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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[C. C. C. Farm Storage Facility Loan Bulletin, Amdt. 1]

PART 474—FARM STORAGE FACILITIES

SUBPART—FARM STORAGE FACILITY LOAN PROGRAM

AVAILABILITY OF LOANS

The purpose of this amendment is to amend the bulletin setting forth the conditions under which loans will be made to borrowers for purchase or construction of farm storage facilities to provide that loans will be made in the continental United States, including Alaska.

Section 474.722 (a) of the bulletin setting forth the regulations governing loans for purchase or construction of farm storage facilities (23 F. R. 5029) is amended to read as follows:

§ 474.722 *Availability of loans*—(a) *Area.* Loans will be available in any State of the continental United States, and Alaska.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b)

Issued at Washington, D. C., this 17th day of July 1958.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 58-5622; Filed, July 22, 1958; 8:50 a. m.]

[C. C. C. Mobile Drier Bulletin, Amdt. 1]

PART 474—FARM STORAGE FACILITIES

SUBPART—PROGRAM TO FINANCE THE PURCHASE OF MOBILE DRYING EQUIPMENT FOR FARM COMMODITIES

AVAILABILITY OF LOANS

The purpose of this amendment is to amend the bulletin setting forth the conditions under which loans will be made

to borrowers for purchase of mobile drying equipment to provide that loans will be made in the continental United States, including Alaska.

Section 474.762 (a) of the bulletin setting forth the regulations governing loans for purchase of mobile drying equipment (23 F. R. 4771) is amended to read as follows:

§ 474.762 *Availability of loans*—(a) *Area.* Loans will be available in any State of the continental United States, and Alaska.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b)

Issued at Washington, D. C., this 17th day of July 1958.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 58-5621; Filed, July 22, 1958; 8:50 a. m.]

TITLE 7—AGRICULTURE

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

PART 938—POTATOES GROWN IN THE RED RIVER VALLEY OF NORTH DAKOTA AND MINNESOTA

LIMITATION OF SHIPMENTS

§ 938.300 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 135 and Order No. 38 (7 CFR Part 938), regulating the handling of Irish potatoes grown in the Red River Valley of North Dakota and Minnesota effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Red River Valley Potato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(Continued on p. 5559)

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(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section 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 potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

(b) *Order.* (1) Except as otherwise provided in this section, during the period from August 3, 1958, through June 30, 1959, no handler shall ship potatoes of any variety unless such potatoes grade U. S. No. 2, or better, grade, and

(i) If of the round varieties, are 2 inches minimum diameter; or

(ii) If of any other variety, including but not being limited to the long varieties such as Russett Burbank, are 2 inches minimum diameter or 4 ounces minimum weight; or

(iii) Except if they are packed for and meet the requirements of size B for the lot.

(2) Except as otherwise provided in this section, during the period from August 1 through November 1, 1958, no handler shall ship a lot of potatoes if such potatoes are more than "moderately skinned" which means that not more than 10 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered."

(3) The limitations of subparagraph (1) and (2) of this paragraph shall not apply to shipments of certified seed potatoes.

(4) Except as otherwise provided, the various terms, grades and sizes referred to in this section shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540 to 1556 of this title; 23 F. R. 3141) including the tolerances set forth therein; and all other terms used in this section shall have the same meaning as when used in said marketing agreement and order.

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

Dated: July 18, 1958, to become effective August 3, 1958.

[SEAL]

S. R. SMITH,
Director,
Fruit and Vegetable Division.

[P. R. Doc. 58-5642; Filed, July 22, 1958; 8:54 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

PART 131—HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

DETERMINATION RELATIVE TO BUDGET OF EXPENSES AND FIXING RATES OF ASSESSMENT FOR 1958

On June 10, 1958, a notice of proposed rule making was published in the FEDERAL REGISTER (23 F. R. 4035) regarding the budget of expenses and the fixing of the rates of assessment for the calendar year 1958, under the marketing agreement and the marketing order (9 CFR 131.1 et seq.), regulating the handling of anti-hog-cholera serum and hog-cholera virus. This regulatory program is effective pursuant to Public Law No. 320, 74th Congress, approved August 24, 1935 (7 U. S. C. 851 et seq.).

The notice provided a period of 30 days for interested parties to file data, views or arguments with the Hearing Clerk. After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, it is hereby found and determined that:

Section 131.158 is added to read as follows:

§ 131.158 *Budget of expenses and rates of assessment for the calendar year 1958—(a) Budget of expenses.* The expenses which will necessarily be incurred by the Control Agency, established pursuant to the provisions of the marketing agreement and of the marketing order (§§ 131.1 to 131.96), for the maintenance and functioning of said Agency during the calendar year 1958, will amount to \$44,440.00 under the recommendation of the Control Agency, from which shall be deducted the unexpended balance of \$6,254.03 on hand with said Control Agency on January 1, 1958, from assessments collected during the calendar year 1957, leaving a balance of \$38,185.97 to be collected during the calendar year 1958.

