of itself, materially alter handlers' costs or producers' returns on an annual basis. Such changes as may affect the levels of class prices are discussed in connection with issue numbered 5 in this decision. This change was supported by the major cooperative in the market and no objections thereto were offered at the hearing. It is concluded that the revised method of computing and announcing class prices should be adopted.

Class price differentials for each point of butterfat test variation to provide class prices for butterfat similar to those in the current order could be calculated as follows:

Classes I and II. Multiply by 0.13 the average of the daily wholesale prices per pound of 93-score butter at Chicago during the month, as reported by the United States Department of Agriculture, and round to the nearest tenth of a cent.

Class III. Multiply by 0.12 the average of the daily wholesale prices per pound of 92-score butter at Chicago, similarly reported, and round to the nearest tenth of a cent. These differentials were suggested by the major cooperative in the market.

In the case of the Class I butterfat differential the amount resulting from the above computation represents a reasonable value of butterfat in Class I uses and is adopted. However, in view of somewhat different competitive circumstances involved in the marketing of cottage cheese, including the availability of butterfat from lower-priced sources for use in such product in some portions of the marketing area, a differential computed by multiplying Chicago 93-score butter by 0.125 is more appropriately related to the lower value of milk utilized in Class II milk, and therefore, is adopted. This modification will place a slightly increased value on the skim milk and a lesser value on the total amount of butterfat so utilized. However, such change does not alter the Class II price level on a 3.5 percent butterfat basis.

Manufactured products in Class III must compete on a national basis with products made from ungraded milk. Therefore, the present basis for computing the price of Class III butterfat should be continued through the medium of the Class III butterfat differential.

In setting up a new system for calculating class prices per hundredweight of milk it is desirable for administrative reasons to round such prices to the nearest cent. This revision is also adopted. For convenience in computing handlers' costs the use of separate class prices for skim milk and butterfat, reflecting the levels established by the prices per hundredweight of 3.5 percent milk, will be continued.

(7) The application of the assessment for expense of administration should be modified.

It was proposed that the assessment (not to exceed 4 cents per hundredweight of milk) for expense of administration of the order be limited, insofar as "other source milk" is concerned, to those portions classified as Class I milk and Class II milk. At the present time the assessment applies to all other source milk, except such milk subject to another Federal order, even though some or all the milk may be used strictly for the manufacture of milk products of the types covered by Class III milk.

At least one milk distributor who would be regulated upon expansion of the marketing area maintains a substantial business in products produced from ungraded (Grade B) milk as well as a fluid milk business utilizing Grade A milk. The application of the administrative assessment to milk of Grade B quality utilized in manufactured milk products would present an expense to him not ordinarily associated with the processing of ungraded milk.

Funds to cover the necessary auditing of reserves of producer milk which from time to time may be commingled with ungraded milk for disposition as manufactured milk products will be derived from the application of the assessment to the producer milk so utilized. It is possible, however, that at times some other source milk may be utilized as Class I milk or Class II milk. It is the duty of the market administrator to verify for each month the receipts and disposition of milk from all sources in order that the integrity of the classified-price plan for producers' milk (Grade A milk priced by the order) may be maintained. Equity in sharing the cost of administration of the order among all handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including such handler's own production) and to such other source milk as may be allocated to Class I milk. In view of the fact that cottage cheese is not required to be produced from Grade A milk in all parts of the marketing area it is not practicable to apply the assessment to other source milk so used by pool handlers.

(8) Certain revisions of the order should be made for administrative purposes.

(a) The order should be amended to set forth clearly the conditions under which milk subject to this order may be made exempt therefrom when such milk is also subject to the class price provisions of another marketing agreement or order.

The present order provides that skim milk and butterfat disposed of as Class I milk in the marking area on a route shall not be subject to the provisions of this order if "(a) such milk is priced under another marketing agreement or order issued pursuant to the act, and (b) the person making such disposition of milk in the marketing area is subject to regulation under such other marketing agreement or order," provided that the handler making such disposition of milk in the marketing area shall make reports to the market administrator, at such time and in such manner as the latter may require, which shall be subject to verification. In general, interested parties at the hearing supported revision of the provisions of the order to the extent necessary relative to plants regulated under other orders, and to producer milk which might qualify for pooling under two orders, to provide clarity in the application of this order to such milk.

Some milk in packaged form is distributed in the market by handlers regulated under Order 41. In light of the expanded marketing area, it is possible that even larger quantities of Class I milk may be distributed in the area from plants regulated by other orders. Milk may be disposed of from plants under this order into other Federally-regulated markets.

Order 41 contains a provision which exempts from regulation thereunder a plant from which a greater percentage of its receipts is disposed of as Class I milk in another Federal marketing area. It is consistent with the pooling requirements that a plant be regulated under the South Bend-La Porte-Elkhart order if the Class I disposition in the marketing area is greater than in another marketing area. The provision that a distributing plant shall be regulated under the order for the market in which the greater disposition is made will provide clarity, avoid duplication of regulation and will coordinate orders affecting adjacent marketing areas as to milk involved under more than one order.

The pooling standards for supply-type plants in adjacent Federal order markets provide for automatic pool status during certain months based on performance requirements in other months. It is possible under such conditions that a supply plant for such other market which has automatic pool status during certain months could dispose of a major portion of its receipts to a distributing plant in this market in such months. In this circumstance, such a plant should not be regulated under this order so long as it continues to be regulated under the order in which it already has met pooling requirements and from which it has not become exempt through withdrawal or otherwise according to the terms of such other order. The provisions of the attached order so provide.

Although exemption of other Federal order distributing plants would depend on a determination by the Secretary that the conditions prescribed in the order apply to the plant(s) in question, the operator of such a plant, otherwise exempt from order provisions, must be required to make reports to the market administrator as to receipts and utilization, so that the exact status of the plant can be determined. A similar requirement is necessary also with respect to supply-type plants involved with more than one order.

(b) The conversion from can handling to bulk tank handling of milk by producers creates problems as to the pool treatment of milk under the order which has been diverted from a plant regulated under another order. In view of the proximity of Order 67 plants to plants regulated under other orders, it is entirely possible that producer milk may be diverted to an Order 67 plant from a plant regulated under another order without having been received first at the latter plant. Since the present order does not provide a specific method of determining which order would apply to such milk, it is quite possible that the milk would be subject to the two orders. Any inclusion of milk under this order which would cause duplication of regulation could prove unduly burdensome to the handlers involved. Therefore, it is concluded that the South Bend-La Porte-Elkhart order should provide for a determination by the Secretary as to the extent to which such order shall apply when the milk is also subject to another order. The provisions of the attached order so provide.

(c) An equivalent price provision should be incorporated in the order. It has been found that from time to time various price quotations specified in an order become unavailable with little if any advance notice. The use of an equivalent price would remove uncertainty as to the procedure to be followed in the absence of price quotations specified in the order and thus would prevent unnecessary interruption in the operation of the order. The proposal should be adopted.

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.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the South Bend-La Porte, Indiana, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

DEFINITIONS

§ 967.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

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

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

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

§ 967.5 *Market administrator.* "Market administrator" means the person designated pursuant to § 967.20 as the agency for the administration of this part.

§ 967.6 *South Bend-La Porte-Elkhart, Indiana, marketing area.* "South Bend-La Porte-Elkhart, Indiana, marketing area", hereinafter called the "marketing area", means all the territory geographically located within the perimeter boundaries of La Porte, St. Joseph and Elkhart Counties, including all incorporated and unincorporated cities, towns, and villages, Federal military reservations, facilities and installations, and State institutions lying wholly or partially within such counties; all in the State of Indiana.

§ 967.7 *Route.* "Route" means any delivery either inside or outside the marketing area (including disposition by a vendor or from a plant store or from vending machines) of any item of Class I milk to a wholesale or retail stop other than a plant (§ 967.8), but excluding any disposition of skim milk or butterfat in the marketing area from a nonpool plant to any other plant or to a commercial processor of foods.

§ 967.8 *Plant.* "Plant" means the entire land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, maintained and operated at the same location primarily for the receiving, processing or other handling of milk or milk products. This definition shall not include any building, premises, facilities, or equipment used primarily to hold or store bottled milk or milk products in finished form in transit for wholesale or retail distribution on a route(s).

§ 967.9 *Reload point.* "Reload point" means any location at which milk moved from the farm in a tank truck is commingled with other milk before entering a plant, except that reloading operations on the premises of a plant shall be considered a part of the plant's operations.

§ 967.10 *Pool plant.* "Pool plant" means any plant meeting the conditions of paragraph (a) of this section, or any plant or reload point meeting the conditions of paragraph (b) of this section, but not any plant exempt pursuant to § 967.60, or the plant of a person defined in § 967.16:

(a) A plant in which milk is processed or packaged and from which not less than 10 percent of its total disposition of Class I milk during the month either by the operator of such plant or by another person is made within the marketing area on a route(s): *Provided*, That the total quantity of Class I milk disposed of from such plant during the month either inside or outside the marketing area is not less than 50 percent of such plant's total receipts of milk eligible for sale in fluid form as Grade A milk within the marketing area; or

(b) Any plant or reload point from which during any month 50 percent or more of its total receipts for such month from farms of skim milk or butterfat eligible for sale in fluid form as Grade A milk within the marketing area is delivered to a plant(s) which has qualified pursuant to paragraph (a) of this section.

§ 967.11 *Nonpool plant.* "Nonpool plant" means any plant other than a pool plant.

§ 967.12 *Producer.* "Producer" means any person, except a person as defined in § 967.16, who produces milk eligible for sale in fluid form as Grade A milk within the marketing area which is either (a) received from the farm at a pool plant(s), or (b) caused to be temporarily diverted by handler for his account from a pool plant to a nonpool plant: *Provided*, That such diverted milk shall be deemed to be received by such handler at the location of the pool plant from which it was diverted.

§ 967.13 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association, to be qualified pursuant to the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

§ 967.14 *Producer milk.* Except as provided in § 967.60, "producer milk" or "milk received from producers" means milk produced by one or more dairy farmers who are producers (as defined in § 967.12).

§ 967.15 *Handler.* "Handler" means (a) any person in his capacity as the operator of a pool plant(s), (b) any cooperative association with respect to producer milk caused to be delivered for the account of such association from the farms of producers to the pool plant(s) of another handler(s) and milk customarily received as producer milk at a pool plant which is diverted by such association for its account to a nonpool plant; or (c) any person in his capacity as the operator of any nonpool plant from which milk is disposed of as Class I milk within the marketing area on a route(s).

§ 967.16 *Producer-handler.* "Producer-handler" means any handler who produces milk eligible for sale in fluid form as Grade A milk within the marketing area but receives no milk directly from other dairy farmers: *Provided*, That the maintenance, care and management of the dairy animals and other resources necessary to produce such milk and the processing, or distribution of such milk are his personal enterprise and at his personal risk.

§ 967.17 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form, except in a nonfluid milk product disposed of in the same form as received, from sources other than producer milk and a pool plant(s).

§ 967.18 *Base, base milk and excess milk.* (a) "Base" means a quantity of milk expressed in pounds per day computed pursuant to § 967.62.

(b) "Base milk" means a quantity of producer milk received by a handler during each of the months of April, May, June, and July which is not in excess of such producer's base multiplied by the number of days on which such milk was produced.

(c) "Excess milk" means producer milk received by a handler during each of the months of April, May, June, and July which is in excess of the base milk received from such producer.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 967.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provi-

sions of this part, including, but not limited to, the following:

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

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

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

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

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

(2) His own compensation; and

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

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

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 967.30 and 967.31 or (2) payments pursuant to §§ 967.80 to 967.87;

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

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

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

(1) On or before the 7th day after the end of such month, the minimum class prices for milk (rounded to the nearest cent) and the butterfat differentials computed pursuant to §§ 967.53, 967.54, 967.55, and 967.57;

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

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

(k) On or before April 1 each year notify each producer of the amount of his base, and notify each handler of the amount of the base of each producer delivering milk to any of the handler's plants.

REPORTS, RECORDS AND FACILITIES

§ 967.30 *Monthly reports of receipts and utilization.* (a) On or before the 9th day of each month and in the detail and on forms prescribed by the market administrator, each person who is a handler pursuant to § 967.15 (a) or (b) shall report to the market administrator for the preceding month with respect to all milk and milk products, except any milk product defined as Class III milk which is disposed of in the form in which received without further processing or packaging by the handler, received at each pool plant, the following:

(1) The quantities of skim milk and the quantities of butterfat contained in milk received from producers (including such handler's own production) producer-handlers, and other handlers.

(2) The quantities of skim milk and quantities of butterfat contained in other source milk, with the sources thereof;

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including the quantities of skim milk and butterfat on hand at the beginning and end of each month as milk and milk products;

(4) The aggregate quantities of base milk and excess milk received (for April through July); and

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

(b) Except as provided in § 967.31 (a), each handler who operates a nonpool plant as referred to in § 967.15 (c) shall report to the market administrator, on or before the 9th day after the end of each month, his total receipts, his total utilization of milk and milk products, his total disposition of Class I milk, including as a separate figure the quantity of Class I milk disposed of within the marketing area on routes, and such other information with respect to all receipts and utilization for such month as the market administrator may prescribe.

§ 967.31 *Other reports.* (a) Each producer-handler who handles during the month only milk of his own production shall make reports to the market administrator at such times and in such manner as the market administrator shall prescribe.

(b) On or before the 25th day of each month, each handler shall submit to the market administrator such handler's producer payroll for the preceding month which shall show for each producer and cooperative association (1) the total pounds of milk delivered with the average butterfat test thereof, (2) the net amount of the payment to each producer and to each cooperative association, together with the prices, deductions and charges involved, (3) for the months of September through December, the number of days on which milk was received from each producer, and (4) for the months of April through July, the number of days on which milk was received from each producer and the amount of his base and excess milk.

§ 967.32 *Records and facilities.* Each handler shall permit the market administrator to make such examination of his operations, equipment and facilities as the market administrator deems necessary and shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of operations and such facilities as the market administrator deems necessary to verify or to establish the correct data with respect to (a) the receipts and utilization in whatever form of all skim milk and butterfat received, including nonfluid milk products disposed of in the form in which received without further processing or packaging; (b) the weights, and tests for butterfat and for other content, of all other skim milk or butterfat handled; (c) payments to producers and cooperative associations; and (d) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each month.

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

CLASSIFICATION

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

§ 967.41 *Classes of utilization.* Subject to the conditions set forth in §§ 967.43 and 967.44, the skim milk and butterfat described in § 967.40 shall be classified by the market administrator on the basis of the following classes:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of (except as provided in paragraph (c) (1) of this section) in the form of milk, skim milk, flavored milk, flavored milk drink, and buttermilk; (2) disposed of as cream (sweet or sour) and any fluid mixture of cream and milk (or skim milk) containing not less than 6 percent butterfat (but not including ice cream or other frozen dessert mixes disposed of to a commer-

cial processor, or any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product); (3) disposed of in fluid or frozen form as concentrated milk, flavored milk, flavored milk drink not sterilized and not otherwise specified under paragraph (c) of this section, and as eggnog; (4) in shrinkage of receipts of producer milk computed pursuant to § 967.42 which is in excess of 2 percent of such receipts; and (5) not specifically accounted for as any item named in this paragraph or as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk and butterfat used to produce cottage cheese.

(c) Class III milk shall be all skim milk and butterfat (1) disposed of in bulk in the form of milk, skim milk, buttermilk, and cream to any manufacturer of candy, soup or bakery products and used in such products; (2) in condensed milk or skim milk (sweetened or unsweetened) disposed of to commercial food processors; (3) disposed of (or used to produce, in the case of ice cream and frozen desserts and mixes (liquid or powdered) for such products, and aerated cream products) as sweetened condensed milk in hermetically sealed cans, evaporated milk, ice cream, ice cream mix, other frozen desserts and mixes, storage cream, butter, cheese and nonfat dry milk; (4) dumped or disposed of for livestock feed as skim milk (including that in whole milk dumped), flavored milk, flavored milk drink and buttermilk; (5) disposed of as a milk product other than any of those specified in paragraph (a) (1), (2) and (3) in paragraph (b), and in paragraphs (c) (1), (2), (3) and (4) of this section; (6) contained in monthly inventory variations; (7) in actual shrinkage of receipts of producer milk computed pursuant to § 967.42 but not in excess of 2 percent of such receipts; and (8) in actual shrinkage of other source milk computed pursuant to § 967.42.

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

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

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

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

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

§ 967.44 *Transfers.* Skim milk or butterfat disposed of by a handler in the form of any item named in § 967.41 (a) (1), (2), or (3) shall be classified:

(a) As Class I milk if transferred from the pool plant of a handler to the pool plant of another handler (except a producer-handler), unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 9th day after the end of the month within which such transaction occurred: *Provided*, That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class at the plant of the transferee-handler after the subtraction of other source milk pursuant to § 967.46, and any excess of such skim milk or butterfat, respectively, shall be assigned to Class I milk;

(b) On the basis of ratable apportionment to each class according to the use of skim milk and butterfat in the pool plant of the transferee-handler if caused to be delivered to such plant by a cooperative association in the manner described in § 967.15 (b);

(c) As Class I milk if transferred or diverted to the plant of a producer-handler;

(d) As Class I milk if transferred or diverted to a nonpool plant, unless (1) the transferor-handler claims use in another class on the basis of utilization in the nonpool plant in his report submitted to the market administrator pursuant to § 967.30 for the month within which such transaction occurred, (2) the receiver maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification, and (3) in such receiver's plant there actually had been used during such month in the use indicated in such report, not less than an equivalent amount of skim milk and butterfat derived by him from milk or cream: *Provided*, That if upon inspection of such receiver's records of such plant, there had not been used in such indicated use an equivalent amount of skim milk and butterfat so derived, the remaining pounds shall be classified as Class I milk.

§ 967.45 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively in each class for such handler.

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

(a) Subtract, respectively, from the pounds of skim milk and butterfat in Class I milk (to the extent Class I milk is available) the pounds of skim milk and butterfat in other source milk which is (1) received in consumer packages as any item specified in § 967.41 (a) (1), (2) or (3) from a plant where milk is subject to the class price provisions of a Federal marketing agreement or order issued pursuant to the act for another fluid milk marketing area, and (2) disposed of without repackaging;

(b) Subtract, respectively, from the remaining pounds of skim milk and butterfat in each class (other than the pounds in inventory variations and plant shrinkage of skim milk and butterfat pursuant to § 967.41 (c) (7)), in series beginning with Class III milk, the pounds of skim milk and butterfat in other source milk excluding that subtracted pursuant to paragraph (a) of this section.

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

(d) Subtract, respectively, from the remaining pounds of skim milk and butterfat in each class in series beginning with Class III milk, the pounds by which such pounds of skim milk and butterfat in all classes exceed, respectively, the total pounds of skim milk and butterfat received in milk from producers.

MINIMUM PRICES

§ 967.50 *Class prices.* Each handler shall pay, at the time and in the manner set forth in §§ 967.80 to 967.84, not less than the prices per hundredweight computed pursuant to §§ 967.51 to 967.59 for all milk received during each month from producers and cooperatives associations: *Provided*, That with respect to skim milk and butterfat transferred from the pool plant of, or caused to be delivered as producer milk by, a cooperative association which is a handler to the pool plant of another handler, the applicable class price shall be that for the location of the latter plant.

§ 967.51 *Basic formula price.* The basic formula price to be used in determining the prices of Class I milk and Class II milk shall be the higher of the prices computed by the market administrator for the month immediately preceding from the formulas set forth in paragraphs (a) and (b) of this section.

(a) The arithmetical average of the basic (or field) prices reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received during the month at the following plants or places for which prices are reported to the market administrator by the listed companies or by the Department:

Companies and Locations

Borden Company, Mount Pleasant, Mich.
Borden Company, Orfordville, Wis.
Borden Company, New London, Wis.
Carnation Company, Sparta, Mich.
Carnation Company, Richland Center, Wis.
Carnation Company, Oconomowoc, Wis.
Pet Milk Company, Wayland, Mich.
Pet Milk Company, Coopersville, Mich.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) Compute a price per hundredweight by adding together the amounts resulting pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department and from the result thus obtained deduct 64.2 cents;

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

§ 967.52 *Supply and demand adjustment.* On or before the 7th working day of each month the market administrator shall make the following computations based upon information obtained from handlers' reports of receipts and utilization:

(a) Determine the sum of the receipts of milk from all producers (including receipts from own farm production) during the second and third preceding months;

(b) Determine the sum of the pounds of milk and milk products disposed of from pool plants as Class I (excluding shrinkage and unaccounted for milk) during the same preceding months, and

(c) Divide the amount obtained in paragraph (b) of this section by the amount obtained in paragraph (a) of this section and adjust to the nearest full percentage point. The resulting percentage shall be known as the "current supply-demand ratio."

§ 967.53 *Class I price.* Except as provided in § 967.56, the price for Class I milk of 3.5 percent butterfat content shall be the basic formula price computed pursuant to § 967.51, plus $1.30 for the months of August through November; plus $1.10 for December, January, February and July; and plus $0.90 for all other months: *Provided*, That whenever the current supply-demand ratio varies from that set forth in the table below for the applicable month, the Class I price shall be increased or decreased to a maximum amount of 24 cents at the rate of 2.0 cents for each full percentage point that the current supply-demand ratio is above or below that set forth in the table for such month, but such price, after adjustment, shall not be less than the minimum price per hundredweight for Class I milk for the same month as computed for the 55–70 mile zone under Order No. 41 for the Chicago, Illinois, marketing area.

Month to which applicable	Standard percentages	Months used in computing current supply-demand ratio
January	80	October-November.
February	79	November-December.
March	77	December-January.
April	76	January-February.
May	75	February-March.
June	73	March-April.
July	69	April-May.
August	67	May-June.
September	70	June-July.
October	74	July-August.
November	75	August-September.
December	76	September-October.

§ 967.54 *Class II price.* The price for Class II milk of 3.5 percent butterfat content shall be the basic formula price plus $0.70 for the months of August through February; and plus $0.45 for all other months.

§ 967.55 *Class III price.* The price for Class III milk of 3.5 percent butterfat content shall be that computed under § 967.51 (a).

§ 967.56 *Location differential credits to handlers on Class I milk.* In computing the value of each handler's milk pursuant to § 967.70, the following location differentials shall be credited with respect to each hundredweight of producer milk received at a pool plant or reload point located more than 55 miles from the St. Joseph County Courthouse, South Bend, Indiana, and classified as Class I milk: 10 cents for distances at least 55 miles but not more than 60 miles, and an additional 1.6 cents for each 10 miles, or major fraction thereof, in excess of 60 miles, in all instances by the shortest hard-surfaced highway distance, as determined by the market administrator, from such pool plant or reload point to the St. Joseph County Courthouse, South Bend, Indiana: *Provided*, That for the purpose of computing the credits applicable pursuant to this section, the amount of milk transferred in bulk form from a pool plant(s) pursuant to § 967.10 (b) to a pool plant(s) pursuant to § 967.10 (a) and classified as Class I milk, shall not exceed the total amount of Class I milk disposed of from the latter plant less the total amount of any producer milk received at such plant from producers' farms and shall be assigned to pool plants under § 967.10 (b) in sequence beginning with the plant having the smallest allowable credit.

§ 967.57 *Class butterfat differentials*—(a) *Class I milk.* Multiply by 0.13 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at Chicago, as reported by the Department for the month, and round to the nearest one-tenth of a cent: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

(b) *Class II milk.* Multiply by .125 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at Chicago, as reported by the Department for the month, and round to the nearest tenth of a cent: *Provided*, That if no price is reported for Grade AA (93-score) butter the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

(c) *Class III milk.* Multiply by .12 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (92-score) bulk creamery butter at Chicago, as reported by the Department for the month, and round to the nearest tenth of a cent.

§ 967.58 *Computation of prices of skim milk and butterfat.* The prices per hundredweight of skim milk and butterfat to be paid by each handler for milk in each class shall be computed as follows: For each class, respectively, the price per hundredweight of skim milk shall be the applicable class price for the month (§§ 967.53, 967.54 and 967.55) less the result of multiplying the applicable class butterfat differential for the month (§ 967.57) by 35. For each class, respectively, the price per hundredweight of butterfat shall be the applicable class price for the month plus the result of multiplying the applicable class butterfat differential for the month by 965.

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

APPLICATION OF PROVISIONS

§ 967.60 *Exempt milk.* (a) Milk received at a plant qualified as a pool plant under § 967.10 (a) shall be exempt from the provisions of this part if the conditions of subparagraphs (1) and (2) of this section are met: *Provided*, That the handler of such milk shall make reports to the market administrator with respect to his total receipts and utilization of skim milk and butterfat at such times and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with § 967.32:

(1) The Secretary determines that a greater quantity of milk is disposed of in fluid form from such plant to another regulated area as defined in another marketing agreement or order issued pursuant to the act either on a route(s) or through a plant(s) regulated by such other marketing agreement or order than is disposed of from such plant in the South Bend-La Porte-Elkhart marketing area either on a route(s) or through another pool plant(s); and

(2) Such milk would be subject to the class price and producer payment provisions of the other marketing agreement or order upon being made exempt from this part.

(b) Milk received at a plant qualified as a pool plant under § 967.10 (b) shall be exempt from the provisions of this part as producer milk if such milk is subject to class prices at a plant regulated under another marketing agreement or order issued pursuant to the act: *Provided*, That the proviso set forth in paragraph (a) of this section shall apply.

(c) In the case of producer milk received directly from a farm at a pool plant which milk (1) has been diverted (without being physically received therein) from a plant at which farm receipts of milk are subject to the class price provisions of another marketing agreement or order issued pursuant to the act, (2) is reflected on the producer-payroll of the plant from which diverted, and (3) is not specifically exempt from class pricing by the terms of such other marketing agreement or order, the Secretary shall make a determination as to the extent to which the terms of this part shall apply to such milk.

§ 967.61 *Producer-handlers.* Sections 967.40 to 967.46, 967.50 to 967.58, 967.70 to 967.72, 967.80 to 967.84 and 967.86 to 967.88 shall not apply to a producer-handler.

§ 967.62 *Computation of base.* Subject to the conditions set forth in § 967.63, the market administrator shall compute for each of the months of April, May, June and July a base for each producer, as follows:

(a) Divide the total pounds of milk received by a handler from each producer during the months of September, October, November and December immediately preceding, by the number of days such milk was produced (not to be less than 90 days): *Provided*, That any producer for whom a base has been computed may, upon written notice to the market administrator postmarked not later than February 15 preceding, relinquish his base and be allotted a base computed pursuant to paragraph (b) of this section.