(b) *Rates of assessment.* Of the amount of \$38,185.97 to be collected during the calendar year 1958, the sum of \$29,021.34 shall be assessed against handlers who are manufacturers, and \$9,164.63 shall be assessed against handlers who are wholesalers. The pro rata share of the expenses of the Control Agency to be paid for the calendar year 1958 by each handler who is a manufacturer shall be \$19.96 for each ten thousand dollars or fraction thereof of serum and virus sold by such handler during the calendar year 1957 and the pro rata share of such expenses to be paid for the calendar year 1958 by each handler who is a wholesaler shall be \$25.00 for the first ten thousand dollars or fraction thereof and \$8.80 for each additional ten thousand dollars or fraction thereof of serum and virus sold by such handler. Such assessments shall be paid by each respective handler in accordance with the applicable provisions of the marketing agreement and order (§§ 131.1 to 131.96).

(c) *Terms.* As used in this section, the terms "handler", "manufacturer",

"wholesaler", "virus", and "serum" shall have the same meaning as is given to each such term in said marketing agreement and marketing order (§§ 131.1 to 131.96).

Findings relative to effective date. It is hereby further found that (1) the fiscal year of the Control Agency established pursuant to the provisions of the marketing agreement and the marketing order corresponds to the calendar year, and the current calendar year 1958 is already well advanced; (2) the expenses of operating this regulatory program since January 1, 1958, have been paid with funds representing assessments collected in excess of expenses incurred during the calendar year 1957 and prepayments of a portion of their 1958 assessments by manufacturer and wholesaler handlers; (3) nearly all such funds have now been expended; (4) in order for the administrative assessments to be collected, it is essential that the specification of the assessment rates be effective immediately so as to enable the Control Agency to perform its respective duties and functions under the aforesaid marketing agreement and marketing order; and (5) no preparation with respect to this determination is required of persons regulated which cannot be completed prior to the effective date hereof. Wherefore, it is hereby determined that good cause exists for making this determination effective upon its publication in the FEDERAL REGISTER.

(49 Stat. 781-782; 7 U. S. C. 851-855)

Done at Washington, D. C., this 18th day of July 1958, to become effective upon publication in the FEDERAL REGISTER.

[SEAL]

B. T. SHAW,
Administrator,
Agricultural Research Service.

[P. R. Doc. 58-5643; Filed, July 22, 1958; 8:55 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 9]

PART 507—AIRWORTHINESS DIRECTIVES MISCELLANEOUS AMENDMENTS

This amendment to Part 507 contains the Airworthiness Directives amended or issued during June 1958. Individual notice of the Airworthiness Directives contained herein has been given to operators and other interested persons who are subscribers to a Civil Aeronautics Administration mailing service.

In the interest of safety, compliance with the notice, procedures and effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest, and therefore, is not required.

Section 507.10 (a) is amended as follows:

1. 58-8-2 Cessna 172 as it appeared in 23 F. R. 3587 is amended by changing the compliance paragraph to read as follows:

Compliance required before next flight, unless already accomplished, and at least every 25 hours thereafter, except that the airplane may be flown to place of inspection with cabin air control in "off" position. The 25-hour inspection may be discontinued upon inspection and installation of Cessna Service Kit SK-172-10.

It is further amended by adding a fourth paragraph to read as follows:

Even though SK-172-10 has been installed, if occupants experience headache, drowsiness, sluggishness, or smell exhaust gases, the cabin air heater and any other openings in the firewall into the engine compartment should be immediately closed and fresh air admitted into the cabin. Inspect the cabin heater and entire exhaust manifold before next flight. If cracks are found, replace the defective part before further operation.

2. 57-13-6 Hiller UH-12, UH-12A, UH-12B and UH-12C as it appeared in 23 F. R. 435 is amended by adding item (4) as follows:

(4) Upon installation of improved tail rotor blades, P/N 55064 in accordance with Hiller Service Bulletin No. 80, the special inspections called for in Parts (1) and (2) above are no longer required.

3. 57-22-1 Piper PA-16, PA-20 and PA-22 as it appeared in 23 F. R. 439 is amended by deleting item 4 and substituting the following:

(4) The sealing of the firewall on all PA-16, PA-20 and PA-22 aircraft must be inspected at 100-hour intervals in accordance with Piper Service Bulletin No. 161. If found deficient, it must be resealed in accordance with the manufacturer's service bulletin or accepted aeronautical practices.

4. 46-13-3 Lockheed 18 as it appeared in 21 F. R. 9452 is amended by changing the second sentence of 1 (b) to read as follows: "At each engine change, remove plate and elbow on bottom of sump housing (P/N 114690) and inspect hopper with a light and mirror."

5. 58-10-9 Viscount 700 series as it appeared in 23 F. R. 4726 is amended by adding "This supersedes AD 58-7-5."

6. The following new airworthiness directives are added:

58-11-1 DOUGLAS. Applies to all DC-6 and DC-7 series aircraft as indicated below.

Several instances have been reported where-in cracks have been found or failures have occurred in the nose wheel upper retract link assembly, P/N 5325437. In at least one case, failure resulted in folding of the nose gear when the aircraft stopped, following landing and taxi.

The failures occurred in the forged and fitted, P/N 5328993, caused by a crack starting in the vicinity of the $\frac{1}{8}$ inch radius where the fitting is machined to the O. D. of the tube, P/N 2329712. Cracks in the unfitted parts were found in the same location. Failures occurred on two airplanes having a total of 24,000 and 13,800 hours respectively and a crack was reported on one airplane with 7,521 hours. The airplane time is not significant since the interchange of landing gear components at major overhaul may result in the gear components actually having more or less time than the airplanes themselves.

Subsequent to DC-6 series fuselage No. 435 and DC-7 series fuselage No. 434, Douglas increased the $\frac{1}{8}$ inch radius to $\frac{3}{4}$ inch radius. The following must be accomplished on all nose gear upper retract link assemblies, P/N 5325437, delivered by the manufacturer that do not incorporate the larger radius.

(1) Inspect the right and left hand forged end fitting with the $\frac{1}{8}$ inch radius at the

earliest possible opportunity where facilities are available, and in any case, at the inspection period nearest 100 hours. Inspection should preferably be accomplished by magnaflux; however, dye penetrant inspection can be considered satisfactory if parts are uniformly warmed to open tight cracks.

(2) If cracks are found, parts must be replaced. No rework is considered feasible.

(3) Parts which are not cracked should be reworked at the earliest practicable opportunity to increase the $\frac{1}{8}$ inch radius to $\frac{3}{4}$ inch and polish the area to a 32 micro-inch finish. The reworked area should be protected with zinc chromate primer and aluminized lacquer and the reworked parts properly identified to distinguish them from those manufactured with the $\frac{1}{8}$ inch radius.

(4) After the initial inspection, all parts must be inspected regularly at the inspection period nearest to 300 hours until rework is accomplished.

(5) After rework, inspections at frequent intervals should continue to assure that the rework has removed damaged material and/or incipient cracks.

(Douglas Alert Service Bulletin A-677 for the DC-6 series and A-139 for the DC-7 series covers the above subject and describe how to increase the $\frac{1}{8}$ inch radius to a $\frac{3}{4}$ inch radius.)

58-11-2 LOCKHEED. Applies to All Lockheed Model 18 Aircraft. (This AD revises AD 58-7-2 by changing the repetitive inspection requirements.)

Compliance required as indicated.

A number of reports has been received relative to cracks in the welds of the drag strut yoke, P/N XY450-2L-1, on the main landing gear. These cracks, as they progress, result in a continuing reduction in the strength of the landing gear and hence render the landing gear unserviceable. It is, therefore, necessary to inspect the main landing gear for cracks in the area indicated as follows:

(1) Not later than July 1, 1958, and at each 500 hours operation thereafter inspect the main landing gear by means of dye penetrant, magnetic particle or equivalent.

(2) At each 100 hours operation conduct a visual inspection using an eight-power magnifying glass or equivalent.

In the event cracks are found, the oleo strut must be replaced.

If the oleo strut is replaced by a new part, the above inspections need not be resumed until after 3,000 hours of service.

This supersedes AD 58-7-2.

58-11-3 LOCKHEED. Applies to All Lockheed Model 18 Series and PV-1 Aircraft.

Compliance required as soon as possible, but not later than December 1, 1958.

Numerous reports have been received of cracks occurring at the base of the rudder cable attachment tangs, on rudder control quadrant, Lockheed P/N 53026. There is evidence that excessive clearance may exist between the tangs and the rudder cable attachment fittings which permits a bending load to be applied at the base of the tangs, when the AN5 attach bolts are tightened.

P/N 53026 should be inspected by means of a dye penetrant or equivalent inspection means in the areas noted above. If cracks are found, the parts must be replaced.

Furthermore, the means of attaching the rudder cables to the quadrant must be modified to preclude over-loading the attach tangs and subsequent occurrence of cracks due to the tightening of the attach bolts.

Two acceptable means of accomplishing the modification are noted below:

(1) Replace both the AN5 bolts with AN4-12A bolts, AN365 nuts and AN960-516 washers, under the head and nut in conjunction with a $\frac{1}{8}$ " x 0.32 wall cadmium plated steel spacer one inch long as a sleeve. The length of the sleeve may protrude past the thickness of the washers a maximum of $\frac{1}{16}$ " or a minimum of 0.003" so that when tightened, the

nut will bottom against the spacer and not on the washers.

NOTE: To compensate for machining tolerances and casting variation, additional washers or various length sleeves may be used to obtain the proper sleeve exposure.

(2) Replace the AN5 bolts with AN25-20 clevis bolts, AN-516 washers, AN320-5 nuts and AN380-2-3 cotter pins.

NOTE: If more than $\frac{1}{8}$ inch of bolt grip is exposed after installing the nut and washer, due to machining tolerances and casting variation, place additional washers under the head of the bolt to reduce the grip exposure to a minimum of 0.003 inch.

(Lockheed Service Bulletin No. 18/SB150 covers this same subject.)

58-11-4 LOCKHEED. Applies to Model 1649A. Compliance required as indicated.

Model 1649A aircraft have been found to have possibly hazardous autopilot induced wing-aileron flutter under certain combinations of boost package tolerances and autopilot transfer valve following failure at speeds above 215 knots indicated airspeed. This speed must not be exceeded in autopilot operation until further information is issued as to corrective action.

(This is also covered in Lockheed message to operators, dated May 22, 1958.)

58-12-1 DOUGLAS. Applies to All DC-3 Series Aircraft.

Compliance required whenever the center or outer wing attach angles or doublers, the spar butt plates, or the compression angles on the center wing or the waffle plates on the outer wing are reworked or replaced or when an outer wing panel is substituted for another.