(b) Any producer who has not established a base or who elects to relinquish his base pursuant to the provisions of paragraph (a) of this section shall be assigned a base for each of the months of April, May, June and July computed as follows:

(1) From the total quantity of producer milk received by handlers during the same month of the previous year, subtract the total receipts from producers who did not establish bases or who had relinquished their bases.

(2) Determine the percentage that base milk was of the remaining pounds, and subtract 10.

(3) Multiply the resulting percentage by the total pounds of milk received by a handler from the producer during the applicable month and divide the result by the number of days such milk was produced.

§ 967.63 *Base rules.* Any base computed pursuant to § 967.62 (a) shall be subject to the following rules:

(a) A base shall be held in the name of the producer and may be transferred only at his option.

(b) The milk to which the transferred base shall apply must be produced on the same farm on which such base was earned, and the transferor must notify the market administrator in writing on or before the last day of the month that such base is to be transferred indicating the name of the transferee, the amount of base transferred, and the effective date of the transfer; and in the event of a producer's death his base may be so transferred upon written notice to the market administrator from any member of the producer's immediate family.

(c) If a producer operates more than one farm he must establish a base with respect to the milk from each farm, and in the event such producer chooses to relinquish the base earned for one farm he must do so for all farms.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 967.70 *Computation of the value of milk.* (a) For each month the total value of milk received by each handler from producers or associations of producers (including any such milk caused to be delivered to such handler from the farms of producers for the account of a cooperative association) during such month shall be a sum of money computed by the market administrator by multiplying the pounds of skim milk and butterfat in each class by the applicable class prices pursuant to § 967.58, adding together the resulting amounts, adding any amounts computed for such handler pursuant to subparagraphs (1) and (2) of this paragraph, and subtracting the total amount of any location differential credits computed pursuant to § 967.56.

(1) Add, with respect to other source milk (except other source milk classified and priced under the class price provisions of another marketing agreement or order issued pursuant to the act) received in fluid form as milk, skim milk or cream at each pool plant of such handler in excess of the total volume of his Class II milk and Class III milk at such plant, an amount computed by multiplying the hundredweight of skim milk and butterfat in such other source milk by the difference between the Class I milk and Class III prices for skim milk and butterfat, respectively, pursuant to § 967.58: *Provided*, That if the plant supplying such milk is located outside the marketing area and more than 55 miles from the St. Joseph County Courthouse, South Bend, Indiana, the payment per hundredweight of milk otherwise required by this subparagraph shall be reduced by the applicable location adjustment provided in § 967.56 for the distance such plant is located from the St. Joseph County Courthouse, but not to exceed an amount equal to the difference between the Class I and Class III prices.

(2) Multiply the pounds of skim milk and butterfat subtracted pursuant to § 967.46 (d) by the respective applicable class prices.

(b) For each month the total obligation to the producer-settlement fund for each handler who, during such month, disposed of Class I milk (except other source milk classified and priced under the class price provisions of another marketing agreement or order issued pursuant to the act) within the marketing area on routes from a nonpool plant shall be a sum of money computed by the market administrator by multiplying the hundredweight of skim milk and butterfat in other source milk so disposed of by the difference between the Class I and Class III prices for skim milk and butterfat, respectively, adjusted for the location of the plant at the rates applicable for pool plants pursuant to § 967.56: *Provided*, That a producer-handler shall not be obligated for payments under this paragraph with respect to that portion of other source milk represented by his own farm production.

§ 967.71 *Computation of uniform price.* For each of the months of August through March the market administrator shall compute a uniform price per hundredweight of producer milk as follows:

(a) Combine into one total the values computed pursuant to § 967.70 for all handlers who filed reports pursuant to § 967.30 and were not in violation of § 967.83 for the preceding month;

(b) Subtract, if the average butterfat content of milk included in these computations is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 967.81 (a), and multiplying the resulting amount by the total hundredweight of milk included in these computations;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 967.81 (b);

(d) Add not less than one-half of the unobligated balance in the producer-settlement fund;

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

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight, for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports or payments or delinquencies in payments by handlers. The result shall be known as the "uniform price" per hundredweight for milk of 3.5 percent butterfat content.

§ 967.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through July the market administrator shall compute separate prices per hundredweight for base milk and excess milk of producers as follows:

(a) Make the same computations as required pursuant to § 967.71 (a), (b), (c), and (d);

(b) Compute the total value, on a 3.5 percent butterfat basis, of that portion of milk, included in the computations pursuant to paragraph (a) of this section, which is excess milk by: multiplying the quantity of such excess milk (but not more than an amount equal to the total quantity of Class III milk included in these computations) by the price for Class III milk of 3.5 percent

butterfat content, and multiplying any quantity of such excess milk greater than such Class III milk, in series, by the prices for Class II milk and Class I milk of 3.5 percent butterfat content, respectively, and adding together the resulting amounts;

(c) Divide the total value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, and adjust to the nearest cent (the result shall be known as the "uniform price for excess milk" of 3.5 percent butterfat content);

(d) Subtract the value computed pursuant to paragraph (b) of this section from the total value of milk included in these computations, and divide the result by the total hundredweight of base milk represented; and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight, for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports of payments or delinquencies in payments by handlers. The result shall be known as the "uniform price for base milk" of 3.5 percent butterfat content.

PAYMENTS

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

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

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

(c) On or before the 4th day after the end of such month each handler shall pay to each producer, or to a cooperative association authorized to collect payment, not less than the amount per hundredweight provided in the schedule set forth in this paragraph, for milk received from such producer or caused to be delivered to such handler by such cooperative association during the first 15 days of such month: *Provided*, That in the event any producer or cooperative association discontinues shipping to such handler during any month, such partial payments shall not be made and full payment for all milk received from such producer or cooperative association during such month shall be made on or before the 18th day after the end of such month pursuant to paragraphs (a) and (b) of this section:

When the uniform price or base price for the preceding month is—	*The amount of the partial payment shall be—*
Under $1.00	$0.00
$1.00 to $1.99	1.00
$2.00 to $2.99	2.00
$3.00 to $3.99	3.00
$4.00 to $4.99	4.00
$5.00 to $5.99	5.00
$6.00 to $6.99	6.00
$7.00 and over	7.00

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

(b) In making payments to producers pursuant to § 967.80 for milk received at a pool plant at which a location adjustment is applicable pursuant to § 967.56, the uniform price per hundredweight for the months of August through March, and the uniform price per hundredweight for base milk for the months of April through July, shall be reduced by the zone rate per hundredweight for such plant prior to the proviso in § 967.56.

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

§ 967.83 *Payments to the producer-settlement fund.* (a) On or before the 16th day after the end of each month, each handler whose obligation is computed pursuant to § 967.70 (a) shall pay to the market administrator the amount by which the value of such handler's milk as determined pursuant to § 967.70 (a), minus the amount to be paid to a cooperative association pursuant to § 967.80 (b) is greater than the amount to be paid producers pursuant to § 967.80 (a): *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 967.80 (b), such cooperative association shall pay to the market administrator, on or before the 16th day after the end of each month, the amount by which the utilization value of such milk is greater than the value computed at the uniform price pursuant to § 967.71 adjusted by the producer butterfat and location differentials pursuant to § 967.81.

(b) On or before the 16th day after the end of each month, each handler (including any handler who may also have an obligation pursuant to paragraph (a) of this section) who, during such month, disposed of milk as described in § 967.70 (b) shall pay the amount computed for him pursuant to such paragraph.

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

§ 967.85 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 967.22 (d), each handler (except a producer-handler) as defined in § 967.15 (a) or (b) shall pay the market administrator, on or before the 16th day after the end of each month, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe, with respect to skim milk and butterfat received within the month in producer milk (including such handler's own production) and in other source milk allocated to Class I milk; and each handler as defined in § 967.15 (c), including a producer-handler, shall make payment at the same rate per hundredweight with respect to other source milk disposed of as Class I milk within the marketing area on routes: *Provided*, That milk which is subject to administrative expense assessment under another marketing agreement or order

issued pursuant to the act shall be exempt from payment under this section.

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

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

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

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

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

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

§ 967.88 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

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

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

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

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

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

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

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

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

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 6th day of June 1958.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 58-4430; Filed, June 10, 1958; 8:55 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FLATHEAD INDIAN IRRIGATION PROJECT, ST. IGNATIUS, MONTANA

OPERATION AND MAINTENANCE CHARGES

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (Pub. Law 404, 79th Cong., 60 Stat. 238) and authority contained in the acts of Congress approved August 1, 1914; May 18, 1916; and March 7, 1928 (38 Stat. 583; 25 U. S. C. 385; 39 Stat. 142; and 45 Stat. 210; 25 U. S. C. 387) and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 551 Amendment No. 1; 16 F. R. 5454–7), notice is hereby given of the intention to modify §§ 221.24, 221.26, and 221.38 of Title 25, Code of Federal Regulations, dealing with irrigable lands of the Flathead Indian Irrigation Project, Montana, that are subject to the jurisdiction of the several irrigation districts, as follows:

Charges applicable to all irrigable lands of the Flathead Indian Irrigation Project that are included in the Irrigation District Organization and are subject to the jurisdiction of the three irrigation districts.

§ 221.24 *Charges.* Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929; March 28, 1934; August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1959 an assessment of $240,744 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 74,262.5 acres; does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.26 *Charges.* Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936, and May 16, 1951, there is hereby fixed, for the season of 1959 an assessment of $45,776 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 13,779.1 acres; does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.28 *Charges.* Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Montana, on November 13, 1934, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, and April 18, 1950, there is hereby fixed, for the season of 1959 an assessment of $17,240 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 6,135.4 acres; does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

Interested persons are hereby given opportunity to participate in preparing the proposed amendments by submitting their views, data or arguments in writing to Area Director, Bureau of Indian Affairs, 804 North 29th Street, Billings, Montana, within 30 days from the date of publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

CHARLES H. SCHRAMM,
Acting Area Director.

[F. R. Doc. 58-4391; Filed, June 10, 1958; 8:46 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 60]

[Draft Release 58-12]

ALTIMETER SETTING

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety, notice is hereby given that the Bureau will propose to the Board amendments to Part 60 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by Aug. 11, 1958. Copies of such communications will be available after Aug. 13, 1958, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

This proposed amendment to the air traffic rules will provide for the use of one standard altimeter setting for aircraft operating at and above 24,000 feet MSL, in the continental control area, and for the use of current reported altimeter settings from the surface upward to 23,500 feet MSL. The selection of these altitudes followed considerable study and discussion with the principal users of the higher altitudes and in the Bureau's opinion they are the best altitudes to initiate the change in the altimeter setting concept, considering the diverse interests involved. To insure common procedures in trans-border operations, coordination with the Canadian Government has assured compatible procedures.

The need for a standard altimeter setting at high altitude is becoming more urgent as more aircraft operate in this airspace. As altitude increases, the altimeter is required to measure progressively smaller units of atmospheric pressure and the accuracy of the instrument is thus reduced. The use of a standard setting will not wholly solve all the problems of altimetry, but it is a necessary adjunct to other expected improvements.

Since knowledge of the exact meaning of certain terms is important to the understanding of the discussion that follows, particularly with respect to one of the terms which is not widely used in the United States, the following definitions, two of which appear in the proposed rule, are set forth:

Cruising altitude. A level determined by vertical measurement from mean sea level.

Flight level. A level of constant atmospheric pressure related to a reference datum of 29.92" Hg. For example, flight level 250 corresponds to an altimeter indication of 25,000 feet, and flight level 265 to 26,500 feet.

Standard atmospheric pressure. A pressure equal to 29.92 inches of mercury.

Altitude. A vertical elevation above mean sea level.

There have been, over many years, studies and suggestions advocating that aircraft altimeters be set to standard atmospheric pressure because of the inherent advantages of this system in achieving vertical separation of aircraft. With this standard setting, every pilot knows that other pilots in his area are governing the altitude of their aircraft by reference to an altimeter set as his is set. Thus, he may be certain that no altitude conflicts will occur because respective altimeter settings are derived from different sources.

This system is excellent for separating aircraft by reference to the standard, but two difficulties become apparent. First, the pilot has no indication of actual altitude, and so terrain clearance and the avoidance of obstructions are not assured. Secondly, if this problem is solved by the use of corrected pressure settings at low altitudes, then separation of aircraft using the two systems becomes a problem.

Assuming that these problems are susceptible of solution, use of two systems, each in the area in which its advantages make it appropriate and its disadvantages are at a minimum, will result in improved safety of flight. Where measurement of altitude is of primary importance, as in landing, after take-off, and in cruising flight at low altitudes, the corrected pressure setting is most desirable. Although the altimeter must be reset as atmospheric pressure varies along the route of flight, these settings are generally available and the resulting cruising altitude of the aircraft is reasonably constant.

At high altitudes, a standard setting is much more desirable. Terrain clearance is no longer a factor and there are many reasons why the standard setting is preferable. The speed of aircraft operating in the upper airspace is such that they traverse pressure systems quickly, and if separation depends on the accuracy of a setting received from the ground, frequent resettings are necessary. The chance of error inherent in resetting

would be eliminated by standard setting. Where controlled flights are possible in the continental control area without regard to airway systems, the possibility exists that no reporting station would be available in the immediate area in which a jet might be operating. Finally, standard setting is more adaptable to automatic flight control and improves the correlation between performance data and actual performance.

In previously devised proposals to enable the use of two settings, a sterile airspace was included in which cruising flight was to be prohibited. Since cruising altitudes are at a fixed altitude above MSL, and the altitude of flight levels varies as atmospheric pressure changes, it is apparent that conditions could exist in which a flight level would be coincident with a cruising altitude. As atmospheric pressure decreases, the altitude of a flight level decreases. The sterile area, or "buffer zone," was devised to provide airspace to accommodate this sinking effect of flight levels as atmospheric pressure decreases below standard. A disadvantage in this, however, is that a buffer zone entails permanent loss of altitudes available for cruising flight. This has been considered unacceptable because of the volume of air traffic in the United States which requires use of all available flight altitudes.

No permanent loss of cruising altitudes, or of flight levels, is necessary in this proposed rule. Essentially, flight of aircraft within the continental control area would be conducted by reference to an altimeter set to a standard setting and would utilize flight levels; cruising flight in the airspace between the ground and 23,500 feet, which is below the continental control area, would be conducted at cruising altitudes maintained by reference to an altimeter set to current reported altimeter setting. It is believed that through proper planning by pilots and air traffic controllers, the possibility of conflict between aircraft using the different systems of setting can be eliminated. Having no buffer zone, the workability of this proposal is predicated on maintaining at least the standard vertical separation, 1,000 feet, between aircraft even though they may be controlled by altimeters set to different pressure references.

The rule describes the areas wherein each system will be employed. The dividing line is the lower limit of the continental control area, which is defined as 24,000 feet above MSL. All cruising altitudes from the ground to 23,500 feet are available at all times, regardless of the atmospheric pressure. However, when pressure is below 29.92" Hg., the altitude of an aircraft using standard setting is below the altimeter indication. Since this altimeter indication defines the flight level, it follows that some flight levels will fall below 24,000 feet MSL. Obviously, this situation could result in conflict with aircraft conducting flight at a cruising altitude and, therefore, pilots must not choose, nor controllers assign, flight levels without ascertaining that the flight level is actually within the continental control area.

Reference to the table included in the rule will give, by example, the lowest usable flight level when the atmospheric pressure is below 29.92" Hg. During a large percentage of the time atmospheric pressure is at or above 29.92" Hg., therefore no reference to the table will be necessary. Since all cruising altitudes are always available, it will be noted that only for flights in the lower levels of the continental control area would the possibility exist that a flight level would not be usable. The table provided in the rule covers atmospheric pressures prevailing in most areas the greater portion of the time. Atmospheric pressures which are extraordinarily high might permit the use of additional flight levels which normally lie below 24,000 feet MSL. Abnormal lows also might force vacation of flight levels usually well above 24,000 feet.

To execute the plan proposed herein, it will be necessary for each controller to know the atmospheric pressure and pressure tendency in his area of responsibility. Similarly, since the pilot has the primary responsibility for flight planning and execution, the atmospheric pressure and pressure tendency must be included in preflight planning. This problem would still be present even though a buffer zone were provided. However large the buffer zone provided, the possibility of extremely low atmospheric pressures, such as those present in hurricanes, would necessitate the same planning on the part of pilots and the same procedural planning for controllers as in the presently proposed rule.

The 24,000-foot altitude was chosen to begin the constant altimeter setting area because the altitude was already significant as the beginning of the continental control area. This area is programmed for expansion by changing the lower limit to 15,000 feet MSL when the added burden of air traffic control can be accepted. At that time, the desirability of revising the regulation to continue the constant altimeter setting as a rule applicable in the continental control area will be examined.

Appropriate changes in the terminology of related regulations would be required on the adoption of this rule. As these regulations are presently in the process of revision, and the changes are not substantive, they are not detailed herein.

In consideration of the foregoing, notice is hereby given that it is proposed to recommend to the Board that Part 60 of the Civil Air Regulations be amended:

1. By adding a new § 60.25 to read as follows:

§ 60.25 *Altimeter setting.* The cruising altitude or flight level of aircraft shall be maintained by reference to an altimeter which shall be set:

(a) At or below 23,500 feet MSL, to the current reported altimeter setting of a station along the route of flight within 100 nautical miles: *Provided,* That where there is no such station, the current reported altimeter setting of an appropriate available station shall be used: *And provided further,* That aircraft having no radio shall set altimeters to the elevation of the airport of departure or use available en route forecast pressures.

(b) At or above 24,000 feet MSL, to 29.92" Hg. An altitude of at least 24,000 feet MSL must be maintained when this setting is used; the use of flight levels which are below this altitude is not permissible. Flight levels appropriate to normally encountered atmospheric pressure are shown in the table following:

Atmospheric pressure in inches of mercury:	*Lowest usable flight level*
29.92	240
29.91 to 29.42	245
29.41 to 28.92	250
28.91 to 28.42	255
28.41 to 27.92	260

2. By adding to § 60.60 the following new definitions:

§ 60.60 *Definitions.* * * *

Cruising altitude. Cruising altitude is a level determined by vertical measurement from mean sea level.

Flight level. Flight level is a level of constant atmospheric pressure related to a reference datum of 29.92" Hg. For example, flight level 250 corresponds to an altimeter indication of 25,000 feet, and flight level 265 to 26,500 feet.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended, and may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012, as amended, 49 U. S. C. 551–560)

Dated at Washington, D. C., June 5, 1958.

By the Bureau of Safety.

[SEAL] OSCAR BAKKE, *Director.*

[F. R. Doc. 58-4414; Filed, June 10, 1958; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 3–7, 9–11, 16, 20, 21]

[Docket No. 11745; FCC 58-554]

FREQUENCIES UTILIZED FOR RADIO ASTRONOMY

INTERFERENCE PROTECTION

1. Notice is hereby given of further proposed rule-making in the above entitled Docket.

2. The Commission has under consideration the comments which have been filed in the above-captioned proceeding in response to the First Notice of Proposed Rule Making, adopted June 20, 1956. From its analysis of this material the Commission is convinced that the accomplishments and potentialities of radio astronomy in contributing to man's knowledge of the universe favor the adoption of measures designed to foster the development of this branch of science. Specifically, we believe that it would be in the public interest to adopt Rules for reducing interference at radio telescope sites in order that radio signals of a non-terrestrial origin can be received more intelligibly. At the same

time we recognized that the legitimate and pressing needs of existing communications services for spectrum space impose limitations on the amount of protection which can reasonably be extended to such sites.

3. Essentially, the comments and proposals submitted offer two means for minimizing or eliminating interference to radio astronomy observations: restricting radio authorizations in geographic areas surrounding observatory sites; and reserving portions of the spectrum for the exclusive purpose of radio astronomical observations. The Commission believes that, within certain limitations, both approaches offer means for improving reception of radio telescope installations.

4. Radio astronomy interests have recognized the advantages of establishing a primary observation site away from the man-made noise and in an area where a minimum of radio interference would be encountered. At a site meeting these requirements, Green Bank, West Virginia, the National Science Foundation has established a radio astronomy observatory. Comments filed in this proceeding and Docket 11866 indicate the extreme importance attached to minimizing interference to observations at this installation. It has been requested that the Commission prohibit or restrict the operation of radio stations within at least fifty miles of Green Bank and in certain frequency bands, as well. The Commission estimates from its records that the number of non-Government stations now located within approximately fifty miles of the Green Bank site exceeds 200. It is not believed that the public interest would be served by proposing to require that these stations change frequency, make technical adjustments, or move their locations. However, in view of the extreme care with which the site was chosen and the nature and importance of the work being done, the Commission believes that the adoption of measures to protect it from any additional interference would be in the public interest. Additionally, a Naval Radio Facility has been established at Sugar Grove, West Virginia (near Green Bank and essentially in the same area) where radio astronomy observations will be made. Accordingly, the Commission proposes to amend its Rules to require that applications for station licensees for new stations, for construction permits for new stations or for modifications of existing facilities (except amateur, citizen's radio, temporary base, Civil Air Patrol, mobile and temporary fixed) within a defined rectangular area, slightly exceeding 100 miles on each side, near Green Bank shall be accompanied by a statement that the applicant has advised the Green Bank authorities, in writing, of the technical particulars of his proposed station. The Commission will withhold action on such applications for a maximum period of two weeks awaiting comments from the Green Bank authorities. Such comments, if received, would represent an evaluation of the probable interference to radio astronomy observations in the area from the proposed assignment, based on studies by the National Radio Astronomy Observatory in consultation with the Navy installation at Sugar Grove. If no comments are received or no objections are interposed during that period, the application will be processed in the normal fashion. Should opposition be expressed by authorities at Green Bank, the Commission would, after an appraisal of all the circumstances involved, take such action as appeared to be in the public interest and consistent with statutory requirements. The Executive Branch of the Federal Government proposes to take similar action with respect to Government stations so as to give the maximum practicable protection to the defined area.

5. Mobile stations, Civil Air Patrol Land, and temporary base stations would be excluded from these procedures in view of their relatively low power intermittent operation, and frequently changing locations. In addition § 9.913 (a) of the rules specifically permits a Civil Air Patrol Land Station to be moved and operated away from its authorized location for short periods of time. In the case of mobile stations, their operations would be indirectly controlled in that the base stations with which they communicate would be subject to the coordination procedure. Because of the variable frequencies on which they operate, their intermittent use and their low power, amateur stations have also been excluded. Citizen's radio service stations, because of their low power and intermittent operation have likewise been excluded.

6. The Commission has also given consideration to proposals for reserving specific frequencies exclusively for purposes of radio astronomy observations. Radio astronomy interests stress in particular the importance of protecting observations on the "hydrogen line", i. e., a band from approximately 1400–1427 Mc, in which are received emissions from neutral hydrogen atoms in inter-stellar space. After considering comments filed in this proceeding, the record of the Docket 11866 proceeding, and after consultations with interested Government Agencies, the Commission, in its Notice of Proposed Rule Making in Docket No. 12404, released on April 18, 1958, has proposed that the 1400–1427 Mc frequency band be reserved for radio astronomy observation. Moreover, the Commission's Fifth Notice of Inquiry in Docket No. 12263, contained a proposal that this band be allocated internationally for this purpose. We do not believe that sufficient justification has been presented to warrant proposing at this time the reservation of additional bands for exclusive radio astronomy use, particularly in view of the very serious impact that such additional reservations would have on presently authorized radio services.

7. The Commission does not believe that some of the more sweeping protective measures suggested by radio astronomy groups are feasible or in the public interest. For example, while the procedures for geographical protection already outlined appear well-suited to the Green Bank/Sugar Grove area because of its isolation and the relatively limited use of radio which may be expected there, the protection of radio telescope sites in urban areas might well entail changing the frequencies of hundreds of existing stations and effecting a serious curtailment in the uses presently being made of radio. In addition, the existence of a large number of more favorable geographic sites throughout the country militates against establishing regulations to protect installations located in regions where radio usage is already highly developed and greatly relied on. Similarly the setting aside of a large number of frequencies and their subharmonics or harmonics in various parts of the spectrum in order to eliminate the reception of undesired signals would necessarily require the withdrawal of large bands of frequencies from general use. Since, with the exception of the hydrogen line, considerable flexibility exists in the frequencies which can be selected for astronomical purposes, it would appear that for the present at least, astronomers can continue to be guided by principles which now determine their selection of frequencies.

8. This Further Notice of Proposed Rule Making is issued pursuant to the authority of sections 303 (c), (f) and (r) of the Communications Act of 1934, as amended. The proposed amendments are set forth below.

9. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before September 3, 1958, written data, views or arguments setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments in reply to the original comments may be filed within 10 days from the last day for filing said original data, views or arguments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

10. In accordance with the provisions of § 1.54 of the Commission's Rules and Regulations, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: June 5, 1958.

Released: June 6, 1958.

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

It is proposed to amend Parts 3, 4, 5, 6, 7, 9, 10, 11, 16, 20, and 21 of the Commission's rules and regulations by adding a new section as follows:

In order to minimize possible harmful interference at the National Radio Astronomy observation site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Facility site at Sugar Grove, Pendleton County,

West Virginia, any applicant for a station authorization other than mobile, temporary base, Citizens Radio, Civil Air Patrol or Amateur seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner which would change either the frequency, power, antenna height, or directivity or location of such a station within the area bounded by 39°15' N on the North, 78°30' W on the East, 37°30' N on the South and 80°30' W on the West shall, at the time of filing such application with the Commission, simultaneously notify the appropriate authorities[1] of the National Radio Astronomy Observatory, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of two weeks for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the two week period from the National Radio Astronomy Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

[F. R. Doc. 58-4417; Filed, June 10, 1958; 8:51 a. m.]

[47 CFR Part 10]

[Docket No. 12473; FCC 58-546]

Forestry Conservation Radio Service

Assignment of Frequencies

1. Notice is hereby given of proposed rule-making in the above-entitled matter.

2. The Forestry Conservation Communications Association has filed a petition seeking amendment of Part 10 of the Commission's Rules so as to require that all frequencies in the 151.145–151.475 Mc and 159.225–159.465 Mc bands assignable to Forestry-Conservation Radio Service users, be assigned only in accordance with a geographic assignment plan and that "each initial application for a specific frequency or frequencies shall include a favorable recommendation from the National Frequency Advisory Committee." The above-referred-to petition also requested approval of geographic assignment plans submitted by the petitioner.

3. The proposal to require that each initial application for a specific frequency "*shall* include a favorable recommendation from the National Frequency Advisory Committee"[2] raises questions concerning the extent of lawful delegation of the Commission's authority. Accordingly, an amendment to the Commission's rules so as to provide such a requirement will not be included in any amendments which may be ordered in this proceeding.

4. Except as stated above, the Commission has not made any determination as to whether amendments of the type proposed by the Forestry Conservation Communications Association would be in the public interest and the Commission is not now proposing specific amendments to its rules. However, this Notice of Proposed Rule Making is being issued to afford interested parties an opportunity to present their views to the Commission concerning the proposals, including the specific geographic assignment plans set forth below, advanced by the Forestry Conservation Communications Association.

5. The proposed amendments are issued pursuant to the authority of sections 4 (i) and 303 of the Communications Act of 1934, as amended.

6. Any interested persons who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before August 1, 1958, written data, views or arguments setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments in reply to the original comments may be filed within 10 days from the last day for filing said original data, views or arguments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

7. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and fourteen copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: June 4, 1958.

Released: June 6, 1958.

Federal Communications Commission,
[SEAL] Mary Jane Morris,
Secretary.

Proposed FCCA Assignment Plan—151 MC

Note: The basic plan provides a minimum of three frequencies per state. Where requested and justified, additional frequencies are provided. Asterisk indicates that requests for this frequency must be accompanied by a clearance from the regional chairman indicating that the specific proposed use has been coordinated with the adjacent state holding area priority preference.

Alabama—151.175, 151.265, 151.385.
Arizona—151.145, *151.205, *151.355.
Arkansas—151.175, 151.295, 151.385.
California—*151.145, 151.175, 151.205, *151.235, 151.265, 151.295, *151.325, 151.355, *151.385, 151.415, *151.445, *151.475.
Colorado—151.265, 151.415, 151.475.
Connecticut—151.175, 151.295, 151.385.
Delaware—151.265, 151.415, 151.475.
Florida—151.295, 151.355, 151.415.
Georgia—151.145, 151.205, 151.475.
Idaho—151.145, 151.205, 151.355.
Illinois—151.235, 151.325, 151.445.
Indiana—151.145, 151.205, 151.355.
Iowa—151.175, 151.295, 151.385.
Kansas—151.175, 151.295, 151.385.
Kentucky—151.175, 151.295, 151.385.
Louisiana—151.235, 151.325, 151.445.
Maine—151.145, 151.205, 151.355.
Maryland—151.235, 151.325, 151.445.
Massachusetts—151.265, 151.415, 151.475.
Michigan—151.175, 151.235, 151.295, 151.385.
Minnesota—151.265, 151.413, 151.475.
Mississippi—151.145, 151.205, 151.355.
Missouri—151.265, 151.415, 151.475.
Montana—151.265, 151.415, 151.475.
Nebraska—151.145, 151.205, 151.355.
Nevada—151.385, *151.415, 151.475.
New Hampshire—151.235, 151.325, 151.445.
New Jersey—151.265, 151.415, 151.475.
New Mexico—151.295, *151.325, 151.385.
New York—151.143, 151.205, 151.355.
North Carolina—151.175, 151.295, 151.355, 151.385.
North Dakota—151.175, 151.295, 151.385.
Ohio—151.205, 151.415, 151.475.
Oklahoma—151.145, 151.205, 151.355.
Oregon—*151.175, 151.235, 151.325, 151.445.
Pennsylvania—151.175, 151.295, 151.385.
Rhode Island—151.235, 151.385, 151.445.
South Carolina—151.235, 151.265, 151.445.
South Dakota—151.235, 151.325, 151.445.
Tennessee—151.235, 151.235, 151.445.
Texas—151.175, 151.265, 151.415, 151.475.
Utah—151.235, 151.325, 151.445.
Vermont—151.175, 151.295, 151.385.
Virginia—151.265, 151.415, 151.475.
Washington—151.265, 151.295, 151.385, 151.415, 151.475.
West Virginia—151.145, 151.205, 151.355.
Wisconsin—151.145, 151.205, 151.355.
Wyoming—151.175, 151.295, 151.385.

Minimum sharing any channel—10 states.
Maximum sharing any channel—17 states.
Average sharing all channels—14 states.

Proposed FCCA Assignment Plan—159 Mc

1	159.225.	10	159.360.
2	159.240.	11	159.375.
3	159.255.	**12	159.390.
**4	159.270.	13	159.405.
5	159.285.	14	159.420.
6	159.300.	15	159.435.
7	159.315.	**16	159.450.
**8	159.330.	17	159.465.
9	159.345.		

Alabama—7, 9, 14, *16*.
Arizona—*4, 7, 10, 13.
Arkansas—1, *8*, 11, 14.
California—2, *4*, 5, *6, *8*, 9, *10, 11, *12*, 14, *16*.
Colorado—4, 7, *10, 15.
Connecticut—3, 10, 13, 16.
Delaware—5, 8, 10, 13.
Florida—*4*, 6, *8*, 11.
Georgia—3, 5, 10, *12*.
Idaho—*4*, 7, *10, *12*, *16*.
Illinois—6, 13, 16, 17.
Indiana—2, 7, 9, 10.
Iowa—1, 3, 12, 14.
Kansas—2, 6, 13, 17.
Kentucky—1, 5, 12, 14.
Louisiana—2, 7, 9, 16.
Maine—3, 5, 8, *12*, 16.
Maryland—1, 6, 9, 11, *16*.
Massachusetts—2, *4*, 7, 9, *12*, 14.
Michigan—1, *4*, *12*, 14, 17.
Minnesota—6, 9, 10, 15.
Mississippi—*4*, 10, *12*, 15.
Missouri—4, 7, 10, 15.
Montana—2, 5, *8*, 15.
Nebraska—5, 8, 11, 16.
Nevada—1, 6, 14, 17.

*Indicates that each application must be accompanied by a letter of clearance from the regional chairman indicating that the proposed use has been coordinated with the adjacent state holding area priority.

**Indicates original 60 kc channel.

Italics indicates in use.

[1] If this proposed section is adopted, the name and address of the appropriate authority would be specified at that time.

[2] Emphasis supplied.

New Hampshire—6, 10, 15, 17.
New Jersey—2, *4*, 11, 17.
New Mexico—1, **8*, 11, 14.
New York—1, 6, *8*, *12*, 15, 17.
North Carolina—5, 7, **12*, 14.
North Dakota—1, 3, 14, 16.
Ohio—6, 13, 15, 16.
Oklahoma—3, 5, *12*, *16*.
Oregon—3, **6*, 10, **12*, 15.
Pennsylvania—3, *8*, **10*, *12*, 14.
Rhode Island—6, 8, 11, 15.
South Carolina—*4*, 9, 13, 16.
South Dakota—4, 7, 12, 17.
Tennessee—2, 6, 13, 17.
Texas—*4*, 6, 10, 13, 15.
Utah—2, 5, **8*, 12.
Vermont—3, 8, 13, 16.
Virginia—3, 8, 10, 15.
Washington—2, *4*, *8*, 11, 14, 17.
West Virginia—2, *4*, 7, 17.
Wisconsin—2, 5, 8, 11.
Wyoming—1, 3, 6, 14.

Footnotes on preceding page.

Note: New 15 kc and 30 kc channels available only after finalization of Docket 11990 and subject to limitations set forth therein.

[F. R. Doc. 58-4418; Filed, June 10, 1958; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

DEFERRAL OF ACTION ON PROPOSED RULE MAKING

On March 5, 1958, the Securities and Exchange Commission in Securities Act Release No. 3903, invited all interested persons to submit their comments in regard to a proposed new Rule 136 (§ 230.136) and a proposed amendment to Rule 140 (§ 230.140) under the Securities Act with respect to assessable stock. It was requested that such comments be submitted on or before April 7, 1958. At the request of various persons, the Commission subsequently extended the time for submitting such comments to June 7, 1958.

The Commission intends in the near future to invite the submission of comments in regard to certain additional proposed rule changes which would provide a conditional exemption pursuant to section 3 (b) from registration under the Securities Act for the levying of limited amounts of assessments on assessable stock. Pending the receipt and consideration of comments on these additional proposals the Commission has determined not to take action in regard to the proposed rule changes published March 5, 1958.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

JUNE 4, 1958.

[F. R. Doc. 58-4400; Filed, June 10, 1958; 8:48 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 3, 1958.

The Department of Commerce, Civil Aeronautics Administration, has filed an application, Serial No. New Mexico 042744, for the withdrawal of lands described below from all forms of appropriation including mineral leasing and mining location.

The applicant desires the lands for location of a radio transmitter, designated as the Belen "H" Facility.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 1251, Santa Fe, New Mexico.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The land involved in the application is:

NEW MEXICO PRINCIPAL MERIDIAN

T. 6 N., R. 2 E.,
Sec. 11, Lot 5.

The area described aggregates 0.45 acres.

ADLAI S. BAKER,
Acting State Supervisor.

[F. R. Doc. 58-4392; Filed, June 10, 1958; 8:47 a. m.]

[Wyoming-062694]

WYOMING

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 4, 1958.

The Bureau of Reclamation has filed an application, Serial No. Wyoming-062694, for withdrawal of the lands described below, from all forms of appropriation other than that provided for by the act of June 17, 1902 (32 Stat. 388).

The applicant desires the lands in order that they may be administered and disposed of under reclamation law, in connection with the Hanover-Bluff Unit. Tract 1 and lots 6, 9, and 10 of Section 3 and Tract 1 of Section 4, T. 46 N., R. 92 W., are included within Farm Units A, B, and C listed in the order dated October 19, 1956, and as such are to be withheld from development in accordance with that order.

For a period of 30 days from the date of publication of this notice persons having cause may present their objections in writing to the State Supervisor, Bureau of Land Management, Department of the Interior, Box 929, Cheyenne, Wyoming.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each party of record.

The lands involved in this application are:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 46 N., R. 92 W.,
Sec. 3, Tract 1, lots 5, 6, 9, 10, SE¼NE¼, E½SE¼;
Sec. 4, Tract, 1, lot 6, SW¼NE¼, N½NW¼SE¼, N½S½NW¼SE¼;
Sec. 9, SW¼NW¼;
Sec. 18, Tract 1, lot 26.
T. 46 N., R. 93 W.,
Sec. 13, Tracts 2, 4, lots 6, 7;
Sec. 24, Tracts 2, 3.
T. 45 N., R. 94 W.,
Sec. 1, Tract 1;
Sec. 2, Tracts 1, 3, 5, lot 18;
Sec. 3, lot 23.

The areas described total 710.46 acres of public lands.

EUGENE L. SCHMIDT,
Lands and Minerals Officer.

[F. R. Doc. 58-4393; Filed, June 10, 1958; 8:47 a. m.]

FEDERAL CIVIL DEFENSE ADMINISTRATION

ASSISTANT ADMINISTRATOR, RESOURCES AND REQUIREMENTS ET AL.

DELEGATION OF AUTHORITY WITH RESPECT TO AUTHORIZING DISPOSAL OF SURPLUS PROPERTY

The purpose of this delegation is to authorize the disposal of surplus property, having a single item acquisition cost of $2,500 or more, in advance of the time limitations set forth in § 1702.7 (e) of Federal Civil Defense Administration regulations, Part 1702, Surplus Property, Chapter XVII, Title 32 of the Code of Federal Regulations (21 F. R. 8990), and to prescribe the terms and conditions of such disposal.

Pursuant to the authority vested in me by section 203 (j), Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 484 (j)), and the Federal Civil Defense Act of 1950, as amended (50 U. S. C. App. 2251 et seq.), the Assistant Administrator, Resources and Requirements (or his designee of the Federal Civil Defense Administration is hereby delegated the authority to give written authorization to donees, on an individual case basis, for the disposal of surplus property, donated for civil defense purposes and having a single item

acquisition cost of $2,500 or more, in advance of the time limitations set forth in § 1702.7 (e) of Federal Civil Defense Administration regulations, Part 1702, and to prescribe the terms and conditions of each such disposal:

1. Determinations involving a single item acquisition cost of $50,000 or more. This authority may not be redelegated.

2. Determinations involving a single item acquisition cost of $2,500 or more, but less than $50,000. This authority may be redelegated.

The foregoing delegation of authority shall be exercised in accordance with FCDA regulations and other administrative issuances governing the Surplus Property Program.

This delegation of authority is effective upon publication in the FEDERAL REGISTER.

[SEAL] LEO A. HOEGH,
Administrator,
Federal Civil Defense Administration.

[F. R. Doc. 58-4394; Filed June 10, 1958; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

JUNE 1958 MONTHLY SALES LIST

Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F. R. 6669) and subject to the conditions stated therein, the commodities listed below are available for sale in the quantities stated and on the price basis set forth. The Commodity Credit Corporation will entertain offers from prospective buyers for the purchase of any such commodity.

Available interest rates on sales made in June under the Export Credit Sales Announcement GSM 1 are as follows:

For periods up to and including 6 months, 1⅞ percent per annum.

For periods over 6 months up to and including 18 months, 2⅜ percent per annum.

For periods over 18 months up to and including 36 months, 2⅞ percent per annum.

The Commodity Credit Corporation reserves the right, before making any sale, to define or limit export areas. Announcements containing the contractual terms and conditions of sale for the respective commodities will be furnished upon request. For ready reference a number of these announcements are identified by code number in the following list.

Commodity Credit Corporation also reserves the right to amend, from time to time, any of its announcements, which amendments shall be applicable to and be made a part of the sales contracts thereafter and entered into.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered promptly upon appearance by public notice issued by the appropriate CSS Commodity Office and therefore generally they do not appear in the Monthly Sales List.

JUNE 1958 MONTHLY SALES LIST

On sales for which buyer is required to submit proof to CCC of exportation, the buyer (1) shall be regularly engaged in the business of buying or selling commodities and, for this purpose, shall maintain a bona fide business office in the United States, its territories, or possessions and therein have a person, principal or resident agent, upon whom service of judicial process may be had, and (2) shall submit a financial statement, bank advice, surety bond or other evidence of financial responsibility as may be required by CCC.

Commodity	Sales price or method of sale
Dairy products	All sales are under LD-26. All sales are in carlots only. As many as 3 buyers may participate in purchasing a single carlot. Domestic price: For unrestricted use price is "in store" [1] at storage locations of products. Prices for unrestricted use, which reflect 90 percent of the April 1958 parity prices, will continue in effect for the remainder of 1958. For restricted use price is on the basis of delivery f. o. b. cars at point of use named in offer. CCC will convert to "in store" price as provided in LD-26. Export prices are on the basis of delivery f. a. s. vessel or at buyer's option f. o. b. cars point of export. If delivery is to be "in store" CCC will convert to "in store" price as provided in LD-26. Submission of offers: For products in Arizona, California, Idaho, Nevada, Oregon, Utah and Washington, submit offers to the Portland CSS Commodity Office. For products in other States and the District of Columbia, submit offers to the Cincinnati CSS Commodity Office.
Butter (as available)	Domestic, unrestricted use: 68 cents per pound, New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 67¾ cents per pound, Washington, Oregon, and California. All other States 67 cents per pound. Domestic, restricted use: For use as an extender for cocoa butter in the manufacture of chocolate and in such a manner as will not displace other dairy products from use in the manufacture of chocolate or in the manufacture of other products made from chocolate, 39 cents per pound. Export, unrestricted use: 39 cents per pound.
Nonfat dry milk (spray, roller) as available.	Domestic, unrestricted use: Spray process, U. S. Extra Grade; in barrels and drums, 16.25 cents per pound; in bags, 15.40 cents per pound. Roller process, U. S. Extra Grade; in barrels and drums, 14.25 cents per pound; in bags, 13.40 cents per pound. Domestic, restricted use (animal and poultry feed): In barrels, drums, or bags, 10.65 cents per pound. Export, unrestricted use: Spray or roller process, U. S. Extra Grade; in barrels and drums, 9.9 cents per pound; in bags, 9.05 cents per pound.
Cheddar cheese, cheddar, flats, twins, and rindless blocks (standard moisture basis).	Domestic: 39.5 cents per pound, for New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic and Pacific and Gulf of Mexico. All other States 38.5 cents per pound. Export: 22 cents per pound. Cheese prices are subject to usual adjustments for moisture content.
Cotton, Upland	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-5, Revision I, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcement CN-EX-4 and NO-C-9, as amended, and Announcement CN-EX-5 and NO-C-11.
Cotton, extra long staple	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, and NO-C-10, as amended, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, and NO-C-10, as amended. Catalogs for Upland and Extra Long Staple cotton showing quantities, qualities, and locations may be obtained for a nominal fee from the New Orleans CSS Commodity Office.
Peanuts	Domestic (for crushing) or export: Competitive bid basis for limited quantities announced by Peanut Cooperative Associations under CCC Peanut Announcement 1, as amended. Domestic (unrestricted use): Shelled (1956 crop in cold storage): Market price but not less than the 1956 applicable loan rate for type and grade basis in store point of origin, plus 5 percent, adjusted for milling, storage, and other charges. Example of minimum price at point of storage: Virginias, U. S. Grade, Extra large kernels, 26.70 cents per pound; Virginias, U. S. Grade, Medium, 25.20 cents per pound; S. E. Runner, U. S. Grade No. 1, 24.20 cents per pound. Available Dallas CSS Commodity Office.
Wheat, bulk	Domestic: Commercial wheat-producing area: Market price, basis in store [2], but not less than the 1957 applicable loan rate, plus (1) 32 cents per bushel if received by truck, or (2) 27 cents per bushel if received by rail or barge. Examples of the foregoing minimum per bushel (ex-rail or barge): Chicago, No. 1 RW, $2.59; Minneapolis, No. 1 DNS, $2.63; Kansas City, No. 1 HW, $2.59; Portland, No. 1 SW, $2.49. Noncommercial wheat-producing area: Market price, basis in store [2], but not less than 133 percent of applicable 1957 county loan rate plus (1) 32 cents per bushel if received by truck, or (2) 27 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Export (as wheat): Under Announcement GR-261 revised, as amended for application to certain barter contracts and specially approved credit sales only at prices determined daily, and under Announcement GR-212 revised, amended, for specific offerings as announced. Disposals under Payment-in-Kind Program under Announcement GR-345. Available Dallas, Evanston, Minneapolis, Kansas City, and Portland CSS Commodity Offices for domestic or export sale, except under GR-345 at Dallas and Evanston, and Portland when announced.
Corn, bulk	Domestic: Commercial corn producing area: Market price, basis in store,[2] but not less than the 1957 applicable loan rate for corn produced in compliance with 1957 acreage allotments plus: (1) a markup of 21 cents per bushel for corn in storage at point of production, (2) a markup of 23 cents per bushel and the rail freight (including transportation tax) from point of production to the present point of storage for corn in storage at other than point of production. Examples of the foregoing minimum price per bushel for No. 2 yellow corn, 13.3 percent moisture and 1.4 percent foreign material including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis, respectively: Chicago, $1.81¾; Minneapolis, $1.71¾. Noncommercial corn-producing area: Market price, basis in store,[2] but not less than 110 percent of the applicable 1957 loan rate plus markups as above. Available Evanston, Dallas, Kansas City, Minneapolis, and Portland CSS Commodity Offices. Nonstorable corn, unrestricted use (as available): At other than bin sites, through the above offices. At bin sites, through ASC county offices. Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit sales, and under Announcement GR-368, for Feed Grain Payment-in-Kind Program.

See footnotes at end of table.

JUNE 1958 MONTHLY SALES LIST—Continued

Commodity	Sales price or method of sale
Oats, bulk	Domestic: Market price, basis in store,[2] but not less than the 1957 applicable loan rate plus (1) a markup of 21 cents per bushel for oats in storage at point of production, (2) a markup of 23 cents per bushel and the rail freight (including transportation tax) from point of production to present point of storage for oats in storage at other than the point of production. Examples of the foregoing minimum price per bushel including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis, respectively: Chicago, No. 3 oats or better, $0.91¾; Minneapolis, No. 3 oats or better, $0.86. Available Minneapolis, Evanston, Kansas City, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Minneapolis, Portland, and Dallas CSS Commodity Offices.[3]
Barley, bulk	Domestic: Market price in store,[2] but not less than the 1957 applicable loan rate plus (1) 25 cents per bushel if received by truck, or (2) 22 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (ex rail or barge): Minneapolis, No. 2 barley, $1.40. Available Minneapolis, Evanston, Kansas City, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Dallas, Minneapolis, and Portland CSS Commodity Offices.[3]
Rye, bulk	Domestic: Market price basis in store,[2] but not less than the 1957 applicable loan rate, plus (1) 28 cents per bushel if received by truck or (2) 23 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (ex rail or barge): Minneapolis, No. 2 or better, $1.63. Available Evanston, Kansas City, Minneapolis, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Evanston, Dallas, and Portland CSS Commodity Offices.[3]
Grain sorghums, bulk	Domestic: Market price, basis in store,[2] but not less than the 1957 applicable loan rate plus (1) 51 cents per hundredweight if received by truck or (2) 42 cents per hundredweight if received by rail or barge. If delivery is outside the area of production applicable freight will be added to the above. Example of the foregoing minimum price per hundredweight (ex rail or barge): Kansas City, No. 2 or better, $2.73. Available Dallas, Portland, and Kansas City CSS Commodity Offices. Export: Competitive bid as announced by Dallas and Portland CSS Commodity Offices.[3]
Soybeans, bulk (as available)	Domestic (for crushing) or export: Market price basis in store but not less than the 1957 basic loan rate for No. 2 grade, basis point of production plus 6½ cents per bushel. Market discounts for quality factors will be applied to the basic price to determine the actual minimum sales prices. If delivery is outside the area of production, applicable freight and out-elevation charges at country loading point and in-elevation charges at subterminal or terminal storage point will be added to the above price. Available Evanston, Kansas City, and Minneapolis CSS Commodity Offices.
Flaxseed, bulk	Domestic (for crushing) or export: Market price basis in store but not less than 1957 crop support rate for the point of production for Grade No. 1 plus 4½ cents per bushel, except for odd lots or lots in danger of deterioration. Market discounts for lower grades to apply. Available Minneapolis CSS Commodity Offices.
Rice, milled (as available)	Domestic, unrestricted use: Market price but not less than equivalent 1957 loan rate for rough rice by varieties and grades plus 5 percent adjusted for milling plus 83 cents per hundredweight basis in store. Prices and quantities available by varieties and grade may be obtained from Dallas CSS Commodity Office. Example of minimum prices of milled rice per hundredweight, at mills:

	U. S. No. 3	U. S. No. 4	U. S. No. 5
Blue Bonnet	$11.26	$10.41	$9.45
Century Patna	10.43	9.58	8.75

Export: Competitive bid under DL-MR-490/57 (Revised) for export only under Title I, Public Law 480 purchase authorizations as announced by Dallas CSS Commodity Office.
Special export: Competitive bid on "as is" basis, under DL-MR/53 as announced by Dallas CSS Commodity Office.

See footnotes at end of table.

JUNE 1958 MONTHLY SALES LIST—Continued

Commodity	Sales price or method of sale
Rice, rough	Domestic, unrestricted: Market price but not less than the 1957 applicable loan rate plus 5 percent plus 61 cents per hundredweight basis in store. Price and quantities available by varieties may be obtained from Dallas CSS Commodity Office or from Portland CSS Commodity Office for Pearl and Calrose. Export: For export as milled rice. Competitive bid as announced by Dallas and Portland CSS Commodity Offices.
Dry edible beans (bagged) (as available).[1]	Domestic or export: Domestic market price but not less than the following minimum price per hundredweight for U. S. No. 1 f. o. b. indicated points of production, amount of paid-in freight to be added as applicable. For other grades, adjust by market differentials. In other areas, adjust by the 1957 price support differential.

Class	Price per hundredweight	Area of production	CSS Commodity Office
Red Kidney	$9.14	Idaho, Calif.	Portland.
Large Lima	10.86	Calif.	Portland.
Pinto	6.89	Eastern Colo.	Kansas City.
Pink	7.97	Calif.	Portland.

Gum rosin	Domestic or export: Offer and acceptance basis "as is" in galvanized metal drums (averaging 517 number net) in the stated quantities and on the designated storage yards, subject to the terms and conditions of Announcement TB-21 (Revised) and supplements thereto which will be issued monthly. Available through the American Turpentine Farmers Association Cooperative, Valdosta, Ga.
Gum turpentine	Domestic or export: Offer and acceptance basis, "as is", bulk in tanks in the stated quantities and in the designated storage tanks subject to the prices, terms and conditions of Announcement TB-21 (Revised) and supplements thereto which will be issued monthly. Available through ATFA, Valdosta, Ga.
Burley Tobacco (as available)	Domestic or export, unrestricted use: Competitive bid under the terms and conditions of announcement to be issued. This announcement will cover a limited quantity (about 16,000,000 pounds). Copies of such announcement, when issued, may be obtained from the Tobacco Division, Commodity Stabilization Service, U. S. Department of Agriculture, Washington 25, D. C.

[1] At the processor's plant or warehouse but with any prepaid storage and outhandling charges for the benefit of the buyer.
[2] In those counties in which grain is stored in CCC bin sites, delivery will be made f. o. b. buyer's conveyance at bin site without additional cost; sales will also be made in store approved warehouses in such county and adjacent counties at the same price, provided the buyer makes arrangements with the warehouse for storage documents.
[3] Sales of grains other than wheat made under Title I, Public Law 480, may be made on terms and conditions of GR-301 revised. Other commodities under the announcement indicated.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 407, 63 Stat. 1055; 7 U. S. C. 1427, sec. 208, 63 Stat. 901)

Issued: June 5, 1958.

[SEAL]

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 58-4431; Filed, June 10, 1958; 8:55 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6825]

NORTHERN STATES POWER CO.

NOTICE OF APPLICATION

JUNE 5, 1958.

Take notice that on May 29, 1958, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Northern States Power Company ("Applicant"), a corporation organized under the laws of the State of Minnesota and doing business in the States of Minnesota, North Dakota and South Dakota, with its principal business office at Minneapolis, Minnesota, seeking an order

authorizing the issuance of $30,000,000 in principal amount of its First Mortgage Bonds (the "New Bonds"), Series due 1988. Applicant will issue the New Bonds as a new series of First Mortgage Bonds under and pursuant to a presently existing Trust Indenture, dated February 1, 1937, to Harris Trust and Savings Bank, Trustee, as heretofore supplemented by nine indentures supplemental thereto, and as it is to be further supplemented by a Tenth Supplemental Indenture thereto, to be dated as of July 1, 1958. The New Bonds are to be dated July 1, 1958, are to bear interest at the rate per annum to be fixed by competitive bidding and will mature on July 1, 1988. Applicant proposes to issue the New Bonds on July 15, 1958. Applicant proposes to use $18,944,400 of the proceeds from the sale of the New Bonds to redeem, on August 15, 1958, the $18,000,000, principal amount of its First Mortgage Bonds, Series due August 1, 1987, 5 percent, now outstanding. The balance of the proceeds from the sale of the New Bonds will be added to the general funds of Applicant and used to pay part of the expenditures incurred or to be incurred in 1958 under the construction program, presently estimated at $43,900,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 23rd day of June 1958, file with the Federal Power Commission, Washington 25, D. C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-4395; Filed June 10, 1958; 8:47 a. m.]