As a result of the inspections required by AD 39-24-1, it has been found that numerous cracks are occurring in the wing attach angles and doublers at a relatively low number of hours of operation after replacement as required by that AD. In the past, many of these failures have been attributed to the type of operations or to the use of inadequate tooling for replacement of the attach angles and doublers. It has now been determined that, in many cases, little or no attention is given to the maintenance of proper tolerances at the attach point between the center and outer wing panels which may be contributing to such failures.

Therefore, prior to replacement of an outer wing panel, the following tolerances must be adhered to:

(1) Compression angles attached to the corrugations and stringers and the spar cap butt plates of the center wing must be held in plane with the attach angle to a plus or minus 0.002 inch tolerance.

(2) The waffle plates attached to the stringers and the spar cap butt plates of the outer wing must be held in plane with the attach angle to a plus or minus 0.008 inch tolerance.

(3) This range will allow a maximum of 0.010 inch interference to a maximum 0.010 inch clearance between the compression angles and plates, and the butt plates when the wing is installed.

(4) It is acceptable to have either interference or clearance; however, the most desirable joint is from flush to an 0.005 inch accumulative interference fit.

This supplements AD 39-24-1.

58-12-2 PIPER. Applies to All Model J-3, PA-11, PA-15, PA-16 and PA-17.

Compliance required not later than July 15, 1958.

There is a possibility that some aileron hinge reinforcing brackets, P/N 10931-02, supplied to the field during the past three years were fabricated from aluminum instead of steel. Brackets which have been replaced since June 1954 must be inspected to determine the type of material. All aluminum

brackets are to be removed and replaced with steel brackets.

(Piper Service Bulletin No. 165 covers this subject.)

58-13-1 Applies to All Aircraft With Sea Level Engines Equipped With Pressure Type Carburetors.

Compliance required as indicated.

A number of in-flight power failures attributed to ice formation in the carburetor and induction system have occurred with sea level engines having pressure type carburetors. Accordingly, pilots must refrain from entering into and continuing flight in atmospheric conditions of snow, sleet, hail or heavy rain with temperatures of 60° F. or below unless the aircraft is equipped with a carburetor air heater which will provide 90° F. temperature rise when the outside air temperature is 30° F. and the engine is developing no more than 75 percent power.

Not later than October 1, 1958, a placard must be installed at the "carburetor heat" or "alternate air" control to read "Flight in snow, sleet, hail or heavy rain below 60° F. prohibited." This placard may be removed when an adequate air heater as described above is provided.

58-13-2 BEECH. Applies to Models B50, C50, D60, E50 and F50.

Compliance required as soon as possible but not later than November 15, 1958.

The AN3158 tail light assembly does not meet the requirements of the Civil Air Regulations for intensity and light pattern. It must be replaced by an assembly meeting those requirements. Beech kit 50-169 provides an acceptable assembly.

(Beech Service Bulletin 33, 24, 17, 9 and 2 for B50, C50, D50, E50 and F50, issued April 1958, covers this same subject.)

58-13-3 LOCKHEED. Applies to All Model 1649A Aircraft.

Compliance required as indicated.

Model 1649A aircraft have been found to have possible hazardous wing bending oscillation, dynamically induced by aileron oscillation, under certain combinations of boost package tolerances and autopilot modulating piston follow-up failure. In order to correct this condition, the following must be accomplished:

Modify the aileron control valve by installing a new modulating piston stop to meet limits of aileron deflection rates of 7.5° per second minimum and 11° per second maximum. The valve is then to be reidentified as 58152-11 and to be painted yellow to denote noninterchangeability with elevator and rudder valves. Details of the necessary modifications are given in Lockheed communication PS/225805-W, dated June 13, 1958.

This modification is to be accomplished as soon as maintenance schedules will permit but not later than January 1, 1959. Until the modification is accomplished, the airplane must be flown in autopilot operation at speeds not to exceed 215 KIAS.

This supersedes AD 58-11-4.

58-13-4 SUB AVIATION. Applies to Model SE3130 Alouette II Helicopters.

Compliance required as indicated.

Prior to next flight unless already accomplished, and every subsequent fifty hours, inspect the reinforcement plates at the root end of the tail rotor blades for defective bonding. Defective bonding can be determined by tapping the bonded area with a coin. Defective blades must be replaced.

French SGACC considers this directive mandatory with which the CAA concurs.

(Sub Aviation Helicopter Service Bulletin AL34-1131 covers this same subject.)

58-13-5 WRIGHT ENGINES. Applies to All Wright TC18DA and TC18EA Series Engines Except as Noted.

Compliance required as indicated.

To improve engine reliability, the following items must be accomplished:

(1) At first overhaul after August 1, 1958, but no later than March 1, 1959, install piston compression ring, Wright Aeronautical Division P/N 147414, or subsequently approved ring in the No. 2 ring groove. WAD Service Bulletins Nos. TC18-269B and TC18E-81B, cover this same subject.

(2) At first overhaul after July 1, 1958, and each succeeding overhaul, install only new, resin graphite coated pistons in the master rod cylinders (1 and 2). In other locations, continued time pistons may be used provided they are recoated with either resin or spray graphite and are otherwise satisfactory for reuse. In addition, prior to reuse, the top and second grooves of all these pistons must be inspected for ring groove step wear and contouring of the ring groove wall. If any of these conditions are found, the piston must be regrooved. WAD Repair Instruction Nos. 880468 and 72-5-12 cover this same subject.