[Docket No. G-9760]

JADE OIL & GAS CO., INC.

NOTICE OF APPLICATION AND DATE OF HEARING

JUNE 5, 1958.

Take notice that Jade Oil & Gas Company, Inc. (Applicant), an Oklahoma corporation with principal place of business in Tulsa, Oklahoma, filed an application on December 9, 1955, for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce produced from the El Dorado Field, Saline County, Illinois, to Texas Eastern Transmission Corporation for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 3, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 26, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-4396; Filed, June 10, 1958; 8:48 a. m.]

[Docket No. G-14763]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

JUNE 5, 1958.

Take notice that Texas Gas Transmission Corporation (Applicant), a Delaware corporation with its principal office in Owensboro, Kentucky, filed an application on March 27, 1958, and supplementary data thereto on May 12, 1958, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of approximately 12.5 miles of 16-inch O. D. pipeline completing the looping of Applicant's Lake Arthur-Eunice supply lateral in Jefferson Davis and Acadia Parishes, Louisiana, subject to the jurisdiction of the Commission, as more fully set forth in the application on file with the Commission and open to public inspection.

The application recites that:

The existing partially looped Lake Arthur-Eunice (North Tepetate) supply line is one of the principal lines carrying gas to Applicant's Eunice-Bastrop 26-inch line for input into the main 26-inch system. On peak days the Lake Arthur-Eunice line alone is expected to supply 186,600 Mcf out of a total of 423,800 Mcf delivered to Eunice by a number of south Louisiana supply lines operated by Texas Gas. The maximum capacity of said line is estimated by Texas Gas to be 344,400 Mcf per day with the proposed loop, an increase of 128,400 Mcf per day over the existing capacity of the supply line.

Applicant further states the Lake Arthur-Eunice line normally transports only gas produced in the Lake Arthur Field, but Applicant states that, when occasions require, it could also carry gas produced in the nearby Chalkley, Mallard Bay and South Bell City Fields through rerouting of such gas in interconnecting lines to the Lake Arthur line. In the event of an emergency on the other south Louisiana supply lines, Applicant could use the Lake Arthur line to carry both the Lake Arthur gas and the gas from the aforenamed fields. Applicant states, it also desires to install the proposed loop line, to enable it to assure availability of Lake Arthur gas in the event of a break on either of the two 16-inch Lake Arthur loop lines.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 29, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 16, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-4397; Filed, June 10, 1958; 8:48 a. m.]

[Docket No. G-15211]

SOHIO PETROLEUM CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

JUNE 5, 1958.

Sohio Petroleum Company (Sohio) on May 12, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which

constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 10 to Sohio's FPC Gas Rate Schedule No. 28.
Effective Date: June 12, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Sohio merely submits a copy of a letter from Texas Eastern Transmission Corporation and states that the increased price was determined in accordance with the contract which was negotiated at arm's-length and that such price is just and reasonable and is not in excess of the commodity value of the gas.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 10 to Sohio's FPC Gas Rate Schedule No. 28 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 10 to Sohio's FPC Gas Rate Schedule No. 28.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until November 12, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-4399; Filed, June 10, 1958; 8:48 a. m.]

[Docket No. G-15210]

CITIES SERVICE OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

JUNE 5, 1958.

Cities Service Oil Company (Operator) et al. (Cities Service), on May 7, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated May 1, 1958.
Purchaser: Trunkline Gas Company.
Rate schedule designation: Supplement No. 11 to Cities Service's FPC Gas Rate Schedule No. 1.
Effective date: June 7, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed favored-nation rate increase, Cities Service states that the increased rate is provided for by a contract which was negotiated at arm's-length; that the increased price is not unreasonable but is in fact less than the going price and market value of gas in the area. In addition, Cities Service submits a copy of a letter from Trunkline Gas Company agreeing to the favored-nation increased price.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 11 to Cities Service's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 11 to Cities Service's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until November 7, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-4398; Filed, June 10, 1958; 8:48 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order 90 (Revised)]

NATIONAL BUREAU OF STANDARDS

ORGANIZATION AND FUNCTIONS

The material appearing in 20 F. R. 8728-8730 of November 26, 1955 is superseded by the following:

SECTION 1. *Purpose.* The purpose of this order is to describe the organization and define the functions of the National Bureau of Standards.

SEC. 2. *Organization.* .01 The National Bureau of Standards, established by the Act of March 3, 1901 (31 Stat. 1449; 15 U. S. C. 271), is a primary organization unit within and under the jurisdiction of the Department of Commerce. The Bureau shall be headed by a Director appointed by the President with the advice and consent of the Senate. The Director shall report and be immediately responsible to the Under Secretary of Commerce.

.02 The National Bureau of Standards shall be constituted as follows:

1. Office of the Director:

Director.
Associate Director for Physics.
Associate Director for Engineering.
Associate Director for Chemistry.
Associate Director for Planning.
Associate Director for Administration.
Associate Director for the Boulder Laboratories.

2. Scientific divisions at headquarters in Washington, D. C., reporting to the Director through Associate Directors as assigned:

Electricity and Electronics.
Optics and Metrology.
Heat.
Atomic and Radiation Physics.
Chemistry.
Mechanics.
Organic and Fibrous Materials.
Metallurgy.
Mineral Products.
Building Technology.
Applied Mathematics.
Data Processing Systems.

3. Divisions reporting to the Associate Director for the Boulder Laboratories:

Cryogenic Engineering.
Radio Propagation Physics.
Radio Propagation Engineering.
Radio Standards.
Administrative.

4. Technical Staff Offices reporting to the Director or an Associate Director:

Office of Weights and Measures.
Office of Basic Instrumentation.
Office of Technical Information.
National Bureau of Standards Library.

5. Service divisions reporting to the Associate Director for Administration:

Accounting.
Personnel.
Administrative Services.
Shops.
Supply.
Management Planning.
Budget.
Internal Audit.
Plant.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, and subject to such policies and directives as the Secretary of Commerce may prescribe, the Director is hereby authorized to perform the functions and exercise the authorities vested in the Secretary by Title 15, Chapters 6 and 7, U. S. Code, or by any subsequent legislation with respect to physical science activities within the special competence of the National Bureau of Standards.

.02 The Director of the National Bureau of Standards may redelegate and authorize the successive relegation of the authority granted herein to any employee of the Bureau and may prescribe such limitations, restrictions and conditions in the exercise of such authority as he deems appropriate.

SEC. 4. *General functions.* .01. The basic functions of the National Bureau of Standards are (a) development and maintenance of the national standards of measurement, and the provision of means for making measurements consistent with those standards; (b) determination of physical constants and properties of materials; (c) development of methods for testing materials, mechanisms, and structures, and the making of such tests as may be necessary, particularly for Government agencies; (d) cooperation in the establishment of standard practices, incorporated in codes and specifications; (e) advisory service to Government agencies on scientific and technical problems; and (f) invention and development of devices to serve special needs of the Government.

.02 In carrying out these functions the Bureau is authorized to undertake the activities enumerated in Section 6.02 and similar activities for which the need may arise in the operation of Government agencies, scientific institutions and industrial enterprises.

SEC. 5. *Functions of the Office of the Director.* .01 The Director, subject to legal requirements and policy direction from the Secretary, determines the policies of the National Bureau of Standards and directs the development and execution of its programs.

.02 The Associate Directors for Physics, Engineering, Chemistry, and Boulder Laboratories have the following combination of responsibilities:

1. Advise the Director on the planning and coordination of the scientific program;

2. Provide specialized staff assistance in designated subject areas; and

3. Carry line responsibility for designated divisions and offices.

.03 The Associate Director for Planning is the Director's principal staff adviser on program development, coordination and evaluation, giving special attention to the long-range responsibilities of the Bureau in relation to the needs of science and technology.

.04 The Associate Director for Administration is responsible for the planning and operation of administrative functions in support of technical programs and serves as the Director's principal staff adviser on management matters.

.05 The Associate Director for the Boulder Laboratories supervises the Bureau's major establishment outside Washington, D. C. He may, when appropriate, use the abbreviated title, Director, Boulder Laboratories.

.06 In the absence of the Director, the Acting Director is automatically the first Associate Director available in the following sequence: Physics, Engineering, Chemistry, Planning, Administration, and Boulder Laboratories.

SEC. 6. *Functions of scientific divisions.* .01 The general functions of the Bureau are carried out primarily by the scientific divisions, with the technical offices and services assisting them.

.02 Each scientific division is authorized to engage in such of the following activities as are appropriate to its special functions; as indicated generally by division titles (see Section 2.02).

1. Research in engineering, mathematics, and physical sciences;

2. Construction of physical standards;

3. Testing, calibration and certification of standards and standard measuring apparatus;

4. Improvement of instruments and means of measurement;

5. Investigation and testing of scales for weighing commodities for interstate shipment;

6. Cooperation with States in securing uniformity in weights and measures laws and methods;

7. Provision of standard samples for checking basic properties of materials and provision of standard instruments for calibration of measuring equipment;

8. Development of methods of chemical analysis and synthesis of materials, and investigation of properties of rare substances;

9. Study of methods of producing and measuring high and low temperatures and the behavior of materials at such temperatures;

10. Investigation of radiation, radioactive substances, and X-rays, together with their uses and means of protecting persons from their harmful effects;

11. Study of the atomic and molecular structure of chemical elements;

12. Broadcasting of radio signals of standard frequency;

13. Investigation of conditions which affect the transmission of radio waves; and distribution of information for choice of frequencies to be used in radio operations;

14. Study of new technical processes of fabricating materials in which the Government has a special interest; also, study of processes and methods of measurement used in manufacture of optical glass, pottery, tile and other clay products;

15. Determination of properties of building materials and structural elements and encouragement of their standardization and most effective use, including fire prevention aspects;

16. Metallurgical research, including study of alloy steel and light metal alloys; investigation of foundry and related practices; prevention of corrosion of metals and alloys; behavior of bearing metals; and development of standards for metals and sands;

17. Operation of a laboratory of applied mathematics; and

18. Provision of general scientific and technical data resulting from the above activities or derived from other sources when such data are important to scientific or manufacturing interests or the general public and are not readily available elsewhere; and, demonstration of the results of the Bureau's work by exhibits and other means.

SEC. 7. *Functions of technical staff offices.* .01 While many technical services are obtained by scientific divisions from one another, certain service and coordinating activities are carried out by technical offices which report to the Director or to Associate Directors as assigned.

.02 The Office of Weights and Measures develops model laws, rules, regulations, specifications, tolerances, and general administrative procedures, including testing apparatus and test methods and promotes adoption of these by State and local weights and measures jurisdictions. As a part of this activity, that Office serves as liaison between the States and technical staff of the National Bureau of Standards, and conducts an annual National Conference on Weights and Measures.

.03 The Office of Basic Instrumentation analyzes methods and devices for measurements of physical magnitude; coordinates Bureau projects in basic instrumentation; surveys all work in progress at the Bureau with regard to its applicability to existing or proposed instrumentation projects; arranges for the testing and evaluation of new instrument developments; stimulates and directs experimental studies of original ideas for improved means of measurements; and arranges for preparation and dissemination of articles relating to instrumentation.

.04 The Office of Technical Information fosters and assists in the outward communication of scientific findings and related information to science, industry, and the general public.

.05 The National Bureau of Standards Library furnishes diversified library services to Bureau staff members and arranges exchanges and loans with other organizations.

SEC. 8. *Functions of the administrative divisions.* .01 The central administra-

tive divisions are responsible for their special functions and also for providing staff assistance to the Associate Director for Administration in carrying out his functions.

.02 The Accounting Division administers the official system of central fiscal records, payments and reports, and provides staff assistance on accounting and related matters.

.03 The Personnel Division advises on personnel policy and utilization and administers recruitment, placement, classification, training, and employee relations activities, assisting operating officials on these and other aspects of personnel management.

.04 The Administrative Services Division has staff responsibility for security, safety, emergency relocation planning, and civil defense activities, and administers custodial functions, communication services, records management, duplicating service, test administration service, and local transportation service.

.05 The Shops Division designs, constructs, and repairs precision scientific instruments and auxiliary equipment.

.06 The Supply Division performs or facilitates procurement and distribution of material, keeps records and promotes effective utilization of property, and acts as the contracting office for all research, construction, supply, and lease contracts entered into by the Bureau.

.07 The Management Planning Division advises on all aspects of management not otherwise assigned, and provides staff assistance on the maintenance and improvement of organization and methods.

.08 The Budget Division advises on financial management and provides staff assistance in the preparation of estimates and the utilization of funds.

.09 The Internal Audit Division assists the Director and other Bureau officials by conducting independent, objective, and constructive appraisals of the effectiveness and efficiency with which the Bureau's operating, administrative, and financial programs are being carried out and reporting its findings and recommendations for consideration and action.

.10 The Plant Division maintains the physical plant at Washington, and performs staff work in planning and providing grounds, buildings, and improvements at all Bureau locations.

SEC. 9. *Operations outside Washington, D. C.* .01 The Bureau's major activity outside Washington, D. C. is Boulder Laboratories whose divisional organization is given in Section 2.02. The titles of these divisions are descriptive of the functions performed.

.02 In addition several scientific divisions have field establishments. For the most part, these contribute to the specific programs and projects of their corresponding headquarters divisions rather than perform special services for the public. Activities include concreting materials testing, lamp inspection, development and application of visual range meters, development of uniform standards for railway freight car weighing, and radio frequency and propagation testing and monitoring.

Effective date: May 16, 1958.

[SEAL] SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 58-4409; Filed, June 10, 1958; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12031; FCC 58M-577]

BIRCH BAY BROADCASTING CO.

ORDER SCHEDULING PREHEARING CONFERENCE AND CONTINUING HEARING

In re application of George A. Wilson and L. N. Ostrander d/b as Birch Bay Broadcasting Company, Blaine, Washington; Docket No. 12031, File No. BP-10848; for construction permit.

It is ordered, This 5th day of June 1958, that a further prehearing conference in the above-entitled proceeding will be held on July 1, 1958, at 10:00 a. m.; and

It is further ordered, That the hearing presently scheduled to begin on June 25, 1958, is hereby continued to July 10, 1958, in the offices of the Commission, Washington, D. C.

Released: June 6, 1958.

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

[F. R. Doc. 58-4419; Filed, June 10, 1958; 8:53 a. m.]

[Docket Nos. 12058, 12462; FCC 58-534]

KBR STATIONS, INC. AND KENNETH E. SHAW

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of The KBR Stations, Inc., Keene, New Hampshire; Docket No. 12058, File No. BP-10732; Kenneth E. Shaw, Newport, New Hampshire; Docket No. 12462, File No. BP-11782; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of June 1958;

The Commission having under consideration the above-captioned applications of The KBR Stations, Inc., and Kenneth E. Shaw, each for a construction permit for a new standard broadcast station to operate on 1010 kilocycles with powers of one kilowatt and 250 watts, respectively, daytime only, at Keene and Newport, New Hampshire, respectively;

It appearing that except as indicated by the issues specified below, both applicants are legally, technically, financially and otherwise qualified to operate the proposed stations but that the operation of both proposals would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated February 6, 1958, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that timely replies to the Commission's letter were filed by both applicants; and

It further appearing that the application of The KBR Stations, Inc., proposes the use of a composite transmitter, and, therefore, in the event of favorable action on the application in the hearing provided for below, the construction permit shall include a condition requiring submission of data to show compliance with §§ 3.48 and 2.524 of the Commission's rules; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary service to such areas and populations.

2. To determine, in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would better provide a fair, efficient and equitable distribution of radio service.

3. To determine in the light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in this proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue:

To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

It is further ordered, That, in the event of a grant of the application of The KBR Stations, Inc., as a result of the hearing proceeding ordered above, the permittee shall submit with the application for license satisfactory data

showing compliance with §§ 3.48 and 2.524 of the Commission's rules.

Released: June 6, 1958.

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

[F. R. Doc. 58-4420; Filed, June 10, 1958; 8:53 a. m.]

[Docket No. 12310 etc.; FCC 58M-578]

ENTERTAINMENT SERVICE, INC., ET AL.

ORDER CONTINUING PRE-HEARING CONFERENCE

In re applications of Entertainment Service, Inc., Solvay, New York; Docket No. 12310, File No. BP-10988; Joseph A. Marturano and Philip S. Marturano, d/b as Rome Community Broadcasting Company, Rome, New York; Docket No. 12311, File No. BP-11262; James A. McKechnie, North Syracuse, New York; Docket No. 12312, File No. BP-11329; for construction permits.

The Hearing Examiner having under consideration a motion filed on June 4, 1958, by counsel for James A. McKechnie, one of the applicants, requesting that the date for exchange of direct affirmative case in the above-entitled proceeding be extended from June 10 to June 23, 1958; and that the further prehearing conference be continued from June 17 to June 30, 1958;

It appearing that counsel for the other parties, including the Broadcast Bureau, have informally agreed to the requested changes, and good cause has also been shown for the grant of the motion;

It is ordered, This 5th day of June 1958, that the motion be and the same is hereby granted; and the date for exchange of direct affirmative case is extended to June 23, 1958, and the further prehearing conference is continued to June 30, 1958, at 10 o'clock a. m., in Washington, D. C.

Released: June 6, 1958.

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

[F. R. Doc. 58-4421; Filed, June 10, 1958; 8:53 a. m.]

[Docket Nos. 12463, 12464; FCC 58-535]

JAMES S. RIVERS, INC., (WJAZ) AND F. KEITH BROWN

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of James S. Rivers, Inc., (WJAZ) Albany, Georgia; Docket No. 12463, File No. BP-11220; F. Keith Brown, Cuthbert, Georgia; Docket No. 12464, File No. BP-11403; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of June, 1958;

The Commission having under consideration the above-captioned applications of James S. Rivers, Inc., for a construction permit to change the facilities of Station WJAZ, Albany, Georgia, from operation on 1050 kilocycles with a power of one kilowatt, daytime only, to 960 kilocycles 5 kilowatts power, directional antenna, daytime only; and of F. Keith Brown for a construction permit for a new standard broadcast station to operate on 960 kilocycles with a power of one kilowatt, daytime only, at Cuthbert, Georgia;

It appearing that except as indicated by the issues specified below, both applicants are legally, technically, financially and otherwise qualified to operate the stations as proposed but that the operation of both proposals would result in mutually destructive interference and that the proposed operation of Station WJAZ would cause interference to Station WGOV, Valdosta, Georgia (950 kc, 5 kw, Day); and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letters dated March 3 and April 22, 1958, of the aforementioned interference and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that both applicants filed timely replies to the Commission's letters; and

It further appearing that by letter dated March 28, 1958, the licensee of Station WGOV expressed an intention of appearing at a hearing on the application of James S. Rivers, Inc.; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WJAZ as proposed, and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which would receive primary service from the proposed operation of F. Keith Brown, and the availability of other primary service to such areas and populations.

3. To determine whether the proposed operation of Station WJAZ would cause objectionable interference to Station WGOV, Valdosta, Georgia, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine, in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would better provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That the Georgia-Florida Radio and Television Co., licensee of Station WGOV, is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue:

To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: June 6, 1958.

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

[F. R. Doc. 58-4422; Filed, June 10, 1958; 8:53 a. m.]

[Docket No. 12465; FCC 58-536]

WLBE, INC. (WLBE)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of WLBE, Inc. (WLBE) Leesburgh-Eustis, Florida; Docket No. 12465, File No. BP-11305; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of June 1958;

The Commission having under consideration the above-captioned application of WLBE, Inc., for a construction permit to increase the daytime power of Station WLBE, Leesburg-Eustis, Florida, from one kilowatt to 5 kilowatts, and to continue operation on the presently assigned frequency of 790 kilocycles, with nighttime power of one kilowatt, utilizing a nighttime directional antenna, unlimited time; and

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, and otherwise qualified to operate Station WLBE as proposed, but that the proposed operation would cause objectionable interference to Station WSUZ, Palatka, Florida (800 kc, 1 kw, D); and that additional data is needed to determine whether interference from Station

WSUZ and from Station WPFA, Pensacola, Florida (790 kc. 1 kw, D), would affect more than 10 percent of the population in the normally protected primary service area of the instant proposal in contravention of Section 3.28 (c) of the Commission Rules, and whether the applicant is financially qualified; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the instant applicant was advised by letter dated May 7, 1958, of the foregoing deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that the applicant filed a timely reply but did not submit the aforementioned information requested in the Commission's letter of May 7, 1958; and

It further appearing that the licensee of Station WSUZ had previously requested, in a letter dated July 3, 1957, that this application be designated for hearing because of the interference to Station WSUZ; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing on the application is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WLBE as proposed and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation of Station WLBE would cause objectionable interference to Station WSUZ, Palatka, Florida, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether, because of interference received, the proposed operation would comply with § 3.28 (c) of the Commission's rules; and if compliance with § 3.28 (c) is not achieved, whether circumstances exist which would warrant a waiver of said section of the rules.

4. To determine whether WLBE, Inc., is financially qualified to construct and operate its instant proposal.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience, and necessity.

It is further ordered, That Raymac, Inc., licensee of Station WSUZ, is made a party to the proceeding.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: June 6, 1958.

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

[F. R. Doc. 58-4423; Filed, June 10, 1958; 8:53 a. m.]

[Docket Nos. 12466-12468; FCC 58-537]

HEMET-SAN JACINTO VALLEY BROADCASTING CO. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Fred W. Volken, John F. Stroud & N. Vincent Parsons d/b as Hemet-San Jacinto Valley Broadcasting Company, Hemet, California; Docket No. 12466, File No. BP-11182; William L. Miller and Luther Pillow d/b as L & B Broadcasting Company, Hemet, California; Docket No. 12467, File No. BP-11217; San Luis Rey Broadcasting Company, Inc. (KSLR), Oceanside, California; Docket No. 12468, File No. BP-11652; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of June 1958;

The Commission having under consideration the above-captioned applications of Fred W. Volken, John F. Stroud and N. Vincent Parsons d/b as Hemet-San Jacinto Valley Broadcasting Company for a construction permit for a new standard broadcast station to operate on 1340 kilocycles with a power of 250 watts, unlimited time at Hemet, California; of William L. Miller and Luther Pillow d/b as L & B Broadcasting Company for a construction permit for a new standard broadcast station to operate on 1320 kilocycles with a power of 500 watts, directional antenna, daytime only, at Hemet, California; and of the San Luis Rey Broadcasting Company, Inc., for a construction permit to increase the daytime power of Station KSLR, Oceanside, California, from 500 watts to one kilowatt, to make changes in the daytime antenna pattern, and to continue operation on 1320 kilocycles with a nighttime power of 500 watts and utilizing the present directional antenna pattern for nighttime operation, unlimited time; and

It appearing that except as indicated by the issues specified below, all the applicants are legally, technically, financially and otherwise qualified to operate the proposed stations but that the operation of the Hemet-San Jacinto Valley Broadcasting Company and the L & B Broadcasting Company proposals would result in mutually destructive interference; that the proposed operation of Station KSLR would cause prohibitive interference to the L & B Broadcasting Company proposal; that the L & B Broadcasting Company proposal would cause interference to the proposed operation of KSLR which together with the interference from Station XEC, Tia Juana, Baja California, Mexico, and from Station KFAC, Los Angeles, California, may result in a loss in population to the proposed KSLR operation which would be excessive under the provisions of § 3.28 (c) of the Commission's rules; that the proposed operation of KSLR would cause interference to Station KFAC; that the proposed operation of the Hemet-San Jacinto Valley Broadcasting Company would cause interference to Station KCSB, San Bernardino, California; that the maximum expected operating values of radiation indicated on the horizontal plane radiation pattern of the KSLR proposal appear excessive and that the calculations submitted by KSLR regarding the proposed three element directional antenna system indicate that the base resistance of the southwest tower is only 0.3 ohm and, as a result, a question of array stability obtains; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated April 9, 1958, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of any of the applications would be in the public interest; or

It further appearing that all applicants filed timely replies to the Commission's letter; and

It further appearing that by letters dated February 6 and May 7, 1958, the licensee of Station KFAC requested that the application of the San Luis Rey Broadcasting Company, Inc., be designated for hearing; and

It further appearing that by letter of May 9, 1958, counsel for the San Luis Rey Broadcasting Company, Inc., requested additional time in which to prepare an amendment to the KSLR application, but that it will be expeditious to designate the applications for hearing forthwith and to deny the request for additional time as an applicant may amend after designation upon a showing of good cause pursuant to § 1.311 (b) of the Commission's rules; and

It further appearing that the Hemet-San Jacinto Valley Broadcasting Company proposes to reduce radiation in order to minimize the interference to Station KCSB and that, in the event of a grant of the application as a result of the hearing ordered below, the construction permit shall include a condition that, before program tests are authorized, a nondirectional proof-of-performance shall be submitted to establish that the inverse distance field at one mile has been reduced to essentially 150 mv/m per kilowatt as proposed; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary

service from the proposed operations of the Hemet-San Jacinto Valley Broadcasting Company and the L & B Broadcasting Company and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station KSLR as proposed and the availability of other primary service to such areas and populations.

3. To determine whether the proposed operations of the Hemet-San Jacinto Valley Broadcasting Company or KSLR, respectively, would cause interference to Stations KCSB, San Bernardino, California, and KFAC, Los Angeles, California, respectively, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine whether, because of interference received the proposed operation of Station KSLR would comply with § 3.28 (c) of the Commission's rules; and if compliance with § 3.28 (c) is not achieved, whether circumstanees exist which would warrant a waiver of said section of the rules.

6. To determine if the maximum expected operating values of radiation proposed by San Luis Rey Broadcasting Company, Inc., are reasonable and whether the inherent design of the directional antenna system will provide reasonable assurance that the pattern can be adjusted and maintained as proposed.

7. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would best provide a fair, efficient and equitable distribution of radio service.

8. To determine on a comparative basis, in the event that pursuant to the foregoing issue Hemet, California is considered to have the greater need for a new radio station, which of the operations proposed by the Hemet-San Jacinto Valley Broadcasting Company or the L & B Broadcasting Company would better serve the public interest, convenience and necessity in the light of the evidence adduced under the issues herein and the record made with respect to the significant differences between the said two applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the proposed standard broadcast station.

(b) The proposal of each with respect to the manngement and operation of the proposed station.

(c) The programming service proposed in each of said applications.

9. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications herein should be granted.

It is further ordered, That E. L. Cord tr/as Los Angeles Broadcasting Company and F. P. D'Angelo, licensees of Stations KFAC and KCSB, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and respondents herein, pursuant to § 1.140 of the Commission's rules, in person or by an attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in this proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issues:

To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

It is further ordered, That, in the event of a grant of the application of the Hemet-San Jacinto Valley Broadcasting Company, the construction permit shall include the condition that, before program tests are authorized, a nondirectional proof-of-performance shall be submitted to establish that the inverse distance field at one mile has been reduced to essentially 150 mv/m per kilowatt as proposed.

Released: June 6, 1958.

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

[F. R. Doc. 58-4424; Filed, June 10, 1958; 8:53 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 220]

MOTOR CARRIER APPLICATIONS

JUNE 6, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a. m., United States standard time (or 9:30 o'clock a. m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 4941 (Sub No. 7), filed May 1, 1958. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat* and *packing-house products*, from Boston, Mass., to Williamsburg and Cheatham Annex, Va. Applicant is authorized to conduct operations in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia.

HEARING: July 25, 1958, at the New Post Office and Court House Building, Boston, Mass., before Examiner Michael B. Driscoll.

No. MC 7073 (Sub No. 3), filed March 31, 1958. Applicant: EUGENE E. BOOS, doing business as BOOS APPLIANCE & HARDWARE COMPANY, Highland, Kans. Applicant's attorney: Ernest W. Rothfelder, Highland, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New and used farm machinery*, knocked down and set up, and *new and used parts therefor, feed* and *fertilizer, building and fencing materials, household goods*, in crates, and *oil* and *grease*, in containers, from Kansas City, Mo., and points in Doniphan County, Kans., to points in Brown County, Kans., on and east of Combined U. S. Highways 159 and 73; *Ice* and *fertilizer*, from St. Joseph, Mo., and Highland, Kans., to points in Kansas; and *Ordinary livestock*, from the above-specified destination points to the above-specified origin points. Applicant is authorized to conduct operations in Kansas and Missouri.

HEARING: July 29, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 36, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 7640 (Sub No. 15), filed April 30, 1958. Applicant: BARNES TRUCK LINE, INC., Herring Avenue, Wilson, N. C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street, NW., Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood and veneer), (1) from points in Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, and Virginia to points in North Carolina; and (2) between points in North Carolina, on the one hand, and, on the other, points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Mississippi, New Hampshire, New York, Ohio, Rhode Island, Tennessee, Vermont and West Virginia. Applicant is authorized to conduct operations in Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and the District of Columbia.

HEARING: July 16, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Examiner James C. Cheseldine.

No. MC 9510 (Sub No. 5), filed May 26, 1958. Applicant: WILLIAM P. HOYT, doing business as BILL HOYT TRUCK-

ING CO. 84 South Main Street, Newport, N. H. Applicant's attorney: S. Harrison Kahn, 726–34 Investment Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feldspar*, from Grafton, N. H., to Manchester, Conn. Applicant is authorized to transport household goods as defined by the Commission between points in New Hampshire, Connecticut, Maine, Massachusetts, New York, Rhode Island, Vermont, and New Jersey.

HEARING: July 21, 1958, at the New Hampshire Public Service Commission, Concord, N. H., before Joint Board No. 295, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 11220 (Sub No. 64), (CORRECTION) filed April 30, 1958, published issue May 14, 1958. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Amoco Chemical Corporation plant located 4 miles southeast of the junction of U. S. Highways 6 and 66, west of Joliet, Ill., as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Illinois, Indiana, Tennessee, Missouri, Mississippi, Louisiana, Alabama, Kentucky, and Arkansas.

NOTE: Previous publication gave location of plant site desired to be served in error.

HEARING: Remains as assigned June 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 17379 (Sub No. 6), filed May 23, 1958. Applicant: DOROTHY C. MADRID, doing business as M & M TRUCKING COMPANY, East Poland Avenue, Bessemer, Lawrence County, Pa. Applicant's attorney: John Douglas Clark, 715 Perpetual Building, Washington 4, D. C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in covered mechanical self-unloading equipment, and in bags, from Bessemer, Lawrence County, Pa., to points in Monroe County, Ohio, and *empty containers or other such incidental facilities* (not specified) used in transporting cement on return. Applicant is authorized to conduct operations in Ohio and Pennsylvania.

HEARING: July 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Alfred B. Hurley.

No. MC 27418 (Sub No. 4), filed May 19, 1958. Applicant: WARD JACKSON, 107 Stephens Street, Morrilton, Ark. Applicant's attorney: Louis Tarlowski, Rector Building, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from Clarksville and Morrilton, Ark., to points in Iowa, Wisconsin, Illinois, Indiana, Ohio, and points in Texas on and east of U. S. Highway 83; and (2) from Searcy, Ark., to points in Iowa, Wisconsin, Illinois, Indiana, Ohio, Missouri, Kansas, Oklahoma, and points in Texas on and east of U. S. Highway 83; and *Manufactured feed, flour, grain*, and *seeds*, from points in Missouri on and south of U. S. Highway 40, points in that part of Kansas on and south of U. S. Highway 40 and on and east of U. S. Highway 81, and those in Oklahoma on and east of U. S. Highway 81, to points in Pope, Conway, Faulkner, White, Pulaski, Van Buren, and Cleburne Counties, Ark. Applicant is authorized to conduct operations in Arkansas, Kansas, Missouri, Oklahoma, and Tennessee.

HEARING: July 17, 1958, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Walter R. Lee.

No. MC 27970 (Sub No. 30), filed June 4, 1958. Applicant: CHICAGO EXPRESS, INC., 72 Fifth Avenue, New York, N. Y. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, bullion, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Amoco Chemical Company plant located approximately four miles southeast of the junction of U. S. Highways 6 and 66, in Illinois, as an off-route point in connection with applicant's authorized regular route operations between Joliet, Ill., and Boston, Mass. Applicant is authorized to conduct operations in Illinois, Massachusetts, Ohio, New York, Pennsylvania, New Jersey, Connecticut, Rhode Island, Maryland, Minnesota, Missouri, Nebraska, Kansas, Indiana, and the District of Columbia.

HEARING: June 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 29654 (Sub No. 34), filed April 18, 1958. Applicant: FURNITURE EXPRESS, INC., Fluvanna Road, R. D. No. 1, Jamestown, N. Y. Applicant's attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, built-up wood, doors, architectural plywood*, and *plywood specialties*, between points in Chautauqua County, N. Y., on the one hand, and, on the other, points in Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, Sullivan, Nassau, and Suffolk Counties, N. Y. Applicant is authorized to conduct operations in New York, Ohio, Pennsylvania, Maryland, the District of Columbia, New Jersey, Delaware, Illinois, Indiana, Michigan, Wisconsin, Connecticut, Massachusetts, Rhode Island, West Virginia, Tennessee, Maine, New Hampshire, Vermont, South Carolina, and North Carolina.

HEARING: July 14, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner Michael B. Driscoll.

No. MC 29955 (Sub No. 12), filed April 24, 1958. Applicant: ENGLAND BROS. TRUCK LINE, INC., 300 North Second Street, Fort Smith, Ark. Applicant's attorney: Lee Reeder, 1012 Baltimore Building, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Kansas City, Mo., and Memphis, Tenn., from Kansas City over U. S. Highway 71 to junction Missouri Highway 35, thence over Missouri Highway 35 to Clinton, Mo., thence over Missouri Highway 13 to Springfield, Mo., thence over U. S. Highway 60 to Cabool, Mo., thence over U. S. Highway 63 to Memphis, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Arkansas, Missouri, Oklahoma, Tennessee, and Texas.

NOTE: Duplication with present authority to be eliminated.

HEARING: July 14, 1958, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Walter R. Lee.

No. MC 30451 (Sub No. 18), filed April 21, 1958. Applicant: THE LUPER TRANSPORTATION COMPANY, 404 East 21st Street, Wichita, Kans. Applicant's attorney: James F. Miller, 500 Board of Trade, 10th and Wyandotte, Kansas City 5, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used by Meat Packers in the conduct of their business when destined to and for use by Meat Packers, and *Dairy products*, as defined by the Commission, from points in Missouri on and south of a line beginning at the junction of U. S. Highway 54 and the Missouri-Kansas State line, thence in an easterly direction along U. S. Highway 54 to Camdenton, Mo., thence in a southerly direction along Missouri Highway 5 to Mansfield, Mo., thence in an easterly direction along U. S. Highway 60 to the Mississippi River, those in New Mexico on and east of U. S. Highway 85, Memphis, Tenn., and points in Oklahoma, Arkansas, Louisiana, and Texas to Wichita, Kans. (2) *Meats, meat products* and *meat by-products* from El Paso, Galveston, Houston, and San Antonio, Texas, and New Orleans, La., to Wichita, Kans., and *fresh, frozen* and *deep frozen fish* (including shell fish), *agricultural commodities empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in

Oklahoma, Kansas, Texas, Arkansas, New Mexico, Tennessee, and Louisiana.

HEARING: July 30, 1958, at the Hotel Lassen, Wichita, Kans., before Examiner Herbert L. Hanback.

No. MC 33392 (Sub No. 6), filed May 14, 1958. Applicant: CHARLES PYSZ, doing business as CHARLES TRANSFER, Mountain Road, Suffield, Conn. Applicant's representative: William L. Mobley, 1694 Main Street, Springfield 3, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed fertilizer* and *fertilizer materials*, in bags, from East Providence, R. I., to points in Fairfield, Hartford, Litchfield, Middlesex, New Haven, and Tolland Counties, Conn., and Agawam, East Longmeadow, Southwick, Springfield, Westfield, and West Springfield, Mass. Applicant is authorized to conduct operations in Massachusetts, Connecticut, and Rhode Island.

HEARING: August 1, 1958, at the U. S. Court Rooms, Hartford, Conn., before Joint Board No. 134, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 36473 (Sub No. 66), filed April 24, 1958. Applicant: CENTRAL TRUCK LINES, INC., 1005 Jackson Street, Tampa, Fla. Applicant's representative: Ben H. Fowler, c/o Central Truck Lines, Inc. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, transporting: OVER ALTERNATE ROUTES FOR OPERATING CONVENIENCE ONLY: (I) *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Thomasville, Ga., and Tallahassee, Fla., serving no intermediate points: From Thomasville over U. S. Highway 319 to Tallahassee, and return over the same route. Between Tallahassee, Fla., and Capps, Fla., serving no intermediate points, and serving Capps for purpose of joinder only: From Tallahassee over U. S. Highway 27 to Capps, and return over the same route. Applicant indicates service authorized herein is subject to the following conditions: Service at Tallahassee is restricted to traffic moving to or from points west of Marianna, Fla. Applicant holds the above authority in Certificate in Docket No. MC 36473 (Sub No. 59) subject to additional restriction and the purpose of this application is to eliminate paragraph 2 of Restrictions reading: 2. Said alternate routes shall not be used for transporting traffic to or from points in Georgia other than those lying in that portion of the State on and east of a line extending from the Florida-Georgia State line over Georgia Highway 97 to Bainbridge, Ga., thence over U. S. Highway 84 to Waycross, Ga., thence over Georgia Highway 38 to Jesup, Ga., and thence over U. S. Highway 25 through Ludowici and Augusta, Ga., to the Georgia-South Carolina State Line. (II) *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Otter Creek, Fla., and Thomasville, Ga., from Otter Creek over U. S. Highway 19 to Thomasville, and return over the same route, serving no intermediate points, but serving Otter Creek, Fla., for the purpose of joinder only. In certificate No. MC 36473 (Sub No. 44) applicant holds alternate route for operating convenience only, similar to that described in (II) above but by this application is adding to this authority serving Otter Creek, Fla., for the purpose of joinder only, and requests elimination of the language "in connection with carrier's authorized operations between Thomasville, Ga., and Tampa, Fla.", and of the restrictions resulting therefrom. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, and Louisiana.

HEARING: July 16, 1958, at the U. S. Court Rooms, Tampa, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 43269 (Sub No. 44), filed May 22, 1958. Applicant: WELLS CARGO, INC., 1775 East Fourth Street, P. O. Box 1511, Reno, Nev. Applicant's attorney: Bruce R. Geernaert, 100 Bush Street, San Francisco 4, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore, ore concentrates*, and *precipitates*, between points in Arizona on the one hand, and, on the other, Ripley and Winterhaven, Calif., and points in California within 25 miles of Ripley and Winterhaven. Applicant is authorized to conduct operations in California, Nevada, Utah, Oregon, and Arizona.

NOTE: Applicant states that it seeks no duplicating authority.

HEARING: July 15, 1958, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 47.

No. MC 52945 (Sub No. 2), filed May 14, 1958. Applicant: H. P. STARSIAK, INC., 18 Hills Street, Manchester, Conn. Applicant's representative: William L. Mobley, Rooms 317–319, 1694 Main Street, Springfield 3, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed fertilizer* and *fertilizer materials*, in bags, from East Providence, R. I. to points in Fairfield, Hartford, Litchfied, Middlesex, New Haven, and Tolland Counties, Conn. Applicant is authorized to conduct operations in Connecticut, Massachusetts, and Rhode Island.

HEARING: August 1, 1958, at the U. S. Court Rooms, Hartford, Conn., before Joint Board No. 252, or, if the Joint Board waives its right to participate before Examiner Michael B. Driscoll.

No. MC 59150 (Sub No. 8), filed April 24, 1958. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, P. O. Box 47, Station G, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and accessories*, such as (A) plaster accelerator or retarder; ground gypsum; gypsum backing board; gypsum filler; gypsum lath, Keenes cement (wall plaster); gypsum blocks, planks, slabs or tile; land plaster; lime, common, hydrated, quick or slaked; plaster, calcined, patching, stucco or wall; plaster of Paris (See Notes 1 and 2 below); and (B) (See Note 1) Gypsum wallboard and related articles; gypsum sheathing; gypsum wallboard joint system, tape, wallboard joining or reinforcing; paint (See Note 3 below); mineral wool (rock or slag wool) (See Note 3 below); asbestos shingles, siding or wallboard (See Note 3 below); asbestos accessories, including ridge rolls, corner rolls, nails, and washers, which may be required for the installation of asbestos shingles, siding or wallboard, to be included with asbestos articles (See Note 3 below); lathing or ribbing, expanded or perforated steel (See Note 3 below); plaster grounds, steel (See Note 3 below); and channels or angles, steel (See Note 3 below), from the site of the U. S. Gypsum Company plant at Jacksonville, Fla., to points in South Carolina. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE 1: Nails, iron or steel, may be shipped with gypsum lath, gypsum wallboard or gypsum sheathing. The weight or the nails may not exceed one percent (1%) of the weight of the articles they accompany.

NOTE 2: A small number of empty bags, not to exceed twenty-five (25) pounds, for reconditioning in transit, may be shipped with the plaster which the bags accompany.

NOTE 3: Articles making reference to this note may be shipped in mixed truckloads only with gypsum products listed under Description A and/or Description B. Weight or paint may not exceed five percent (5%) of the weight of the shipment. Weight of asbestos shingles, siding or wallboard and asbestos accessories as shown in Description B may not exceed twenty-five percent (25%) of the weight of the shipment. Weight of the mineral wool may not exceed five percent (5%) of the weight of the shipment. Weight of steel lathing, ribbing, steel plaster grounds, steel channels or angles may not exceed five percent (5%) of the weight of the shipment.

HEARING: July 17, 1958, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 354, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 70451 (Sub No. 201), filed May 14, 1958. Applicant: WATSON BROS. TRANSPORTATION CO., INC., 1523 Marcy Street, Omaha 8, Nebr. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over alternate routes, transporting: *General commodities*, except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of unusual size or weight, (1) between Winnebago, Nebr., and junction U. S. Highways 77 and 275 (near Winslow, Nebr.), from Winnebago over U. S. Highway 77 to junction U. S. Highway 275, and return over the same route, serving no intermediate or off-route points, as an alternate route for operating convenience only, in connection with applicant's au-

thorized regular route operations between Sioux City, Iowa and Kansas City, Mo., and between Norfolk, Nebr., and Omaha, Nebr., and (2) between Fremont, Nebr., and junction U. S. Highways 77 and 6, from Fremont over U. S. Highway 77 to junction U. S. Highway 6, and return over the same route, serving no intermediate or off-route points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Norfolk, Nebr., and Omaha, Nebr., between Lincoln, Nebr., and Omaha, Nebr., and between Lincoln, Nebr., and Nebraska City, Nebr. Applicant is authorized to conduct operations in Arizona, Cailfornia, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, and Wyoming.

HEARING: July 23, 1958, at 11:00 a. m. United States standard time (or 11:00 a. m. local daylight saving time, if that time is observed), at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Joint Board No. 93, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 70451 (Sub No. 203), filed May 14, 1958. Applicant: WATSON BROS. TRANSPORTATION CO., INC., 1523 Marcy Street, Omaha 8, Nebr. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over an alternate route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between junction U. S. Highways 6 and 81 and Newton, Kans., from junction U. S. Highways 6 and 81 over U. S. Highway 81 to Newton, and return over the same route, serving no intermediate points, with service at junction U. S. Highways 6 and 81 and Newton as points of joinder only, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Lincoln, Nebr., and Clay Center, Nebr., and between Kansas City, Mo., and Wichita, Kans. Applicant is authorized to conduct similar operations in Arizona, California, Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, New Mexico, and Wyoming.

HEARING: July 25, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 52, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 73165 (Sub No. 160) (Amended April 17, 1958), filed March 31, 1958. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, Ala. Applicant's attorney: J. Haden Alldredge, Investment Building, Washington 5, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, rough or dressed, and *flooring*, from points in Alabama to points in Georgia, Florida, Tennessee, and Kentucky. Applicant is authorized to conduct operations in Georgia, Mississippi, Tennessee, Alabama, Florida, Texas, Virginia, Arkansas, Louisiana, South Carolina, North Carolina, Missouri, Kansas, Iowa, Wisconsin, Michigan, and Illinois.

HEARING: July 24, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Allan F. Borroughs.

No. MC 78632 (Sub No. 102), filed May 19, 1958. Applicant: HOOVER MOTOR EXPRESS COMPANY, INC., P. O. Box 450, Polk Avenue, Nashville, Tenn. Applicant's attorney: Walter Harwood, Nashville Trust Building, Nashville 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving points within 10 miles of Decatur, Ala., as intermediate and off-route points in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Alabama, Georgia, Illinois, Kentucky, Mississippi, Missouri, Ohio, and Tennessee.

NOTE: Applicant states no duplication of operating authority is sought.

HEARING: July 23, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Joint Board No. 100, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 86687 (Sub No. 46), filed March 31, 1958. Applicant: SEABOARD AIR LINE RAILROAD COMPANY, a Corporation, Seaboard Air Line Railroad Building, Norfolk 10, Va. Applicant's attorney: Richard A. Hollander, Seaboard Air Line Railroad Company, Law Dept., Norfolk 10, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Tampa, Fla., and Boca Grande, Fla.: from Tampa over Florida Highway 60 to junction with U. S. Highway 301, thence over U. S. Highway 301 to Sarasota, Fla., thence over U. S. Highway 41 to junction with Florida Highway 775, thence over Florida Highway 775 to Placida, Fla. (also from junction U. S. Highway 41 and Florida Highway 775 over U. S. Highway 41 to Murdock, Fla., thence over Florida Highway 771 to Placida, Fla.), and thence over unnumbered highway to Boca Grande, and return over the same route, serving all intermediate points and the off-route points of Lithia, Boyette, Palm, Durant and Wimauma, Fla. Applicant is authorized to conduct operations in North Carolina, Florida, South Carolina, Virginia, and Georgia.

HEARING: July 14, 1958, at the U. S. Court Rooms, Tampa, Fla., before Joint Board No. 205, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 89611 (Sub No. 6), filed May 1, 1958. Applicant: ERNEST ULRICH, U. S. 50 East, Olney, Ill. Applicant's attorney: Grover Hoff, 901 Ridgely Building, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Mt. Erie, Bone Gap, Calhoun, Albion, Samsville, West Salem, and Parkersburg, Ill., as off-route points in connection with applicant's authorized regular route operations between St. Louis, Mo., and Lawrenceville, Ill., over U. S. Highway 50. Applicant is authorized to conduct regular route operations in Illinois and Missouri, and irregular route operations in Arkansas, Illinois, Indiana, Kentucky, Ohio, Missouri, and Tennessee.

HEARING: July 18, 1958, at the U. S. Court Rooms and Federal Building, Springfield, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 92983 (Sub No. 282), filed March 28, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Syrups* and *sugars including blends thereof*, in bulk, in tank vehicles, from Muskogee, Okla., to points in Arkansas, Kansas, and Missouri. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 14, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 92983 (Sub No. 285), filed April 25, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Wyoming, Ill., and points within 5 miles thereof to points in Indiana, Iowa, Kentucky, Minnesota, Missouri, Tennessee, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 15, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner W. Cunningham.

No. MC 92983 (Sub No. 286), filed April 28, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment, contractors' mate-*

rials and supplies, heavy machinery, castings, internal combustion engines and parts thereof, structural and reinforcing steel, parts of and accessories for construction and maintenance machinery and equipment, and *commodities*, which because of their size or weight require the use of special equipment or special handling, between Cedar Rapids, Iowa, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, upper peninsula of Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 16, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 92983 (Sub No. 288), filed April 30, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from points in the Chicago, Ill. Commercial Zone as defined by the Commission, to points in Iowa and Nebraska. Applicant is authorized to conduct operations in Iowa, Nebraska, Illinois, Missouri, Wisconsin, Indiana, Kansas, Minnesota, Arkansas, Ohio, Kentucky, North Carolina, South Carolina, Florida, Louisiana, Tennessee, Michigan, New York, Texas, North Dakota, South Dakota, Pennsylvania, Massachusetts, Georgia, Connecticut, Mississippi, Oklahoma, and Alabama.

HEARING: July 17, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 92983 (Sub No. 289), filed May 5, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages and spirits*, in bulk, in tank vehicles, from Lawrenceburg, Ind., and points in Kentucky to points in Connecticut, Maryland, New Jersey, New York, and Pennsylvania. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 14, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 92983 (Sub No. 290), filed May 20, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, from Muscatine, Iowa, and points within 10 miles thereof to points in Missouri, North Dakota, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 15, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 92983 (Sub No. 291), filed May 21, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from St. Louis, Mo., and points in Madison and St. Clair Counties, Ill., to points in Arkansas, Mississippi, and Tennessee. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 21, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Herbert L. Hanback.

No. MC 94877 (Sub No. 5), filed May 14, 1958. Applicant: PETER W. KUBOSIAK, Elm Street, Hatfield, Mass. Applicant's representative: William L. Mobley, Rooms 317–319, 1694 Main Street, Springfield 3, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed fertilizer* and *fertilizer materials*, in bags, from East Providence, R. I., to points in Hampden, Hampshire, Franklin, and Berkshire Counties, Mass. Applicant is authorized to conduct operations in Connecticut and Massachusetts.

HEARING: August 1, 1958, at the U. S. Court Rooms, Hartford, Conn., before Joint Board No. 134, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 95922 (Sub No. 11), filed May 14, 1958. Applicant: JAMES F. LEE, doing business as LEE TRANSPORT, 707 East Fourth Street, Muscatine, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Muscatine, Iowa, to points in Illinois north of U. S. Highway 36, except Chicago, Ill. Applicant is authorized to conduct operations in Iowa, Illinois, Missouri, and Nebraska.

HEARING: July 21, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 54, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 99629 (Sub No. 2), filed May 23, 1958. Applicant: SHULMAN, INC., 30 West Howell Street, Dorchester, Mass. Applicant's attorney: Herbert Burstein, 160 Broadway, New York 38, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Massachusetts.

NOTE: Applicant is presently conducting interstate operations within the state of Massachusetts by virtue of filing under the second proviso of section 206 (a) (1), which filing has been assigned Docket No. MC 99629 (Sub No. 1).

HEARING: July 22, 1958, at the New Post Office and Court House Building, Boston, Mass., before Examiner Michael B. Driscoll.

No. MC 101126 (Sub No. 108), filed May 23, 1958. Applicant: STILLPASS TRANSIT COMPANY, INC., 4967 Spring Grove Avenue, Cincinnati 32, Ohio. Applicant's attorney: William J. Guenther, 1511–14 Fletcher Trust Building, Indianapolis, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, invert sugar* and *blends thereof*, and *dry sugar*, in bulk, in tank and hopper type vehicles, from Cincinnati, Ohio, to points in Kentucky, Indiana, and West Virginia. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE: A proceeding has been instituted under section 212 (c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 101126 (Sub No. 86).

HEARING: July 28, 1958, at the U. S. Court Rooms, Indianapolis, Ind., before Examiner Frank R. Saltzman.

No. MC 102616 (Sub No. 652) (AMENDMENT) filed May 2, 1958, published issue May 21, 1958. Applicant: COASTAL TANK LINES, INC., Grantley Road, York, Pa. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oils*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Illinois, Indiana, Kentucky, and that portion of Virginia south of U. S.

Highway 60. Applicant is authorized to conduct operations in New Jersey, New York, North Carolina, Ohio, Rhode Island, Pennsylvania, South Carolina, Virginia, Tennessee, West Virginia, Wisconsin, the District of Columbia, Michigan, Maryland, Massachusetts, Kentucky, Indiana, Delaware, Illinois, and Connecticut.

HEARING: Remains as assigned June 23, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before examiner David Waters.

No. MC 103051 (Sub No. 45), filed April 17, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from points in Decatur County, Ga., to Cairo, Ga. Applicant is authorized to conduct operations in Georgia, Tennessee, Alabama, Delaware, Kentucky, Maryland, North Carolina, Virginia, Florida, South Carolina, Louisiana, and Texas.

HEARING: August 1, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 101, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 103051 (Sub No. 47), filed May 7, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, (1) from points in Mobile County, Ala., to points in Clayton, Cobb, De Kalb, Douglas, Fulton, and Gwinnett Counties, Ga., those in Caldwell, Forsyth, Guilford, and Mecklenburg Counties, N. C., and those in Hamilton County, Tenn.; (2) from points in Duval and Escambia Counties, Fla., to points in Hamilton County, Tenn. Applicant is authorized to conduct operations in Georgia, Tennessee, Alabama, Delaware, Kentucky, Maryland, North Carolina, Virginia, and Florida.

HEARING: August 1, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allan F. Borroughs.