(3) Applies to TC18EA series engines only. At next overhaul but not later than March 1, 1959, fuel injection pumps must be timed so that the end of injection occurs at 35° ATC on the intake stroke on the right hand injection pump and 25° ATC on the left hand injection pump. In addition, at first overhaul after August 1, 1958, but not later than March 1, 1959, compensated length fuel injection lines must be installed on cylinders Nos. 6, 13, 15, 17, and 18. WAD Service Bulletin No. TC18E-118 covers this same subject.

(4) At next overhaul but not later than March 1, 1959, the spark advance relays used in the ignition distributors on the subject engines must be assembled with increased relay spring pressures. Detailed instructions for setting the required spring pressure are contained in Scintilla Division Service Bulletin No. 408A.

(5) At first overhaul after July 1, 1958, but not later than March 1, 1959, the valve springs used in all TC18 engines must have the coil ends contoured per WAD Service Bulletins Nos. TC18-339 or TC18E-159.

(6) To insure that the proper power recovery turbine cooling shield to wheel lip clearance is retained, this clearance must be checked at each regular periodic inspection. The maximum service limit for this clearance is 0.090 inches (wheel in outer-most position) for a maximum circumferential distance of 180°. WAD Service Bulletins Nos. TC18-323 and TC18E-140 cover this same subject.

(7) To insure proper retention of the power recovery turbine wheel, the shaft and shaft nut threads must be inspected for wear and distortion at every power recovery turbine overhaul. WAD Service Bulletins Nos. TC18-327 and TC18E-146 detail the techniques and limits for such inspections. In addition, at first overhaul after September 1, 1958, but not later than March 1, 1959, the power recovery turbine must be assembled with WAD P/N 147555 nut or subsequently approved turbine wheel retaining system.

(8) To prevent inadvertent loss of oil from the power recovery turbine fluid couplings, at next engine overhaul but not later than March 1, 1959, the PRT oil control valve must incorporate a WAD P/N 147465 valve body. WAD Service Bulletins Nos. TC18-302A and TC18E-115A cover this same subject.

(9) To insure proper retention of the power recovery turbine nozzle, WAD P/N 492D21, nozzle to nozzle support attaching screws should be removed at next PRT overhaul and replaced with either WAD P/N 6043D8 or 492D65 screws. Until this is accomplished, a daily check of the tightness of the nozzle must be made in accordance with the instructions contained in WAD letter to all operators dated June 10, 1958.

(10) At first overhaul after August 1, 1958, but not later than March 1, 1959, the rocker box drain manifold and sumps must

be removed in accordance with WAD Service Bulletins Nos. TC18-347 or TC18E-166.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1009, as amended; 49 U. S. C. 551, 553)

[SEAL]

WILLIAM B. DAVIS,
Acting Administrator of
Civil Aeronautics.

JULY 16, 1958.

[F. R. Doc. 58-5601; Filed, July 22, 1958; 8:45 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

FORMS FOR CURRENT REPORTS

The Securities and Exchange Commission has adopted certain amendments to Form 8-K (§ 249.308), which is the form prescribed for current reports filed pursuant to sections 13 and 15 (d) of the Securities Exchange Act of 1934. Notice of the proposed action was published May 20, 1958, in Securities Exchange Act Release No. 5699.

The amendments relate to Item 11 of the form which requires information in regard to matters submitted to a vote of security holders either at a meeting of such security holders or otherwise. One of the amendments pertains to paragraph (b) which calls for information in regard to the election of directors. The purpose of the amendment is to clarify this paragraph to indicate more clearly the information required thereby. Another amendment relates to Instruction 2 to the item, which has been construed by certain issuers not to require the furnishing of information in certain cases where it is the intention of the item and the instructions that such information be furnished.

The amendments are adopted pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15 (d) and 23 (a) thereof. Item 11 of the form as amended reads as follows:

Item 11. *Submission of matters to a vote of security holders.* If any matter has been submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, state the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) Briefly describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect to each such matter.

Instructions. 1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to Regulation 14, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the registrant did not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the issuer has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit to the report on this form.

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

The foregoing action shall become effective August 16, 1958.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

JULY 16, 1958.

[F. R. Doc. 58-5616; Filed, July 22, 1958; 8:49 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6302]

PART 171—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

NATIONAL EMERGENCY TRANSFERS OF DISTILLED SPIRITS

Section 3183 of the Internal Revenue Code of 1939 permitted the use of beverage distilled spirits for industrial purposes and made provision for appropriate safeguards and controls with respect to the withdrawal and movement of such spirits. The provisions of section 3183 of the Internal Revenue Code of 1939 were implemented by Treasury Decision 5864 approved November 2, 1951, which added Subpart G "National Emergency Transfers of Distilled Spirits" to 26 CFR (1939) Part 171. The provisions of section 3183 of the Internal Revenue Code of 1939 were reenacted without material change as section 5217 of the Internal Revenue Code of 1954. Such regulations are prescribed under and made applicable to section 5217 of the Internal Revenue Code of 1954, insofar as such regulations are not inconsistent with the Internal Revenue Code of 1954, by virtue of section 7807 (a) of the Internal Revenue Code of 1954 and Treasury Decision 6091, approved August 16, 1954.