No. MC 103993 (Sub No. 108), filed April 28, 1958. Applicant: MORGAN DRIVE-AWAY, INC., 509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Pownal Center, Vt., and points within five (5) miles thereof, to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 17, 1958, at the Federal Building, Albany, N. Y., before Examiner Michael B. Driscoll.

No. MC 103993 (Sub No. 110), filed May 16, 1958. Applicant: MORGAN DRIVE-AWAY, INC., 509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Forest City, Iowa and points within 10 miles thereof to points in the United States (except Mount Clemens, Detroit, and Flint, Mich.). Applicant is authorized to conduct operations throughout the United States.

HEARING: July 22, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 104654 (Sub No. 115), filed May 8, 1958. Applicant: COMMERCIAL TRANSPORT, INC., South 20th Street, P. O. Box 297, Belleville, Ill. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, (1) from the plant sites of the Texas Eastern Transmission Corporation in Gibson County, Ind., to points in Kentucky, Illinois and Ohio, and (2) from the plant sites of the Texas Eastern Transmission Corporation in Warren and Butler Counties, Ohio, to points in Kentucky, Indiana, Pennslyvania, and West Virginia. Applicant is authorized to conduct operations in Arkansas, Illinois, Indiana, Iowa, Kentucky, Missouri, and Tennessee.

HEARING: July 21, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Herbert L. Hanback.

No. MC 105461 (Sub No. 9), filed May 19, 1958. Applicant: BENJAMIN H. HERR, doing business as HERR'S MOTOR EXPRESS, Quarryville, Pa. Applicant's representative: Bernard N. Gingerich, Quarryville, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty petroleum products containers*, from Cleveland, Boardman, and Akron, Ohio, Wheeling, W. Va., Providence, R. I., and points in New York, New Jersey, Connecticut, Massachusetts, Virginia, Maryland, and Delaware, to Philadelphia, Pa. Applicant is authorized to conduct common carrier operations in Delaware, Maryland, Pennsylvania, Virginia, the District of Columbia, New Jersey, and New Hampshire.

NOTE: Applicant is also authorized to conduct operations as a contract carrier in Permit No. MC 68807 and sub-numbers thereunder. Dual operations under section 210 may be involved.

HEARING: July 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Allen W. Hagerty.

No. MC 106398 (Sub No. 98), filed April 28, 1958. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa 15, Okla. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Pownal Center, Vt., and points within five (5) miles thereof, to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 17, 1958, at the Federal Building, Albany, N. Y., before Examiner Michael B. Driscoll.

No. MC 106398 (Sub No. 99), filed May 12, 1958. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa, Okla. MAIL: Box 8096, Dawson Station, Tulsa, Okla. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable steel buildings*, new and used, from Wichita, Kans., to all points in the United States; and *Used portable steel buildings*, between all points in the United States, and *empty containers or other such incidental facilities* (not specified), *including empty shipper-owned trailers*, used in transporting the above-specified commodities on return. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states that the above-specified commodities will be loaded on special trailers owned by shipper.

HEARING: July 31, 1958, at the Hotel Lassen, Wichita, Kans., before Examiner Herbert L. Hanback.

No. MC 106398 (Sub No. 101), filed May 16, 1958. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, P. O. Box 8096, Dawson Station, Tulsa 15, Okla. Applicant's attorney: John E. Lesow, 3737 North Meridan Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Forest City, Iowa, and points within 10 miles thereof to points in the United States (except Mount Clemens, Detroit, and Flint, Mich.). Applicant is authorized to conduct operations throughout the United States.

HEARING: July 22, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 107107 (Sub No. 101), filed May 27, 1958. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Allapattah Station, P. O. Box 65, Miami 42, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products* and *meat by-products* and *dairy products*, as defined by the Commission; and *Frozen foods*, from New York, N. Y., and points in New Jersey within 15 miles of New York, N. Y., to points in Alabama and Louisiana. Applicant is authorized to conduct operations in Florida, New York, Pennsylvania, New Jersey, Delaware, Virginia, North Carolina, Georgia, Illinois, Indiana, Missouri, Maryland, Michigan, Ohio, Louisiana, Texas, Dis-

trict of Columbia, South Dakota, Alabama, Kansas, Kentucky, Minnesota, and Tennessee.

HEARING: July 30, 1958, at 346 Broadway, New York, N. Y., before Examiner Isadore Freidson.

No. MC 107295 (Sub No. 58), filed April 3, 1958. Applicant: PRE-FAB TRANSIT CO., a Corporation, Farmer City, Ill. Applicant's attorney: Mack Stephenson, 208 East Adams Street, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel panel sections, angles, beams* and *bolts* and *nuts* and *parts; building construction sections, metal and mineral ore, glass wool combined*, from Galesburg, Ill., to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 15, 1958, at the U. S. Court Rooms and Federal Building, Springfield, Ill., before Examiner Herbert L. Hanback.

No. MC 107475 (Sub No. 36), filed April 14, 1958. Applicant: DANCE FREIGHT LINES, INC., 728 National Avenue, Lexington, Ky. Applicant's attorney: Allan Watkins, 214–216 Grant Building, Atlanta 1, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over an alternate route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods an defined by the Commission, commodities in bulk, and those requiring special equipment, between Athens, Ga., and Dalton, Ga., from Athens, over U. S. Highway 129 to Gainesville, Ga., thence over Georgia Highway 53 to junction Georgia Highway 183, thence over Georgia Highway 183 to junction Georgia Highway 52, thence over Georgia Highway 52 to Ellijay, Ga., thence over U. S. Highway 76 to Dalton, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Atlanta, Ga., and Athens, Ga., and between Cincinnati, Ohio, and Columbus, Ga. Applicant is authorized to conduct operations in Georgia, Kentucky, North Carolina, Ohio, South Carolina, and Tennessee.

HEARING: August 1, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 101, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 107515 (Sub No. 281), filed May 5, 1958. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, 214–16 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, as defined by the Commission, and *horsemeat*, from El Paso, Tex., to points in Florida. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

HEARING: July 16, 1958, at the U. S. Court Rooms, Tampa, Fla., before Examiner Allan F. Borroughs.

No. MC 108185 (Sub No. 19), filed May 5, 1958. Applicant: DIXIE HIGHWAY EXPRESS, INC., 1600 "B" Street, P. O. Box 631, Meridian, Miss. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern Nat'l. Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Tuscaloosa, Ala., and Eutaw, Ala., from Tuscaloosa over U. S. Highway 82 to Reform, thence over Alabama Highway 17 to Aliceville, thence over Alabama Highway 14 to Eutaw, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Alabama, Georgia, Mississippi, Louisiana, Florida, Tennessee, Kentucky, Illinois, and Missouri.

HEARING: July 22, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Joint Board No. 100, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 109637 (Sub No. 81), (AMENDMENT), filed May 14, 1958. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distilled spirits*, in bulk, in tank vehicles, between Owensboro, Ky., and Peekskill, N. Y. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Tennessee, Texas, West Virginia, and Wisconsin.

NOTE: Previous publication sought a from and to movement.

HEARING: Remains as assigned July 8, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Donald R. Sutherland.

No. MC 109638 (Sub No. 9), filed April 1, 1958. Applicant: WOODROW EVERETT, doing business as W. EVERETT TRUCK LINE, Washington, N. C. Applicant's attorney: John C. Goddin, State-Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dressed poultry*, from points in North Carolina on and east of U. S. Highway 301, to points in North Caroline, Virginia, West Virginia, Maryland, the District of Columbia, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, Ohio, Indiana, Illinois, Michigan, Kentucky, Tennessee, Georgia, and Florida, and *damaged, refused or rejected shipments* of, and *new containers* for, dressed poultry, on return. Applicant is authorized to conduct operations in Maryland, Pennsylvania, New Jersey, New York, North Carolina, Virginia, West Virginia, Delaware, Ohio, South Carolina, Georgia, Alabama, Mississippi, Tennessee, and Connecticut.

NOTE: Applicant states the purpose of this application is to enable it to transport dressed poultry, an exempt commodity, in the same vehicle at the same time with non-exempt commodities.

HEARING: July 18, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Examiner James C. Cheseldine.

No. MC 110117 (Sub No. 11), filed April 7, 1958. Applicant: KENDRICK CARTAGE CO., a Corporation, P. O. Box 63, Salem, Ill. Applicant's representative: A. A. Marshall, 305 Buder Building, St. Louis 1, Mo. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from the plant site or terminal of Gulf Oil Corporation, St. Louis, Mo., to points in Illinois on and south of U. S. Highway 136, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, on return. Applicant is authorized to conduct operations in Arkansas, Illinois, Indiana, Kentucky, Missouri, and Tennessee.

NOTE: Applicant has filed appropriate application with this Commission for a determination of its status as a common or contract carrier in No. MC 110117.

HEARING: July 17, 1958, at the U. S. Court Rooms and Federal Building, Springfield, Ill., before Joint Board No. 135, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 110197 (Sub No. 16), filed March 24, 1958. Applicant: DANIEL S. DRACUP & CO., INC., 42 Chicago Avenue, Celoron, N. Y. Applicant's attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated voting machines (including accessories shipped with machines* in cartons or packages) in boxes or in steel cabinets or on wheels or casters, protected with wooden hoods or corrugated fibreboard hoods, between Jamestown, N. Y., on the one hand, and, on the other, points in Georgia, Alabama, and Florida. Applicant is authorized to conduct operations in Alabama, Connecticut, Georgia, Kentucky, Massachusetts, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

HEARING: July 14, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner Michael B. Driscoll.

No. MC 110525 (Sub No. 358), filed May 27, 1958. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorney: Leonard A. Jaskiewicz and Gerald L. Phelps, Munsey Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by

motor vehicle, over irregular routes, transporting: *Liquid caustic soda* and *liquid caustic potash*, in bulk, in tank vehicles, from points in Marshall County, Ky., to points in Arkansas, Missouri, Illinois, Indiana, Tennessee, Ohio, and Kentucky. Applicant is authorized to conduct operations in Maryland, New Jersey, New York, Pennsylvania, West Virginia, Kentucky, Delaware, Ohio, Virginia, North Carolina, Tennessee, Michigan, Kansas, Connecticut, Illinois, Indiana, Massachusetts, Rhode Island, Minnesota, Missouri, Wisconsin, Georgia, and Alabama.

HEARING: July 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William R. Tyers.

No. MC 11054 (Sub No. 3), filed May 22, 1958. Applicant: MARK E. YODER, 41 Parkway, Schuylkill Haven, Pa. Applicant's attorney: Christian V. Graf, 11 North Front Street, Harrisburg, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Northumberland, Carbon, and Luzerne Counties, Pa., to points in New Jersey and Delaware. Applicant is authorized to transport similar commodities in Delaware, New Jersey, and Pennsylvania.

HEARING: July 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Thomas F. Kilroy.

No. MC 110698 (Sub No. 96), filed April 16, 1958. Applicant: RYDER TANK LINE, INC., P. O. Box 457, Greensboro, N. C. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from South Point, Ohio, to Greensboro, N. C. Applicant is authorized to conduct operations in North Carolina, Virginia, Georgia, South Carolina, Tennessee, West Virginia, Alabama, Florida, Mississippi, Louisiana, Pennsylvania, Arkansas, Kentucky, District of Columbia, Ohio, Missouri, Texas, Maryland, New Jersey, New York, and Delaware.

HEARING: July 18, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Examiner James C. Cheseldine.

No. MC 110698 (Sub No. 97), filed May 13, 1958. Applicant: RYDER TANK LINE, INC., P. O. Box 457, Winston Road, Greensboro, N. C. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid glues, formaldehyde, resins, surface coating compounds* and *plastic binders*, in bulk, in tank vehicles, and *catalyst or liquid glue hardener*, in drums, limited to shipments of not more than four drums moving on the same tank vehicle as is used to transport the bulk commodities specified above, from Demopolis, Ala., to points in Indiana. Applicant is authorized to conduct operations in Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia.

HEARING: July 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Gerald F. Colfer.

No. MC 110969 (Sub No. 7), filed March 26, 1958. Applicant: W. L. BUTLER, doing business as W. L. BUTLER TRANSFER Elizabethtown, N. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* (except veneer and plywood), from Elizabethtown, N. C., and points within two (2) miles thereof, to points in West Virginia; and (2) *Lumber* (except veneer and plywood), between Elizabethtown, N. C., and Raeford, N. C. Applicant is authorized to conduct operations in Delaware, Kentucky, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

HEARING: July 15, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Joint Board No. 292, or, if the Joint Board waives its right to participate, before Examiner James C. Cheseldine.

No. MC 111545 (Sub No. 30), filed May 5, 1958. Applicant: HOME TRANSPORTATION COMPANY, INC., 334 South Four Lane Highway, Marietta, Ga. Applicant's attorney: Allan Watkins, 214–216 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction machinery and equipment* described in Appendix VIII and *agricultural machinery, implements and parts*, as described in Appendix XII in Description in Motor Carrier Certificates, 61 M. C. C. 209, from Cedartown, Ga., to points in Florida, Alabama, Mississippi, Louisiana, Texas, Missouri, Arkansas, Tennessee, Virginia, North Carolina, South Carolina, Kentucky, West Virginia, Maryland, and Delaware. Applicant is authorized to conduct operations in Georgia, Alabama, Tennessee, North Carolina, West Virginia, Michigan, Illinois, Indiana, Iowa, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Wisconsin, Delaware, Missouri, Nebraska, Kentucky, Texas, Massachusetts, Louisiana, Mississippi, Arkansas, Minnesota, and the District of Columbia.

HEARING: July 31, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allan F. Borroughs.

No. MC 112364 (Sub No. 3), filed February 10, 1958. Applicant: J. W. McGINNIS, R. F. D. No. 2, Mattoon, Ill. Applicant's attorney: Grover Hoff, Room 901 Ridgely Building, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horsemeat*, fresh and canned, frozen and unfrozen, *meat products* and *meat by-products*, used for animal consumption only, and *dog food*, in temperature-controlled vehicles, from the plant site of Campbell & Co., Inc., approximately six (6) miles southwest of Mattoon, Ill., to mink farms and animal supply houses in Missouri and Kansas; and *empty containers or other such incidental facilities* used in transporting the above-described commodities, and *horsemeat*, fresh, frozen and unfrozen, *meat products*, and *meat by-products* and *other ingredients* used for preparing animal and dog food, on return. Applicant is authorized to transport whey, buttermilk and buttermilk products from Peoria, Ill. to points in Iowa on and east of U. S. Highway 69 and empty containers on return.

HEARING: July 16, 1958, at the U. S. Court Rooms and Federal Building, Springfield, Ill., before Joint Board No. 195, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 112617 (Sub No. 44), filed May 27, 1958. Applicant: LIQUID TRANSPORTERS, INC., P. O. Box 5135, Cherokee Station, Louisville 5, Ky. Applicant's attorney: Leonard A. Jaskiewicz and Gerald L. Phelps, Munsey Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda* and *liquid caustic potash*, in bulk, in tank vehicles, from points in Marshall County, Ky., to points in Arkansas, Illinois, Indiana, Kentucky, Missouri, Ohio, and Tennessee. Applicant is authorized to conduct operations in Indiana, Kentucky, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, West Virginia, Pennsylvania, Ohio, Missouri, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Louisiana, Texas, and Florida.

HEARING: July 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William R. Tyers.

No. MC 112713 (Sub No. 76), filed May 21, 1958. Applicant: YELLOW TRANSIT FREIGHT LINES, INC., 1626 Walnut Street, Kansas City, Mo. Applicant's attorney: John M. Records, same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including Class A and B explosives*, but excluding commodities of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Topeka, Kans., and Baxter Springs, Kans., from Topeka over U. S. Highway 75 to junction U. S. Highway 160, thence over U. S. Highway 160 to junction U. S. Highway 169, thence over U. S. Highway 169 to junction of U. S. Highway 166, thence over U. S. Highway 166 to Baxter Springs, and return over the same route, serving no intermediate points, but with service at termini for purposes of joinder only, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Kansas City, Mo., and Wichita, Kans., and between Kansas City, Mo., and Houston, Tex. Applicant is authorized to conduct operations in Illinois, Kansas, Oklahoma, Texas, Missouri, Indiana, Kentucky, Michigan, and Ohio.

HEARING: July 25, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 52, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 113362 (Sub No. 6), filed May 14, 1958. Applicant: ELLSWORTH FREIGHT LINES, INC., 220 East Broadway, Eagle Grove, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oil and grease*, in containers, from Bradford, Oil City, Emlenton, and Farmers Valley, Pa., to points in Iowa. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, New York, and Pennsylvania.

NOTE: Applicant states that it is presently authorized and performs the proposed service either direct or by tacking rights now held. A grant of the authority sought will eliminate the gateway requirement for serving a portion of the destination territory.

HEARING: July 18, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 113843 (Sub No. 24), filed May 8, 1958. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston 10, Mass. Applicant's attorney: James M. Walsh, 8 Commonwealth Pier, Boston 10, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products*, and *commodities used by packing houses*, from points in Massachusetts to points in Delaware, Maryland, and Virginia. Applicant is authorized to conduct operations in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: July 30, 1958, at the New Post Office and Court House Building, Boston, Mass., before Examiner Michael B. Driscoll.

No. MC 113996 (Sub No. 3), filed April 9, 1958. Applicant: T. C. DUNLEVY, 532 Calhoun Street, Johnston, S. C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used automobile parts*, unpacked (1) from points in Tennessee except those on and south of U. S. Highway 64 from the North Carolina-Tennessee State line to Fayetteville, Tenn., and except on and east of U. S. Highway 231 from Fayetteville to the Tennessee-Alabama State line, to Atlanta, Ga.; (2) from points in Mississippi, except Columbus and Meridian, Miss., to Atlanta, Ga.; and (3) from points in Tennessee and Mississippi to Memphis, Tenn. Applicant is authorized to transport the above-specified commodities in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

HEARING: July 31, 1958, at 630 West Peachtree Street, NW., Atlanta, Ga., before Examiner Allan F. Borroughs.

No. MC 114019 (Sub No. 17), filed May 16, 1958. Applicant: THE EMERY TRANSPORTATION COMPANY, a Corporation, 7000 South Pulaski Road, Chicago 29, Ill. Applicant's attorney: Charles W. Singer, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, including calcium chloride, and *salt* containing chemical ingredients, in bulk and in packages or containers, from Akron, Ohio, to points in Delaware, Maryland, Virginia, and Washington, D. C. Applicant is authorized to conduct contract carrier operations under Permit No. MC 9685 and subnumbers thereunder in Tennessee, Ohio, Indiana, Kentucky, Pennsylvania, Wisconsin, New York, Michigan, Missouri, Iowa, West Virginia, Virginia, Maryland, Massachusetts, Minnesota, New Jersey, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212 (c) in No. MC 9685 Sub No. 58, to determine whether applicant's status is that of a contract or common carrier.

HEARING: July 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lawrence A. Van Dyke.

No. MC 114019 (Sub No. 18), filed May 16, 1958. Applicant: THE EMERY TRANSPORTATION COMPANY, a Corporation, 7000 South Pulaski Road, Chicago 29, Ill. Applicant's attorney: Charles W. Singer, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, and *advertising materials* related thereto when shipped with foodstuffs, from points in Adams County, Pa., and points in Monroe, Orleans, and Wayne Counties, N. Y., to points in Tennessee, Arkansas, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, West Virginia, and Wisconsin; and *equipment, materials and supplies* used in the manufacture of food stuffs, and *used pallets*, on return. Applicant is authorized to conduct contract carrier operations under Permit No. MC 9685 and sub-numbers thereunder in Tennessee, Ohio, Indiana, Kentucky, Pennsylvania, Wisconsin, New York, Michigan, Missouri, Iowa, West Virginia, Virginia, Maryland, Massachusetts, Minnesota, New Jersey, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212 (c) in MC 9685 Sub No. 58, to determine whether applicant's status is that of a contract or common carrier.

HEARING: July 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lawrence A. Van Dyke.

No. MC 114413 (Sub No. 16), filed May 14, 1958. Applicant: SEABOARD FOOD EXPRESS, INC., P. O. Box 205, 4550 West Colonial Drive, Orlando, Fla. Applicant's attorney: Harry F. Gillis, Mills Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice, jams, jellies, preserves*, and *tomato juice*, in insulated trailers, from North East, Pa., to points in Florida, Georgia, North Carolina, and South Carolina. Applicant is authorized to conduct operations in Maryland, Mississippi, New York, Pennsylvania, Alabama, Florida, New Jersey, North Carolina, South Carolina, District of Columbia, Louisiana, Georgia, Virginia, Ohio, Connecticut Delaware, Massachusetts, and Rhode Island.

HEARING: July 15, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner Michael B. Driscoll.

No. MC 114413 (Sub No. 17), filed May 14, 1958. Applicant: SEABOARD FOOD EXPRESS, INC. P. O. Box 205, 4550 West Colonial Drive, Orlando, Fla. Applicant's attorney: Harry F. Gillis, Mills Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, from Boston, Mass., to Williamsburg, Va. Applicant is authorized to conduct operations in Maryland, Mississippi, New York, Pennsylvania, Alabama, Florida, New Jersey, North Carolina, South Carolina, District of Columbia, Louisiana, Georgia, Virginia, Ohio, Connecticut, Delaware, Massachusetts, and Rhode Island.

HEARING: July 25, 1958, at the New Post Office and Court House Building, Boston, Mass., before Examiner Michael B. Driscoll.

No. MC 115050 (Sub No. 3), filed May 2, 1958. Applicant: DARRELL V. THOMPSON, doing business as THOMPSON TRANSPORT COMPANY, McPherson, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Benzene* (Benzol), *Tolvene* (Tolvol), and *Xylene* (Xylol), from points in Kansas to points in Oklahoma, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return.

HEARING: July 29, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 39, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 115056 (Sub No. 6), filed April 23, 1958. Applicant: CLAUDE BUNDY, doing business as BUNDY TRUCK LINE, Gatesville, N. C. Applicant's attorney: John C. Goddin, State-Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden boxes, box shooks*, and *wooden pallets*, from points in Chowan and Hertford Counties, N. C., to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Ohio, West Virginia, and the District of Columbia; and *damaged, refused or rejected shipments* of the above-described commodities, on return. Applicant is authorized to transport lumber from specified points in North Carolina and Virginia to points in Virginia, Maryland, Pennsylvania, Delaware, New Jersey, the District of Columbia, New York, Connecticut, Ohio, and West Virginia.

HEARING: July 15, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Examiner James C. Cheseldine.

No. MC 115056 (Sub No. 7), filed May 7, 1958. Applicant: CLAUDE BUNDY, doing business as BUNDY TRUCK LINE, Gatesville, N. C. Applicant's attorney: John C. Goddin, State-Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass boats and swimming pools*, from Edenton, N. C., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Pennsylvania, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and West Virginia, and *damaged shipments* of the above commodities on return. Applicant is authorized to conduct operations in North Carolina, Virginia, Maryland, Pennsylvania, Delaware, New Jersey, New York, West Virginia, and the District of Columbia.

HEARING: July 15, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Examiner James C. Cheseldine.

No. MC 115162 (Sub No. 39), filed April 21, 1958. Applicant: WALTER POOLE, doing business as POOLE TRUCK LINE, Evergreen, Ala. Applicant's attorney: Hugh R. Williams, 2284 West Fairview Avenue, Montgomery, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points in Alabama on and south of U. S. Highway 78, on the one hand, and, on the other, points in Tennessee, Kentucky, Georgia, Mississippi, Florida, and Louisiana. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 21, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Allan F. Borroughs.

No. MC 115322 (Sub No. 11), filed May 2, 1958. Applicant: J. M. BLYTHE, doing business as J. M. BLYTHE MOTOR LINES, P. O. Box 489, Sanford, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, and *frozen foods*, from points in Massachusetts to points in Alabama, Mississippi, Georgia, North Carolina, South Carolina, Tennessee, and Virginia. Applicant is authorized to conduct operations in Florida, New York, Virginia, North Carolina, South Carolina, Georgia, Alabama, Pennsylvania, Vermont, New Hampshire, and Maine.

HEARING: July 28, 1958, at the New Post Office and Court House Building, Boston, Mass., before Examiner Michael B. Driscoll.

No. MC 115331 (Sub No. 2), (Republication) filed April 15, 1957, originally published issue of June 5, 1957. Applicant: TRUCK TRANSPORT, INC., Highway 61-67 Crystal City, Mo. Applicant's attorney: B. W. LaTourette, Suite 1230 Boatmen's Bank Building, St. Louis 2, Mo. This is a second publication. Application as originally filed sought authority to operate as a *common carrier*, over irregular routes, transporting: *Ammonia nitrate*, in barrels, bags and in bulk, from Selma, Mo., and points within 5 miles thereof, to points in Illinois, Kentucky, Tennessee, Iowa, Oklahoma, Kansas, and Arkansas, and empty barrels on return. A Report and Order of the Commission, Division 1, dated April 7, 1958, recommended that a certificate authorizing such operations should be granted. By letter dated May 16, 1958, applicant's attorney states that "through a typographical error * * * when the application was filed, the commodity sought to be transported was shown as 'ammonia nitrate' instead of the proper description of 'ammonium nitrate'. It would be greatly appreciated if the proper commodity could be entered * * * as there is no such commodity known as ammonia nitrate." The purpose of this republication is to show the correct commodity: Ammonium nitrate. 30 days will be allowed from the date of this republication within which time any person who may have been prejudiced by the allowance of this amendment may object by filing an appropriate petition.

No. MC 115601 (Sub No. 9), filed April 3, 1958. Applicant: BROOKS ARMORED CAR SERVICE, INC., Delaware Trust Building, Wilmington, Del. Applicant's attorney: H. James Conaway, Jr., Delaware Trust Building, Wilmington, Del. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, negotiable and non-negotiable securities* and *other negotiable and non-negotiable instruments*, in armored vehicles, and *cash letters* (checks for collection) in armored or unarmored vehicles, between Charlotte, N. C., and points in Florence, Horry, Charleston, Orangeburg, Sumter, Richland, Greenwood, Greenville, and Spartanburg Counties, S. C. Applicant is authorized to conduct operations in Delaware and Pennsylvania.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier in No. MC 115601 (Sub No. 6).

HEARING: July 14, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Joint Board No. 2, or, if the Joint Board waives its right to participate, before Examiner James C. Cheseldine.

No. MC 115663 (Sub No. 2), filed May 22, 1958. Applicant: LAURENCE HARBAUGH, 4720 South Locust Street, Grand Island, Nebr. Applicant's attorney: J. Max Harding, 605 South 12th Street, Lincoln 8, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Race horses*, and in connection therewith, *personal effects of attendants*, and *supplies and equipment* used in the care and exhibition of such animals, between points in Arizona, Arkansas, Colorado, Iowa, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, and points in Illinois within 25 miles of East St. Louis, Ill. Applicant is authorized to conduct similar operations between points in Nebraska, South Dakota, Illinois, and Colorado.

NOTE: Applicant seeks no duplication of authority; if the proposed application is granted applicant states it will cancel its Certificate No. MC 115663.

HEARING: July 24, 1958, at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Examiner Leo W. Cunningham.

No. MC 116254 (Sub No. 4), filed April 23, 1958. Applicant: CHEM-HAULERS, INC., P. O. Box 245, Sheffield, Ala. Applicant's attorney: Gordon Allison Phillips, Munsey Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda* and *liquid caustic potash*, in bulk, in tank vehicles, and *liquefied chlorine*, in containers, from Sheffield, Ala., and points within 15 miles thereof to points in Georgia, Tennessee, Mississippi, Kentucky, Arkansas, and Louisiana, and *empty chlorine containers* on return. Applicant is authorized to conduct operations in Alabama, Georgia, Florida, North Carolina, South Carolina, Mississippi, and Louisiana.

HEARING: July 29, 1958, at 680 West Peachtree Street, NW., Atlanta, Ga., before Examiner Allan F. Borroughs.

No. MC 116387 (Sub No. 15), filed May 19, 1958. Applicant: ALABAMA TANK LINES, INC., P. O. Box 36, Powderly Station, Birmingham, Ala. Applicant's representative: H. N. Nunnally, Traffic Mgr., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid coal tar* and *coal tar products*, in bulk, in tank vehicles, from Gadsden, Ala., and points within 10 miles thereof, to points in Tennessee, Georgia, North Carolina, South Carolina, Florida, and Mississippi. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Mississippi, and Tennessee.

HEARING: July 23, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Allan F. Borroughs.

No. MC 116885 (Sub No. 2), filed May 16, 1958. Applicant: R. E. MACY, doing business as MACY BULK CEMENT SERVICE, 106 North University Road, Vermillion, S. Dak. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in specially constructed vehicles, from Rapid City, S. Dak., and points within five (5) miles thereof, to points in Wyoming and Nebraska; and *rejected shipments* of cement, on return.

HEARING: July 11, 1958, at the South Dakota Public Utilities Commission, Pierre, S. Dak., before Joint Board No. 233, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 117151 (Sub No. 2), filed March 31, 1958. Applicant: GEORGIA INDUSTRIAL REALTY COMPANY, a Corporation, 99 Spring Street SW., Atlanta, Ga.

Applicant's attorney: Griffin B. Bell, c/o Spalding, Sibley, Troutman, Meadow & Smith, 434 Trust Company of Georgia Building, Atlanta 3, Ga. Applicant's representative: Arthur J. Dixon, c/o Georgia Industrial Realty Company, 920 15th Street NW., Washington 5, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular route, transporting: *General commodities, including commodities of unusual value*, and *Class A and B explosives* moving in express service, and *mail*, between Brunswick, Ga., and Macon, Ga., from Brunswick over U. S. Highway 341 to Hawkinsville, Ga., thence over U. S. Highway 129 to Cochran, Ga., thence over U. S. Highway 23 to Macon, and return over the same route, serving the intermediate points of Cochran, Hawkinsville, Eastman, Chauncey, Helena, McRae, Lumber City, Everett, Hazelhurst, Graham, Baxley, Surrency, Odum, Jesup, and Gardi, Ga., and the off-route point of Scotland, Ga. Applicant states the proposed service is auxiliary to, or supplemental of, air or railway express service, and further limited to shipments moving on a through bill of lading, or express receipt, covering in addition to movement by motor carrier, an immediately prior or immediately subsequent movement by air or rail.

HEARING: July 30, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 101, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 117209 (Sub No. 2), filed April 17, 1958. Applicant: ARKANSAS CALIFORNIA EXPRESS, INC., 610 East Roosevelt Road, Little Rock, Ark. Applicant's attorney: Louis Tarlowski, Rector Building, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points in Arkansas, on the one hand, and, on the other, points in New Mexico, Arizona, California, Nevada, and Oregon.

HEARING: July 14, 1958, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Walter R. Lee.

No. MC 117294, filed March 26, 1958. Applicant: W. B. STUCKEY, P. O. Box 230, Rhine, Ga. Applicant's attorney: Hal M. Smith, Eastman, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points in Alabama, Georgia, and Florida.

HEARING: July 28, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 117301 (Sub No. 1), filed April 22, 1958. Applicant: EARL STEVENS AND I. R. STEVENS, doing business as I. J. STEVENS & SON, 129 Gordon Road, Wilmington, N. C. Applicant's attorney: Charles H. Young, 1008 Insurance Building, Raleigh, N. C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Creosoted poles, piling*, and *lumber*, from Wilmington, N. C., and points within fifteen (15) miles thereof, to points in South Carolina and Virginia.

HEARING: July 14, 1958, at the North Carolina Utilities Commission, State Library Building, Morgan Street, Raleigh, N. C., before Joint Board No. 196, or, if the Joint Board waives its right to participate, before Examiner James C. Cheseldine.

No. MC 117302, filed March 28, 1958. Applicant: M. L. CONN, GLENN CONN, AND JACK CONN, doing business as M. L. CONN & SONS, Elizabethtown, Ill. Applicant's attorney: Mack Stephenson, 208 East Adams Street, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Ore*, crude or refined, between points in Hardin and Pope Counties, Ill., on the one hand, and, on the other, points in Crittenden, Livingston, Caldwell, and Marshall Counties, Ky.

HEARING: July 16, 1958, at the U. S. Court Rooms and Federal Building, Springfield, Ill., before Joint Board No. 156, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 117303 (Sub No. 1), filed April 17, 1958. Applicant: CHARLES HAWLEY, Salt Point, N. Y. Applicant's attorney: William F. Leahey, 4 Liberty Street, Poughkeepsie, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in hopper-type vehicles, from Hudson, N. Y., to Westfield, Mass.

HEARING: July 18, 1958, at the Federal Building, Albany, N. Y., before Examiner Michael B. Driscoll.

No. MC 117318, filed April 1, 1958. Applicant: LLOYD G. STANLEY, doing business as STANLEY TRUCK LINES, 5830 Pershing Boulevard, Houston, Tex. Applicant's attorney: John W. Carlisle, 422 Perry-Brooks Building, Austin 1, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing*, in rolls and packages, *asbestos siding*, in bundles, and *tar*, in pails, barrels and drums, when such tar is to be used in connection with or incidental to the other materials named, from Houston, Tex., to points in Louisiana, Arkansas, Mississippi, New Mexico, and Oklahoma.

HEARING: July 25, 1958, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner James I. Carr.

No. MC 117348, filed April 18, 1958. Applicant: CHLORINE TRANSPORT, INC., P. O. Box 1191, Jacksonville, Tex. Applicant's attorney: Joe G. Fender, Melrose Building, Houston 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied chlorine gas*, in shipper-owned containers, from Houston, Tex., and points in the Houston, Tex., Commercial Zone, including Deer Park, Tex., to points in Oklahoma, and *shipper-owned empty containers* for liquefied chlorine gas, on return.

HEARING: July 18, 1958, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 16, or, if the Joint Board waives its right to participate, before Examiner James I. Carr.

No. MC 117360 (Sub No. 1), filed May 19, 1958. Applicant: CECIL CRUZON, doing business as CALIFORNIA ACTIVE TRUCK LINES, 2101 North Santa Fe Avenue, Compton, Calif. Applicant's attorney: Phil Jacobson, 510 West Sixth Street, Suite 723, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed cake, flake, and meal*, in bulk, in hopper-type equipment, from the port of entry on the International Boundary Line between the United States and Mexico at or near Calexico, Calif., to points in Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, Calif.

HEARING: June 16, 1958, at the Federal Building, Los Angeles, Calif., before Joint Board No. 304, or, if the Joint Board waives its right to participate, before Commissioner John H. Winchell.

No. MC 117373, filed May 1, 1958. Applicant: PHILLIP N. ENGLE, doing business as NU-WAY TRUCKING, 864 Brookside, Glendale 22, Mo. Applicant's attorney: B. W. LaTourette, Jr., 1230 Boatmens Bank Building, St. Louis 2, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Ice cream, salad dressings, meat*, and *meat products, chili, fountain syrups*, and *miscellaneous equipment and supplies* used in restaurants, between the commissary of Steak 'n Shake, Inc., in St. Louis County, Mo., and the commissary of Steak 'n Shake, Inc., in Bloomington, Ill.: from the commissary of Steak 'n Shake, Inc., in St. Louis County, Mo., over U. S. Highway 40–66 to junction U. S. Highways 40 and Bypass 40, thence over U. S. Bypass 40 to junction U. S. Highway 66, and thence over U. S. Highway 66 to the commissary of Steak 'n Shake, Inc., at Bloomington, Ill., and return over the same route serving no intermediate or off-route points.

NOTE: Applicant states the proposed service will be performed under exclusive contract with Steak 'n Shake, Inc. and the equipment used will be for the exclusive use of said shipper.

HEARING: July 22, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Joint Board No. 135, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 117388, filed May 10, 1958. Applicant: L. Z. WILLIAMS, doing business as WILLIAMS TRANSPORT SERVICE, Hardin, Mo. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commercial liquid fertilizer*, in bulk, and *anhydrous ammonia*, and *empty containers or other such incidental facilities* (not specified) between the Consumers Cooperative Association refinery located three miles east of Lawrence, Kans. on the one hand, and, on the other, points in Missouri; (2) *Liquefied petroleum gas*, and *empty containers or other such incidental facilities* (not specified) between the pipeline terminal located one mile south of Paola, Kans. (known as Ringer Terminal) and the Consumers Cooperative Association re-

fineries located at Coffeyville, McPherson, and Phillipsburg, Kans., on the one hand, and, on the other, points in Missouri.

HEARING: July 24 1958, at the Hotel Pickwick, Kansas City, Mo., before Joint Board No. 36, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 117391, filed May 13, 1958. Applicant: E. L. REDDISH, 711 Shipley Street, Springdale, Ark. Applicant's attorneys: A. Alvis Layne, Jr., Pennsylvania Building, Washington 4, D. C., and John H. Joyce, 26 North College, Fayetteville, Ark. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, as more fully described in the application, from points in Arkansas and Oklahoma to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Maryland, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, North Dakota, South Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin; and *Canned goods*, and *materials* and *supplies*, used in the manufacture of canned goods, such as salt, sugar, metal cans and lids, cardboard boxes, printed labels, fresh vegetables, and fresh fruits, from the above-specified destination points to the above-specified origin points.

NOTE: Applicant states that the operations to be authorized are to be limited to a transportation service to be performed, under a continuing contract, for the following companies: Steele Canning Company, Springdale, Ark.; Keystone Packing Company, Fort Smith, Ark., and Cain Canning Company, Inc., Springdale, Ark.

HEARING: July 23, 1958, at the Hotel Pickwick, Kansas City, Mo., before Examiner Herbert L. Hanback.

No. MC 117396, filed May 22, 1958. Applicant: JOHNSON & SON, INC., 372 Virginia Street, Crystal Lake, Ill. Applicant's attorney: Alfred L. Roth, 188 West Randolph Street, Chicago 1, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, in bulk, (1) from Gary, Ind., and points within 10 miles thereof, to points in Illinois, and to points in Kenosha, Racine, Rock, Walworth, Milwaukee, and Waukesha Counties, Wis.; and (2) from Chicago, Ill., and points within 10 miles thereof, and from Ottawa, Ill., to points in Kenosha, Racine, Rock, Walworth, Milwaukee, and Waukesha Counties, Wis. *Fly ash*, in bags and in bulk, from Chicago, Ill., and points within 10 miles thereof, and from Aurora, Ill., to points in Kenosha, Racine, Rock, Walworth, Milwaukee, and Waukesha Counties, Wis. *Slabs*, concrete, from points in Kenosha, Racine, Rock, Walworth, Milwaukee, and Waukesha Counties, Wis., to points in Illinois and to points in Lake and Porter Counties, Ind.

HEARING: July 11, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 17, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 117397, filed May 14, 1958. Applicant: JOSEPH H. METCALF, doing business as METCALF & SONS, 218 Winchester Street, Keene, N. H. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to express matter having a subsequent or prior movement by aircraft and moving on commercial bills of lading, between Keene, N. H., on the one hand, and, on the other, points in Vermont and New Hampshire within 35 air miles of Keene.

HEARING: July 21, 1958, at the New Hampshire Public Service Commission, Concord, N. H., before Joint Board No. 132, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 117399, filed May 19, 1958. Applicant: LEE E. CHAMP, 809 West 10th Street, Junction City, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and *advertising matter*, (1) from Golden, Denver, and Pueblo, Colo., to points in Kansas on and east of U. S. Highway 81 and points on and north of a line beginning at the junction of U. S. Highways 81 and 56 and extending along U. S. Highway 56 to Marion, thence U. S. Highway 56 to the junction of Kansas Highway 150, thence Kansas Highway 150 to the junction of U. S. Highway 50, thence U. S. Highway 50 to Kansas City, Kans., (2) from Omaha, Nebr., to points in Kansas on and West of U. S. Highway 77 and on and north of U. S. Highway 40, and also Manhattan, Kans., and *empty containers or other such incidental facilities* (not specified) used in transporting the above specified commodities on return.

HEARING: July 28, 1958, at the Hotel Kansan, Topeka, Kans., before Examiner Herbert L. Hanback.

No. MC 117403, filed May 19, 1958. Applicant: LLOYD KOSTNER AND GORDON KAMHOLZ, JR., Doing business as KAMHOLZ & KOSTNER, R. F. D. No. 1, Box 89, Fox River Grove, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, fill sand, limestone dust slag, pyro plaster, bulk cement, fill dirt, top soil, limestone chips and all types of machinery used in road and building construction*, from points in Racine, Kenosha, Walworth, Rock, and Green Counties, Wis., to points in Lake, Cook, McHenry, Boone, Winnebago, Kane, Du Page, and Will Counties, Ill.

NOTE: Applicant describes the service as transportation of construction materials from Consumer's Co. Pit, Quarry or Warehouses in Racine County on the one hand and other companies' pits, quarries or warehouses in Racine, Kenosha, Walworth, Rock, and Green Counties on the other hand, to construction sites in the above-specified counties in Illinois.

HEARING: July 10, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 13, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 117404, filed May 19, 1958. Applicant: JUNIOR SYLVESTER HOUSDEN, R. F. D. No. 1, Charles Town, W. Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Burned lime*, in bulk, in spreader vehicles, from Blair and Martinsburg (Berkeley County), W. Va., to points in Carroll, Montgomery, Howard, Prince Georges, Washington, and Frederick Counties, Md.

HEARING: July 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 113.

No. MC 117406, filed May 19, 1958. Applicant: HAROLD HELFOGT, doing business as RITE WAY SERVICE GARAGE & TOWING, 1258 Rand Road, Des Plaines, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles*, between points in Indiana and Wisconsin and points in Illinois.

NOTE: Applicant states service is predicated upon site of breakdown or wreck where emergency repairs thereto cannot be made to mobilize vehicle operated by members of the Motor Vehicle and Affiliated Truck Owners Associations on one hand and the general public on the other.

HEARING: July 11, 1958, in Room 852, U. S. Customs House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 17, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 117408, filed May 21, 1958. Applicant: NORMAN H. CROSBY, doing business as THE FAHR EXPRESS COMPANY, 86 Jay Place, North Branford, Conn. Applicant's attorney: Charles F. Riddle, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured by or dealt in by the National Gypsum Co., materials and supplies used by such company in its business*, and *returned containers and pallets*, between New Haven, Conn., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New Hampshire, Rhode Island, and Vermont; those in New Castle County, Del., Androscoggin, Cumberland, Kennebec, York, and Sagadahoc Counties, Maine, those in that portion of New York in and east of St. Lawrence, Jefferson, Oswego, Cayuga, Tompkins, and Chemung Counties, and those in that portion of Pennsylvania in and east of Tioga, Lycoming, Northumberland, Dauphin, and Lancaster Counties.

HEARING: July 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Harold W. Angle.

No. MC 117410, filed May 21, 1958. Applicant: TRIPLE "S" DELIVERY SERVICE, INC., 2315 Lincoln Avenue, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by mo-

tor vehicle, over irregular routes, transporting: *General commodities*, between points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission.

NOTE: Applicant states that while the proposed operations are as above stated, its main intent is to seek a Certificate for the transportation of general commodities with no exceptions which would allow the interlining of freight from and to such commercial zone areas.

HEARING: July 22, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Joint Board No. 135, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 117420, filed May 26, 1958. Applicant: MARVIN CROWELL, doing business as MARV'S SHELL SERVICE, 4687 Natural Bridge Road, St. Louis, Mo. Applicant's attorney: Delmar O. Koebel, 406 Missouri Avenue, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, wrecked, disabled or repossessed, in tow-away service by wrecker, between points in Illinois, on the one hand, and, on the other, St. Louis, Mo., and points in St. Louis County, Mo.

HEARING: July 22, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Joint Board No. 135, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub No. 238), filed May 22, 1958. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a Corporation, 180 Boyden Avenue, Maplewood, N. J. Applicant's attorney: Richard Fryling, Law Department, same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at Jersey City, N. J., and extending to Jones Beach, N. Y. Applicant is authorized to conduct operations in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

HEARING: July 14, 1958, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N. J., before Examiner Joint Board No. 3.

No. MC 3677 (Sub No. 40), filed May 23, 1958. Applicant: W. M. A. TRANSIT COMPANY, a Corporation, 4421 Southern Avenue, SE., Bradbudy Heights, Md. Applicant's attorney: Earl M. Foreman, Tower Building, Washington 5, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, between Hillcrest Heights, Md., and Marlow Heights, Md.: from junction 23d Parkway and Iverson Street, Hillcrest Heights, over 23d Parkway to Kenton Place, thence over Kenton Place to 28th Avenue, and thence over 28th Avenue to Marlow Heights, and return over the same route, serving all intermediate points. Applicant is authorized to conduct similar operations in the District of Columbia and Maryland.

HEARING: July 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 112.

No. MC 68167 (Sub No. 32), filed May 12, 1958. Applicant: WASHINGTON, VIRGINIA AND MARYLAND COACH CO., INC., doing business as W. V. & M COACH CO., 707 North Randolph Street, Arlington, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, and *express, mail, newspapers*, and *papers*, in the same vehicle with passengers, between junction Virginia Highways 649 and 709 over Virginia Highway 649, Annandale Road, to junction Virginia Highway 236, Fairfax County, Va., serving all intermediate points. Applicant is authorized to conduct operations in Maryland and Virginia, and the District of Columbia.

HEARING: July 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 108.

No. MC 96318 (Sub No. 1), filed May 26, 1958. Applicant: PITTSFIELD YELLOW CAB COMPANY, 99 New West Street, Pittsfield, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in special round trip operations, during the racing season, with no pickup or discharge enroute, beginning and ending at Pittsfield, Mass., and extending to Saratoga Raceway, Saratoga Springs, N. Y.; (2) *Passengers and their baggage*, in special round trip operations, year-round, beginning and ending at Great Barrington, Stockbridge, Lenox, Pittsfield, North Adams, Adams, and Cheshire, Mass., and extending to New Lebanon, N. Y. Applicant is authorized to conduct operations in Massachusetts, New York, and Connecticut.

NOTE: Applicant states that the operations under route 2 above will be special round trip operations, restricted to the transportation of passengers and their baggage, who, at the time, are travelling for the purpose of participating in games commonly known as Beano and Bingo games, in New Lebanon, N. Y.

HEARING: July 18, 1958, at the Federal Building, Albany, N. Y., before Examiner Michael B. Driscoll.

No. MC 109665 (Sub No. 5), filed April 3, 1958. Applicant: ARGENTINE TRANSIT LINES, INC., 1800 Steele Road, Kansas City, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, between junction Kansas Highway 10 and Pflumm Road in Merriam, Johnson County, Kans., and junction Ninth and Main Streets in Kansas City, Mo.: From junction Kansas Highway 10 and Pflumm Road in Merriam, Johnson County, Kans., in a northerly direction along Pflumm Road to junction Johnson Drive, thence in a northeasterly direction along Johnson Drive to junction Quivira Road, thence north along Quivira Road to junction 55th Street, thence east along 55th Street to junction Nieman Road, thence south along Nieman Road to junction Rogers Drive, thence southeasterly along Rogers Drive to junction 62d Street, thence east along 62d Street to junction Ballentine Drive, thence north along Ballentine Drive to junction Johnson Drive, thence east along Johnson Drive to junction Merriam Lane, thence northeasterly along Merriam Lane to junction Southwest Boulevard (Wyandotte County), thence northeasterly along Southwest Boulevard to the Kansas-Missouri State line, thence continue along Southwest Boulevard to junction Main Street, thence north along Main Street to junction Seventh Street, thence west along Seventh Street to junction Delaware Street, thence south along Delaware Street to junction Main Street (at Ninth Street) in Kansas City, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Kansas and Missouri.

HEARING: July 24, 1958, at the Hotel Pickwick, Kansas City, Mo., before Joint Board No. 36, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 112559 (Sub No. 3), filed May 12, 1958. Applicant: KANSAS CITY-LEAVENWORTH BUS LINES, INC., 1320 Ottawa Street, Leavenworth, Kans. Applicant's attorney: A. J. Stanley, Jr., 518 Brotherhood Building, Kansas City 1, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, between the junction of Kansas Highway 5 and Wyandotte County Lake Road and the junction of Kansas Highway 5 and North 91st Street, over Wyandotte County Lake Road, serving all intermediate points.

NOTE: The above route is located in Wyandotte County, Kans. Applicant is authorized to conduct operations in Kansas and Missouri.

HEARING: July 28, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 52, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 116675 (Sub No. 1), filed April 25, 1958. Applicant: JOSEPH RICIGLIANO, doing business as RITCHIE SIGHTSEEING SERVICE, 116 Delaware Avenue, Buffalo, N. Y. Applicant's attorney: Clarence E. Rhoney, 631 Niagara Street, Buffalo 1, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special round-trip sightseeing tours beginning and ending at Buffalo, N. Y., and extending to Ports of entry on the boundry between the United States and Canada at or near Buffalo (via Peace Bridge), Niagara Falls (via Rainbow Bridge), and Lewiston (via Lewiston Bridge), N. Y.

NOTE: Applicant states the seating capacity of the vehicle to be used in the proposed operation will transport eight (8) passengers, not including the driver thereof and not including children under ten years of age.

HEARING: July 16, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner Michael B. Driscoll.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 30319 (Sub No. 95), filed May 26, 1958. Applicant: SOUTHERN PACIFIC TRANSPORT COMPANY, 810 North San Jacinto Street, P. O. Box 4054, Houston, Tex. Applicant's attorney: Edwin N. Bell, Esperson Building, Houston 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between the intersection of Louisiana Highway 14 and unnumbered parish road 6 miles west of Lake Arthur, La., and the plant site of Superior Oil Co., 5 miles south of said intersection, over unnumbered parish road, serving no intermediate points. Applicant is authorized to conduct operations in Louisiana and Texas.

NOTE: Dual operations or common control may be involved.

No. MC 53965 (Sub No. 17), filed May 23, 1958. Applicant: GRAVES TRUCK LINE, INC., 739 North 10th Street, Salina, Kans. Applicant's attorney: Michael A. Barbara, V. F. W. Building, Room 304, 214 West Sixth Street, Topeka, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including those of unusual value, and commodities in bulk*, but excluding Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Kansas City, Mo., and Wichita, Kans., over the Kansas Turnpike, serving all intermediate points. Applicant is authorized to conduct regular route operations in Kansas and Missouri, and irregular route operations in Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming.

NOTE: Applicant holds common carrier authority in Certificate No. MC 53965 (Sub No. 16) to transport general commodities with the usual exceptions, between Kansas City, Mo., and Wichita, Kans., serving no intermediate points, as an alternate route for operating convenience only. Duplication should be eliminated.

No. MC 59314 (Sub No. 3), filed May 23, 1958. Applicant: ARTHUR PARVIN, doing business as ARTHUR PRAVIN'S TRANSFER, 15 East Harmony Street, Penns Grove, N. J. Applicant's attorney: Matthew Aaron, 70 North Laurel Street, Bridgeton, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities, in bulk, and those requiring special equipment, (1) between Millville, N. J., and Cape May, N. J., from Millville over New Jersey Highway 47 to junction County Highway 585 thence over County Highway 585 to Cape May Court House, thence continuing over County Highway 585 to junction U. S. Highway 9, thence over U. S. Highway 9 to Cape May, and return over the same route, serving all intermediate points, and the off-route points of Lessburg, Mauricetown, Woodbine, and Wildwood, N. J. (2) Between Buena, N. J., and Cape May, N. J., from Buena over County Highway 557 to Estell Manor, N. J., thence continuing over County Highway 557 to junction New Jersey Highway 50, thence over New Jersey Highway 50 to Seaville, N. J., thence over U. S. Highway 9 to Cape May, and return over the same route, serving all intermediate points including Tuckahoe, N. J., and the off-route points of Cape May Court House, Woodbine, and Wildwood, N. J. (3) between junction New Jersey Highway 77 and County Highway 540, from junction New Jersey Highway 77 and County Highway 540 over County Highway 540 to junction U. S. Highway 40, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Woodbury, and Bridgeton, N. J., between Elmer and Bridgeton, N. J., and between Malaga and Mays Landing, N. J. (4) between Millville, N. J., and Hammonton, N. J., over New Jersey Highway 54, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Mays Landing and Camden, N. J., between Malaga and Mays Landing, N. J., and the authorized alternate route between Carneys Point and Millville, N. J., and (5) between Grenloch, N. J., and Williamstown, N. J., over New Jersey Highway 42, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Camden, N. J., and Grenloch, and between Glassboro and Williamstown, N. J. Applicant indicates the service authorized herein will be subject to the following conditions: The service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of the Pennsylvania-Reading Seashore Lines, hereinafter called the Railroad. Such carrier shall not serve any point not a station on the rail line of the railroad. The service to be performed by said carrier shall be limited to the transportation of commodities moving on a through bill of lading, or express receipt, covering in addition to the motor carrier movement by said carrier, an immediately prior or immediately subsequent movement by rail. All contractural arrangements between said carrier and the railroad shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to be necessary in order that such arrangements shall be fair and equitable to the parties. Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict said carrier's operation to service which is auxiliary to, or supplemental of, rail service. Applicant is authorized to conduct similar operations in New Jersey.