Public Law 85-517, approved July 11, 1958, amends section 5217 of the Internal Revenue Code of 1954 by changing the termination date for such section to July 11, 1960.

In order to reflect in such regulations the new termination date, § 171.280 is amended by striking in the first sentence

the date, "July 11, 1958" and inserting in lieu thereof the date, "July 11, 1960".

Because these amendments merely extend the termination date of the regulations, it is found impracticable and contrary to the public interest to comply with the public rule making and effective date requirements of section 4 (a) and (c) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003).

(Sec. 5217, 68A Stat. 641, as amended; 26 U. S. C. 5217)

[SEAL] RUSSELL C. HARRINGTON,
Commissioner.

Approved: July 16, 1958.

DAN THROOP SMITH,
Deputy to the Secretary.

[F. R. Doc. 58-5630; Filed, July 22, 1958; 8:52 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter F—Personnel

PART 581—PERSONNEL REVIEW BOARDS

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

In § 581.3 (f), subparagraph (3) (vi) is changed to read as follows:

§ 581.3 Army Board for Correction of
Military Records. * * *

(f) Action on application. * * *

(3) Staff action. * * *

(vi) After the appropriate Secretary has taken action on the record, the applicant or his counsel is entitled, upon request, (a) to inspect the record of proceedings; and (b) to receive a copy of the Board's findings, decisions, and recommendations; unless the Chairman considers that granting the request would be detrimental to the public interest.

[Regs., July 14, 1958, SAOMR] (Sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interprets or applies sec. 1552, 70A Stat. 116; 10 U. S. C. 1552)

[SEAL] HERBERT M. JONES,
Major General, USA,
The Adjutant General.

[F. R. Doc. 58-5600; Filed, July 22, 1958; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1677]

[Wyoming 035636 (Kansas)]

KANSAS

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF AGRICULTURE

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Kan-

sas are hereby withdrawn from all forms of appropriation under the public-land laws, except leasing under the mineral leasing laws and the sale of materials under the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601-604) as amended, and reserved for use and development by the Forest Service of the Department of Agriculture for soil erosion control and other land utilization activities in connection with the Morton County Land Utilization Project, Kansas:

SIXTH PRINCIPAL MERIDIAN

T. 32 S., R. 39 W.,
Sec. 23, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 34 S., R. 43 W.,
Sec. 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 14, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$.

The areas described aggregate 280 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

JULY 16, 1958.

[F. R. Doc. 58-5603; Filed, July 22, 1958; 8:45 a. m.]

[Public Land Order 1678]

[2113188]

TEXAS

TRANSFERRING JURISDICTION OVER THE OIL AND GAS DEPOSITS RESERVED TO THE UNITED STATES IN LANDS CONVEYED TO THE STATE OF TEXAS

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The jurisdiction over the mineral deposits in the following-described lands comprising the former Marine Corps Air Station, Eagle Mountain Lake, Texas, which lands have been conveyed by quitclaim deed to the State of Texas with a reservation of minerals to the United States, is hereby transferred from the Department of the Navy to the Department of the Interior:

Beginning at a concrete monument which is the southeast corner of the former United States Marine Corps Air Station, Eagle Mountain Lake, Texas, which monument is south 0 degrees 18 minutes east 3,900 feet from the southeast corner of the P. H. Pope survey; thence north 0 degrees 18 minutes west 10,407.4 feet to a corner in the south right-of-way line of the C. R. I. and P. Railroad for the most easterly northeast corner of this tract; thence north 63 degrees 15 minutes west 1,990.9 feet to the Wise and Tarrant County line, for the northerly corner of this tract; thence north 89 degrees 20 minutes west 4,766.3 feet along the boundary of Wise and Tarrant Counties, to the west line of the Dewees and the east line of the C. R. Huff survey; thence north 0 degrees 30 minutes west, along the east line of the C. R. Huff survey, a distance of 646 feet to a point; thence north 38 degrees 16 minutes east, 1,338 feet to a point; thence along the arc of a curve, concave to the right, having a radius of 930.34 feet, a distance of 1,196 feet to the west right-of-way line of the C. R. I. and P. Railroad; thence north 54 degrees 17 minutes west, 185 feet along said right-of-way line to a point; thence south 89 degrees 20 minutes west 654 feet to a point; thence south

38 degrees 16 minutes west 1,741 feet to a point on the east line of the C. R. Huff survey; thence north 0 degrees 30 minutes west, along said east line of the Huff survey, 40 feet to a point; thence south 38 degrees 16 minutes west 967 feet to a point on the north boundary line of the former United States Marine Corps Air Station, said boundary being identical with the Wise and Tarrant County line, and north 89 degrees 20 minutes west 606 feet from the southwest corner of the C. R. Huff survey; thence westerly along the Wise and Tarrant County line north 89 degrees 20 minutes west 3,467.9 feet, to a concrete monument, for the northwest corner of the T. Harvey survey; said concrete monument being set at elevation 649 feet on the east shore of Eagle Mountain Lake; thence along the east shore of Eagle Mountain Lake with the contour line of elevation 649 feet the following courses and distances:

South 0 degrees 15 minutes west 660.4 feet;
 South 38 degrees 51 minutes east 559 feet;
 South 72 degrees 42 minutes west 192 feet;
 South 88 degrees 23 minutes west 212 feet;
 North 48 degrees 35 minutes west 223 feet;
 North 50 degrees 05 minutes west 370 feet;
 South 75 degrees 25 minutes west 172 feet;
 North 37 degrees 51 minutes west 181.5 feet;
 North 84 degrees 42 minutes west 119 feet;
 South 3 degrees 39 minutes east 321 feet;
 South 50 degrees 18 minutes west 304.7 feet;
 South 37 degrees 18 minutes east 654.9 feet;
 South 15 degrees 31 minutes west 289 feet;
 South 11 degrees 50 minutes east 425.5 feet;
 South 67 degrees 20 minutes west 111 feet;
 South 25 degrees 47 minutes west 261 feet;
 South 20 degrees 45 minutes east 199.4 feet;
 South 26 degrees 56 minutes east 246.6 feet;
 South 83 degrees 10 minutes west 325 feet;
 South 31 degrees 24 minutes west 326 feet;
 South 16 degrees 39 minutes east 220 feet;
 South 63 degrees 44 minutes west 244 feet;
 South 7 degrees 52 minutes west 232 feet;
 South 24 degrees 42 minutes west 196 feet;
 South 22 degrees 34 minutes west 278 feet;
 Thence south 23 degrees 13 minutes west 58 feet to a 3/4-inch iron pipe for the southwest corner of area "A" of the Tarrant County Water Control and Improvement District Numbered 1, the O. T. Funk survey; thence leaving the contour of elevation 649 feet, south 85 degrees 25 minutes east 1,729.8 feet to a 1-inch iron pipe; thence south 3 degrees 35 minutes west, 2,369 feet to a 1-inch iron pipe in the south line of the D. T. Flores survey; thence north 89 degrees 40 minutes west 280 feet to a point; thence south 25 degrees 40 minutes east 1,701.95 feet to an iron pipe; thence north 89 degrees 00 minutes east 825.6 feet to an iron pipe; thence south 63 degrees 50 minutes east, 599 feet to an iron pipe; thence south, 550 feet to a point; thence east 1,020 feet to an iron pipe; thence north 305 feet to a 3/4-inch iron pipe in the north line of the D. T. Flores survey; thence south 89 degrees 40 minutes east, 3,044.17 feet along the north line of the D. T. Flores survey passing the northeast corner of the D. T. Flores survey and the west line of the W. G. King survey abstract numbered 900, to a 1-inch iron pipe for corner; thence south 55 degrees 00 minutes east 834.43 feet with a line parallel to the Texaco pipeline and distant 100 feet in a southwesterly direction from the centerline of said pipeline, to an iron pipe; thence south 2,074.73 feet to an iron pipe for the most easterly southeast corner of Area "D" section numbered 1 of the Tarrant County Water Control and Improvement District Numbered 1, in the O. T. Funk survey, located in the south property fence of the former United States Marine Corps Air Station and the south line of the W. G. King survey, said corner being north 89 degrees 00 minutes east 2,101.80 feet from the centerline of the Newark-Dido paved road; thence north 89 degrees 00 minutes east 4,321.6 feet along the south line of the W. G. King survey and the T. Chubb survey to the point of beginning, containing in all 2,477.43 acres more or

less, 8.89 acres being located in Wise County, and 2,468.54 acres in Tarrant County, Texas.

2. The minerals shall not be open to applications and offers under the mineral-leasing or other laws, except that where there is drainage or threatened drainage of oil or gas from such lands, the Secretary of the Interior shall take such steps as may be necessary to protect the interests of the United States from loss on account of such drainage or threatened drainage.

ROGER ERNST,

Assistant Secretary of the Interior.

JULY 16, 1958.

[P. R. Doc. 58-5604; Filed, July 22, 1958; 8:45 a. m.]

[Public Land Order 1679]

[BLM-043416]

FLORIDA

PARTIALLY REVOKING THE EXECUTIVE ORDER OF FEBRUARY 3, 1913, CREATING PHOSPHATE RESERVE NO. 16—FLORIDA NO. 5; ADDING LANDS TO APALACHICOLA NATIONAL FOREST

By virtue of the authority vested in the President by section 24 of the act of March 3, 1891 26 Stat. 1103; 16 U. S. C. 471), section 1 of the act of June 4, 1897 (30 Stat. 34; 16 U. S. C. 475), by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, and upon recommendation of the Secretary of Agriculture, it is ordered as follows:

1. Subject to valid existing rights, the following-described public land in Florida is hereby added to and reserved as a part of the Apalachicola National Forest, and the boundaries of the said national forest and adjusted accordingly:

TALLAHASSEE MERIDIAN

T. 1 S., R. 2 W.,
 Sec. 14, lot 1.

The area described contains 1.07 acres.

2. The Executive Order of February 3, 1913, creating Phosphate Reserve No. 16, Florida No. 5, is hereby revoked so far as it affects the land described in paragraph 1 of this order.

ROGER ERNST,

Assistant Secretary of the Interior.

JULY 16, 1958.

[P. R. Doc. 58-5605; Filed, July 22, 1958; 8:46 a. m.]