No. MC 66562 (Sub No. 1423), filed May 26, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular route, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Morristown, Tenn., and Rogersville, Tenn., from Morristown, over U. S. Highway 11-E to Bulls Gap, Tenn., thence over Tennessee Highway 66 to Rogersville, Tenn., thence over U. S. Highway 11-W to junction U. S. Highway 25-E, thence over U. S. Highway 25-E to Morristown, and return over the same route, serving the intermediate point of Bulls Gap, Tenn. Applicant indicates the service proposed to be performed by applicant will be limited to service which is auxiliary to or supplemental of express service. Shipments proposed to be transported by applicant will be limited to those moving on a through bill of lading or express receipt covering in addition to the motor carrier movement by applicant an immediately prior or immediately subsequent movement by rail or air. Applicant is authorized to conduct operations throughout the United States.

No. MC 89693 (Sub No. 28), filed May 19, 1958. Applicant: J. D. HARMS, doing business as HARMS PACIFIC TRANSPORT, 14410 State Hiway No. 2, Bellevue, Wash. Applicant files this application for the purpose of changing its authorized operations in Certificate MC 89693 Sub No. 26 from a seasonal to a year-round authority. Applicant is authorized in the above certificate to transport *liquid fertilizers* (except anhydrous ammonia), in bulk in tank vehicles, over irregular routes in seasonal operations from February 1 to May 31 and from August 1 to November 30 of each year, inclusive, from Finley and Pasco, Wash., and points within 5 miles of each, to points in Oregon in and east of Wasco, Jefferson, Deschutes, and Klamath Counties, Oreg., and to points in Idaho in and north of Idaho County, Idaho.

NOTE: Applicant has filed appropriate application with this Commission to change its operations from J. D. Harms, individual, doing business as Harms Pacific Transport, to a partnership as follows: J. D. Harms, J. D. Harms, Jr., and Gretchen Harms, a partnership, doing business as Harms Pacific Transport, assigned No. MC-FC 61252.

No. MC 100592 (Sub No. 14), filed May 29, 1958. Applicant: JAMES STUFFO, INC., 3010 North 21st Street, Philadelphia 32, Pa. Applicant's attorney: M. Randall Marston, 515 East Wynnewood Road, Merion Station, Pa. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings therefor*, from East

Liverpool, Ohio, and points in Ohio within 75 miles thereof, to Philadelphia, Pa., and points in Pennsylvania within 50 miles thereof, and to points in New Jersey, Delaware, Maryland, and New York, and *empty containers or other such incidental facilities* (not specified) and *pallets* used in transporting the above-described commodities, and *damaged, defective, and returned shipments* of the same commodities on return. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212 (c) in No. MC 100592 (Sub No. 12) to determine whether applicant's status is that of a common or contract carrier.

No. MC 107403 (Sub No. 262), filed May 29, 1958. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Wilford Building, Philadelphia 4, Pa. Applicant's attorney: Paul F. Barnes, 811–819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Delaware City, Del., to Petersburg, W. Va. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

No. MC 114004 (Sub No. 21), filed May 28, 1958. Applicant: ARKANSAS TRUCKING CO., INC., 8828 New Benton Highway, Little Rock, Ark. Applicant's attorney: Ed E. Ashbaugh, 902 Wallace Building, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, by truckaway service (excluding Utility Rental trailers), from Crossville, Tenn., and points within 15 miles thereof, to points in the United States except Mount Clemons, Detroit, and Flint, Mich., and *damaged or refused trailers*, on return. Applicant is authorized to conduct similar operations from and between specified points in Arkansas to points in the United States.

No. MC 115924 (Sub No. 5), filed May 26, 1958. Applicant: SUGAR TRANSPORT, INC., 11700 Shaker Boulevard, Cleveland 20, Ohio. Applicant's attorney: Ewald E. Kundtz, 1104 Terminal Tower, Cleveland 13, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar*, in bulk, in tank vehicles, from Wilmington, N. C., to points in Virginia, Tennessee, and South Carolina, and *rejected* or *returned shipments* of the above commodities on return. Applicant is authorized to transport the above commodities in Georgia, Tennessee, Florida, Georgia, North Carolina, and South Carolina.

NOTE: Applicant states that the above transportation will be conducted under a continuing contract with one person (as defined in section 203 (a) (1) of the Interstate Commerce Act), who operates manufacturing plants, the principal business of which is the production of sugar.

MOTOR CARRIERS OF PASSENGERS

No. MC 28680 (Sub No. 20), filed May 23, 1958. Applicant: JORDAN BUS COMPANY, a Corporation, JORDAN BUS TERMINAL, Hugo, Okla. Applicant's attorney: Max G. Morgan, 443–54 American Nat'l. Building, Oklahoma City 2, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, between Wister, Okla., and junction U. S. Highways 59 and 271 (3 miles southwest of Poteau), Okla: from Wister over U. S. Highway 270 to Heavener, Okla., and thence over U. S. Highway 59 to junction U. S. Highway 271, and return over the same route, serving all intermediate points. Applicant is authorized to conduct similar operations in Oklahoma, Texas, and Arkansas.

NOTE: Applicant states it is authorized to conduct operations between Wister and Poteau over U. S. Highway 271 and seeks no duplicating authority; applicant states that the proposed operation merely adds a loop serving Heavener and Howe, Okla.

APPLICATION FOR BROKERAGE LICENSE

No. MC 12681, filed May 26, 1958. Applicant: THOMPSON TRAVEL BUREAU, INC., 621 Lackawanna Avenue, Scranton 3, Pa. Applicant's attorney: Robert H. Griswold, Commerce Building, Harrisburg, Pa. For a license (BMC 5) authorizing operations as a *broker* at Scranton and Philadelphia, Pa., Newark, N. J., and Binghamton, Rochester, and Syracuse, N. Y., in arranging for transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, between points in the United States.

NOTE: The purpose of this application is to transfer License No. 12310, held by Roy Howarth Thompson, doing business as Thompson Travel Bureau to the corporation, Thompson Travel Bureau, Inc. If and when the authority applied for herein is granted, the operations authorized in No. MC 12310 should be canceled.

PETITIONS

No. MC 37257 (common carrier application) and No. MC 84781 (contract carrier application), PETITION, dated May 21, 1958, TO RECONSIDER "GRANDFATHER" APPLICATIONS AND CORRECT CERTIFICATE, CENTRAL JERSEY MOTOR LINES, INC., 728 State Street, P. O. Box 124, York, Pa. Petitioner's attorney: Donald W. Cross, 1329 E Street NW., Washington 4, D. C. Central Jersey Motor Lines, Inc., petitioner, seeks waiver of Rule 101 (e) of the Commission's general rules of practice, and to reopen and reconsider Dockets Nos. MC 37257 and MC 84781, and upon such reconsideration, remove certain restrictions from the Certificate granted in No. MC 37257 and simultaneously upon such removal, revoke the Permit issued in No. MC 84781. Petitioner has a certificate and a permit, obtained as a result of separate applications filed under the "grandfather" clause because petitioner at that time was unaware of its status. The certificate authorizes the transportation of general commodities with certain exceptions, among which are (1) Metal office furniture and equipment, and (2) bakery goods and containers. Petitioner recites that the "metal office furniture and equipment" restriction was apparently inserted because the permit authorized contract carriage of this commodity description in a territory part of which was included in the common carrier grant. Petitioner states that no reason appears for the insertion of the "bakery goods and containers" restriction; that the records establish that the application in No. MC 37257 sought authority to continue operations as a common carrier of "commodities generally except articles of extraordinary value or dimensions or articles likely to impregnate or otherwise damage other freight"; that upon analysis, it is clear that the commodities "metal office furniture and equipment" and "bakery goods and containers" were, on and after the crucial date, being transported as a common carrier. Therefore, petitioner seeks (1) leave to file this petition; (2) reopen the proceedings and reconsider the dockets on the present record; (3) remove from the certificate in No. MC 37257 the exception against the transportation of bakery goods and containers, and metal office furniture and equipment; and (4) upon said removal, revoke the permit in No. MC 84781.

No. MC 67916 (Sub No. 3), PETITION (dated April 24, 1958), FOR REOPENING, RECONSIDERATION AND MODIFICATION OF ORDERS DATED May 18, 1948, and July 31, 1951, THE NEW YORK CENTRAL RAILROAD COMPANY (COMMON CARRIER APPLICATION) 466 Lexington Avenue, New York, N. Y. Petitioner's attorneys: Herbert Burstein, and Kenneth H. Lundmark, 466 Lexington Avenue, New York 17, N. Y. The New York Central Railroad Company, petitioner, seeks reopening of this proceeding for the purpose of reconsidering and modifying the Commission's orders dated May 18, 1948 and July 31, 1951 in No. MC 67916 Sub-3, by the elimination of the conditions naming Anderson, Greensburg, Lafayette, and Terre Haute, Ind., as key points, in support of which petitioner states: (1) that in its Certificate dated May 18, 1948 certain key point restrictions were imposed, barring petitioner from transportation of shipments between said key points; (2) that upon petition for reconsideration and modification filed by petitioner on or about November 13, 1950, Certificate of May 18, 1948, was modified in part, as set forth in Certificate dated July 31, 1951 which represents petitioner's present operating authority; and (3) that on or about July 20, 1956, petitioner filed a petition for reconsideration and modification of the aforesaid orders by eliminating the conditions naming specified key points insofar as such key points are applicable to commodities handled in Railway Express Service, and to milk,

cream, newspapers and newspaper supplements moving in rail baggage service. On March 28, 1958, Division 1 served its report granting said application and thereby modified condition 3 of Certificate MC 67916 Sub 3. Petitioner contends, in part, that the key points involved in this petition result in waste and inefficiency and impair service to the public; that the four key points involved compel the unnecessary use of box cars; and that their removal will also aid in the expeditious movement of traffic by rail in that multiple handlings at the key points will be eliminated. Petitioner states that the modification here sought will not adversely effect existing motor carriers or alter the present competitive position of petitioner; wherefore, petitioner seeks reopening, and modification of the aforesaid orders so as to enable it to provide substituted-motor-for-rail service from any restrictive key-point conditions at Anderson, Lafayette, Greensburg, and Terre Haute, Ind.

No. MC 109598, PETITION FOR LEAVE TO FILE PETITION, AND FOR LIFTING A RESTRICTION, dated April 4, 1958, CAROLINA SCENIC STAGES, a Corporation, P. O. Box 767, Spartanburg, S. C. Petitioner's attorney: Wilmer A. Hill, Transportation Building, Washington 6, D. C. Carolina Scenic Stages, petitioner, (successor to Carolina Scenic Coach Lines) requests leave to file the instant petition, which seeks to eliminate the following restriction contained on Sheet 6 of petitioner's Certificate No. MC 109598 dated August 13, 1957: "* * * restricted against service from Hendersonville, N. C., to Asheville, N. C., except that part of Asheville west of French Broad River, and known as West Asheville, N. C., and restricted against service from that part of Asheville on the east side of French Broad River to Hendersonville". Petitioner states the above restriction, which formerly appeared in North Carolina intrastate certificate previously issued to Carolina Scenic Coach Lines by the North Carolina Utilities Commission, crept into the interstate certificate issued by the Interstate Commerce Commission, which it states was an obvious error. Petitioner states it has, from the very beginning of its operations in interstate or foreign commerce, transported passengers, etc., between Asheville and Hendersonville, destined to points beyond the borders of North Carolina or coming from points beyond those borders. Wherefore, petitioner seeks a corrected certificate which will remove the language set forth above, appearing at Sheet 6 of petitioner's certificate of August 13, 1957.

Petitions to Redefine Commercial Zone Limits

The following petitions relative to the limits of the zone adjacent to and commercially a part of a municipality within the meaning of section 203 (b) (8) of the Interstate Commerce Act has been received and will be processed in the manner hereinafter indicated.

In Ex Parte No. MC–7, Washington, D. C. Commercial Zone, a petition dated May 22, 1958, as amended or supplemented June 4, 1958, has been filed by the Bethesda-Chevy Chase Chamber of Commerce seeking redefinition of the limits of the commercial zone of Washington, D. C., in a manner to expand said zone to include an area in Maryland beyond the area proposed to be included by the petition filed by the Rockville Chamber of Commerce, Inc., et al., published herein on January 15, 1958.

Executive Director of the Bethesda-Chevy Chase Chamber of Commerce, James A. Barr, Perpetual Building, Bethesda, Md., is representative for petitioner.

The limits of the commercial zone of *Washington, D. C.* as heretofore determined are specifically set forth in Ex Parte No. MC–7, *Washington, D. C., Commercial Zone*, 54 M. C. C. 797, 798 (Prior Reports: 3 M. C. C. 243, 48 M. C. C. 460) (49 CFR 170.4).

Petitioner seeks enlargement of the above-described zone limits and of the limits proposed by the Rockville Chamber of Commerce, Inc, et al., to include an area in Montgomery County, Md., bounded generally on the south by River Road, on the west by Piney Meeting House Road, Travilah Road, Dufief Mill Road, Maryland Highways 124 and 28, and various other highways and roads to and including Gaithersburg, Md., on the north by Maryland Highways 124 and 115, and on the east by Derwood Road, Fields Road, Shady Grove Road, and Glen Road.

Oral hearing will be held on this petition and on the pending petitions of Rockville Chamber of Commerce, Inc., et al., and the Economic and Industrial Development Committee of Fairfax County, notice of which was published January 15, 1958, on a consolidated record, at the time, and place and before the examiner later to be designated. Persons supporting or opposing the changes in the present zone limits proposed by this petition and who desire to participate in future proceedings on this petition or be notified of any action thereon, should notify the Commission and petitioner or its representative of their desire on or before 30 days from the date of this publication.

Applications Under Sections 5 and 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F 6912 (correction) (DAVID RUKIN—CONTROL—WEST FORDHAM TRANSPORTATION CORP.), published in the May 28, 1958, issue of the Federal Register on page 3686. The address of applicant's affiliate, HUDSON TRANSIT LINES, INC., should have been shown as Mahwah, N. J.

No. MC–F 6923. Authority sought for purchase by BYERS TRANSPORTATION COMPANY, INC., 901 Washington, Kansas City, Mo., of a portion of the operating rights of W. E. MURRAY TRANSFER & STORAGE CO., 2112 Grand Avenue, Kansas City, Mo. Applicants' attorney: Lowell L. Knipmeyer, 900 Waltower Building, Kansas City, Mo. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over irregular routes between points in Clay, Jackson, and Platte Counties, Mo., and Douglas, Johnson, Leavenworth, and Wyandotte Counties, Kans. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, and Illinois. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6924. Authority sought for control by ARTHUR JONES, 235 Keats Avenue, Elizabeth, N. J., of JONES TRUCKING CO., 847 Flora Street, Elizabeth, N. J. Applicant's attorney: Bert Collins, 140 Cedar Street, New York 6, N. Y. Operating rights sought to be controlled: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over irregular routes, between points in Essex, Hudson, Bergen, Passaic, Union, and Middlesex Counties, N. J., on the one hand, and, on the other, certain points in New York, Pennsylvania, and Connecticut, between Newark, Kearny, and Harrison, N. J., on the one hand, and, on the other, points in the NEW YORK, N. Y., COMMERCIAL ZONE, as defined by the Commission, and between New York, N. Y., and points in Westchester and Nassau Counties, N. Y., on the one hand, and, on the other, certain points in New Jersey; *lard and dog food*, from Long Island City, N. Y., to Scranton, Pa., and Binghamton, N. Y. ARTHUR JONES holds no authority from this Commission; however, he is the majority stockholder of FOOD PRODUCTS TRUCKING CO., Linden, N. J., which is authorized to operate as a *contract carrier* in New York, New Jersey, Pennsylvania, Connecticut, Maryland, and Delaware. Application has been filed for temporary authority under section 210a (b).

No. MC–F 6925. Authority sought for control by SONDELL COLEMAN and RAYMOND BUCH, both of 854 South 16th Street, Harrisburg, Pa., of MERCHANTS DELIVERY, INC., 854 South 16th Street, Harrisburg, Pa., and BUCH EXPRESS, INC., 2800 Paxton Street, Harrisburg, Pa. Applicants' attorney: Christian V. Graf, 11 North Front Street, Harrisburg, Pa. Operating rights sought to be controlled: (MERCHANTS DELIVERY, INC.) Authority applied for covering the transportation of *general commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over irregular routes from Harrisburg, Pa., to certain points in Pennsylvania; (BUCH EXPRESS, INC.) *general commodities*, except Class A and B explosives, and except livestock, household goods as defined by the Commission, and commodities requiring special equipment, as a *common carrier* over regular routes between Harrisburg, Pa., and New York,

N. Y., serving certain intermediate and off-route points; *general commodities*, with certain exceptions including household goods and commodities in bulk, between York, Pa., and Frederick and Williamsport, Md., and Reading, Pa., between Hamburg, Pa., and Philadelphia, Pa., between Millersburg, Pa., and Lemoyne, Pa., between Schuylkill Haven, Pa., and Harrisburg, Pa., and between Lewistown, Pa., and Duncannon, Pa., serving all intermediate points; *grocery store supplies*, between Baltimore, Md., and York, Pa., and from York, Pa., to Lebanon, Pa., serving certain intermediate points; *macaroni*, from Lebanon, Pa., to Baltimore, Md., serving the intermediate point of Harrisburg, Pa., restricted to pick-up only; *bedding*, from Baltimore, Md., to Hershey, Pa., serving no intermediate points; *general commodities*, with certain exceptions including household goods and excluding commodities in bulk, over irregular routes, between points in Harford County, Md., on the one hand, and, on the other, certain points in Pennsylvania; *general commodities*, with certain exceptions including household goods and commodities in bulk, between Baltimore, Md., on the one hand, and, on the other, certain points in Maryland, between New York, N. Y., and Jersey City, N. J., on the one hand, and, on the other, points in Westchester, Nassau, and Suffolk Counties, N. Y., between certain points in New Jersey, on the one hand, and, on the other, certain points in Pennsylvania, and from certain points in New Jersey to certain points in Pennsylvania; *household goods* as defined by the Commission, and *general commodities*, with certain exceptions including commodities in bulk, between points in the WASHINGTON, D. C., COMMERCIAL ZONE, as defined by the Commission, and between points in the WASHINGTON, D. C. COMMERCIAL ZONE, as defined by the Commission, on the one hand, and, on the other, certain points in Maryland and Virginia; *canned goods*, from Baltimore, Md., and points within 50 miles of Baltimore, to certain points in Pennsylvania; *grocery store supplies and bedding*, from Baltimore, Md., to certain points in Pennsylvania; *chains*, from York, Pa., to Wilmington, Del.; *leather and leather goods*, from Williamsport, Md., to Binghamton and Rochester, N. Y., and Philadelphia, Pa.; *Paper and paper products*, from York Haven, Pa., to Hagerstown, Md.; *rubber heels, soles, and materials* used in the manufacture of heels and soles, between Hagerstown, Md., on the one hand, and, on the other, Binghamton, N. Y., and between Gettysburg, Pa., on the one hand, and, on the other, Winchester, Va., Binghamton, New York, Dansville, and Rochester, N. Y., and Hagerstown and Westminster, Md.; *fresh meats*, from Royalton, Pa., to Utica, Binghamton, Waterford, Cohoes, and Albany, N. Y. SONDELL COLEMAN and RAYMOND BUCH hold no authority from this Commission; however, they are affiliated with the corporations sought to be controlled herein. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6926. Authority sought for purchase by HERBERT GRAVER, CLAIR GRAVER, CARL GRAVER and JOHN GRAVER, doing business as C. GRAVER TRUCKING, 1007 North Ninth Street, Stroudsburg, Pa., of a portion of the operating rights of PINE HILLS DISPATCH, INC., First Trust & Bank Building, Perth Amboy, N. J. Applicants' attorney: Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N. J. Operating rights sought to be transferred: *Fertilizer*, as a *common carrier* over irregular routes, from Carteret, N. J., to points in Chenango, Delaware, Otsego, Schoharie, Ulster, and Greene Counties, N. Y., and from Kearny, N. J., and Bridgeport and New Haven, Conn., to points in Chenango, Delaware, and Otsego Counties, N. Y., and those within 20 miles of Harpersfield, N. Y.; *rejected shipments of fertilizer*, from points in Chenango, Delaware, Otsego, Schoharie, Ulster, and Greene Counties, N. Y., to Carteret, N. J., and from points in Chenango, Delaware, and Otsego Counties, N. Y., and those within 20 miles of Harpersfield, N. Y., to Kearny, N. J., and Bridgeport and New Haven, Conn. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, and Pennsylvania. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-4407; Filed, June 10, 1958; 8:49 a. m.]

[Notice 39]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 6, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operation unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-2900 (Deviation No. 1), GREAT SOUTHERN TRUCKING COMPANY, P. O. Box 2408, Jacksonville, Fla., filed May 29, 1958. Attorney for said carrier, J. E. Allen, 1863 Clarkson Street, Jacksonville, Fla. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route between Jacksonville, Fla., and Charlotte, N. C., as follows: from Jacksonville over U. S. Highway 17 to junction Georgia Highway 303, thence over Georgia Highway 303 to junction U. S. Highway 25, thence over U. S. Highway 25 to Statesboro, Ga., thence over U. S. Highway 301 to junction Georgia Highway 24 approximately five miles north of Sylvania, Ga., thence over Georgia Highway 24 to Louisville, Ga., thence over U. S. Highway 221 to Wrens, Ga., thence over Georgia Highway 17 to junction U. S. Highway 378 approximately two miles east of Washington, Ga., thence over U. S. Highway 378 to Saluda, S. C., thence over South Carolina Highway 19 to Newberry, S. C., thence over South Carolina Highway 22 via Winnsboro to junction U. S. Highway 21 approximately two miles south of Great Falls, S. C., thence over U. S. Highway 21 to junction South Carolina Highway 97, thence over South Carolina Highway 97 to junction South Carolina Highway 200, thence over South Carolina Highway 200 to Lancaster, S. C., thence over South Carolina Highway 9 to Pageland, S. C., thence over U. S. Highway 601 to Monroe, N. C., thence over U. S. Highway 74 to Charlotteville and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes; from Winston-Salem, N. C., over U. S. Highway 311 to junction U. S. Highway 220, thence over U. S. Highway 220 to Asheboro, N. C., thence over North Carolina Highway 49 to junction North Carolina Highway 6, thence over North Carolina Highway 6 to junction U. S. Highway 52, thence over U. S. Highway 52 to Albemarle, N. C., and thence over North Carolina Highway 27 to Charlotte, N. C.; from Winston-Salem over specified routes to Greenville, S. C., thence over U. S. Highway 123 to the South Carolina-Georgia State line, and thence over Georgia Highway 13 to Atlanta, Ga.; from Atlanta, Ga., over U. S. Highway 411 to Perry, Ga., thence over U. S. Highway 341 to Baxley, Ga., and thence over U. S. Highway 1 to Jacksonville, Fla.; and return over the same routes.

No. MC-10928 (Deviation No. 3), SOUTHERN-PLAZA EXPRESS, INC., P. O. Box 837, Dallas 21, Tex., filed June 2, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between junction of Illinois Highway 50 and Illinois Highway 49 (redesignated as U. S. Highway 54) and Chicago, Ill., as follows: from junction Illinois Highway 50 and U. S. Highway 54 over Illinois Highway 50 to Chicago and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between St. Louis, Mo., and Chicago, Ill., over the following pertinent

route: from St. Louis over U. S. Highway 66 to junction Illinois Highway 48, thence over Illinois Highway 48 to Fullerton, Ill., thence over U. S. Highway 54 to Onarga, Ill., thence over U. S. Highway 45 to Kankakee, Ill., and thence over Illinois Highway 49 to Chicago.

No. MC-69116 (Deviation No. 4), SPECTOR FREIGHT SYSTEM, INC., 3100 South Wolcott Avenue, Chicago 8, Ill., filed May 23, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Interchange No. 1 (Westpoint) of the Northern Indiana Toll Road and Interchange No. 11 (Eastpoint) of the said Toll Road, as follows: from Interchange No. 1 of the Northern Indiana Toll Road over the Northern Indiana Toll Road to Interchange No. 11 and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between the Illinois-Indiana State line and the Indiana-Ohio State line over U. S. Highways 6, 20, 30, and 24.

No. MC-72444 (Deviation No. 1), THE AKRON-CHICAGO TRANSPORTATION COMPANY, INC., 1016 Triplett Boulevard, Akron 16, Ohio, filed May 19, 1958. Attorney for said carrier, Charles R. Iden, 2200 First National Tower, Akron 8, Ohio. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Owego, N. Y., and Binghamton, N. Y., as follows: from Owego over New York Highway 17 to Binghamton and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Owego, N. Y., and Binghamton, N. Y., over New York Highway 17C (formerly New York Highway 17).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-4406; Filed, June 10, 1958; 8:49 a .m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 6, 1958.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34740: *Crushed stone and screenings—Illinois points to Hobart, Ind.* Filed by Traffic Executive Association-Eastern Railroads, Agent (CTR No. 2379), for interested rail carriers. Rates on crushed stone or crushed stone screenings, in bulk, open-top carloads from Bellwood and McCook, Ill., to Hobart, Ind.

Grounds for relief: Motor truck competition.

Tariff: Supplement 16 to Trunk Lines-Central Territory Railroads Tariff Bureau tariff I. C. C. 4767 (Hinsch series).

FSA No. 34741: *TOFC service rates between Springfield, Mo., and western points.* Filed by Western Trunk Line Committee, Agent (WTL No. A-1985), for interested rail carriers. Rates on various commodities loaded in demountable trailer bodies and transported in open-top railroad cars, also freight loaded in or on trailers and transported on railroad flat cars between Springfield, Mo., and stations in Illinois, Iowa, Kansas, and Minnesota.

Grounds for relief: Motor truck competition.

Tariff: Supplement 14 to Western Trunk Lines tariff I. C. C. A-4213.

FSA No. 34742: *Paper and related articles—Fremont, Nebr., to western points.* Filed by Western Trunk Line Committee, Agent (WTL No. A-1988), for interested rail carriers. Rates on paper and related articles, carloads from Fremont, Nebr., to points in Colorado, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

Grounds for relief: Short-line distance formula.

Tariff: Supplement 12 to Western Trunk Lines Tariff I. C. C. A-4190.

FSA No. 34743: *Substituted service—Rail and motor, C. & N. W. Ry.* Filed by Middlewest Motor Freight Bureau, Agent (No. 108), for interested rail and motor carriers. Rates on freight loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., on the one hand, and Altoona and Eau Claire, Wis., on the other.

Grounds for relief: Motor truck competition.

Tariff: 76 to Middlewest Motor Freight Bureau, Agent, tariff MF I. C. C. 223.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-4405; Filed, June 10, 1958; 8:49 a. m.]