[Public Land Order 1680]

[380931]

WYOMING

PARTIALLY REVOKING THE EXECUTIVE ORDERS OF DECEMBER 5, 1913 AND APRIL 17, 1926, CREATING PUBLIC WATER RESERVES NOS. 12 AND 107, RESPECTIVELY

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The Executive Order of December 5, 1913, creating Public Water Reserve No. 12, and the Executive Order of April 17, 1926, creating Public Water Reserve No. 107, are hereby revoked so far as they affect the following-described lands:

SIXTH PRINCIPAL MERIDIAN

Public Water Reserve No. 12

T. 41 N., R. 67 W.,
 Sec. 26, N $\frac{1}{2}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 45 N., R. 67 W.,
 Sec. 20, NE $\frac{1}{4}$.
 T. 45 N., R. 69 W.,
 Sec. 5, W $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 46 N., R. 70 W.,
 Sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
 Sec. 26, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 46 N., R. 71 W.,
 Sec. 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 Sec. 4, S $\frac{1}{2}$ SE $\frac{1}{4}$.
 Sec. 9, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$.
 Sec. 11, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 46 N., R. 72 W.,
 Sec. 26, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 47 N., R. 67 W.,
 Sec. 19, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 47 N., R. 70 W.,
 Sec. 9, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Public Water Reserve No. 107

T. 45 N., R. 63 W.,
 Sec. 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 46 N., R. 64 W.,
 Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate approximately 1,120 acres.

2. The lands are typical of grazing lands in eastern Wyoming, and are located in Campbell, Weston, and Niobrara Counties. The soils vary widely, but are for the most part shallow to moderate in depth. Vegetation consists of sagebrush and native grasses.

3. No application for the restored lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on August 21, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 20, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on November 20, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

5. The lands have been open to applications and offers under the mineral-leasing laws, and to location for metaliferous minerals. They will be open to location for nonmetaliferous minerals under the United States mining laws beginning at 10:00 a. m. on November 20, 1958.

6. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyoming.

ROGER ERNST,

Assistant Secretary of the Interior.

JULY 16, 1958.

[F. R. Doc. 58-5606; Filed, July 22, 1958; 8:46 a. m.]

[Public Land Order 1682]

[78039]

UTAH

MODIFYING EXECUTIVE ORDER NO. 5327
OF APRIL 15, 1930

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 5327 of April 15, 1930, which reserved deposits of oil shale and lands containing such deposits owned by the United States, for classification, is hereby modified to the extent necessary to permit disposal under the act of March 3, 1877 (19 Stat. 377; 43

U. S. C. 321, et. seq.) as amended, of the following-described lands, subject to the provisions of section 1 of the act of July 17, 1914 (38 Stat. 509; 30 U. S. C. 121), where applicable:

SALT LAKE MERIDIAN

T. 8 S., R. 17 E.,

Sec. 17;

Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 28, N $\frac{1}{2}$, and N $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 29, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$.

The areas described aggregate approximately 1,920 acres.

2. The lands are partly below and partly above an existing irrigation canal. The soil is a deep silt loam of fair fertility. Vegetation is of the desert-shrub type.

3. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications in accordance with the following:

a. Applications under the Desert-Land Act of March 3, 1877 (19 Stat. 377; 43 U. S. C. 321) et seq., may be presented to the Manager mentioned below, beginning on the date of this order. Such applications will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on August 21, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 20, 1958, will be governed by the time of filing.

4. All valid applications other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on November 20, 1958, will be considered as simultaneously filed at that hour. Rights under such applications filed after that hour will be governed by the time of filing.

5. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. Inquiries concerning the lands shall be addressed to the Manager, Land Office, Salt Lake City, Utah.

ROGER ERNST,

Assistant Secretary of the Interior.

JULY 16, 1958.

[F. R. Doc. 58-5607; Filed, July 22, 1958; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12385; FCC 58-693]

[Rules Amdt. 3-116]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 Table of assignments, Television Broadcast Stations (Pittsburgh, Pennsylvania; Clarksburg, W. Va., Youngstown, Ohio).

1. The Commission has under consideration the proposal by Metropolitan Pittsburgh Educational Television Station and set forth in a Notice of Proposed Rule Making (FCC 58-308) released on April 4, 1958, and published in the FEDERAL REGISTER on April 10, 1958 (23 F. R. 2355), to shift Channel 22 from Clarksburg, West Virginia, to Pittsburgh, Pennsylvania, as follows:

City	Channel No.	
	Present	Proposed
Pittsburgh, Pa.	2-11, *13-16, 47-53+	2-11, *13-16, 22, 47-53+
Clarksburg, W. Va.	12+, 22, 69-	12+, 69-

* Since the filing of this petition Channel 4+ has been shifted from Irwin to Pittsburgh, Pa.

2. The Commission also has before it an alternate proposal filed by Sanford A. Schafitz and Guy W. Gully, d/b as Community Telecasting Company, permittee of Station WXTV, Channel 73, Youngstown, Ohio, to assign Channel 33 to Youngstown by making the following changes in the Table of Assignments for television channels:

City	Channel No.	
	Present	Proposed
Youngstown, Ohio	21-27, 73-	21-27, 33-
Pittsburgh, Pa.	2-11, *13-16, 47-53+	2-11, *13-16, 22, 33+, 73-
Clarksburg, W. Va.	12+, 22, 69-	12+, 69-, 79

* Since the filing of this petition Channel 4+ has been shifted from Irwin to Pittsburgh, Pa.

Community further requested that Golden Triangle Television Corporation, permittee of Station WTVQ, Channel 47, Pittsburgh, be ordered to show cause why its authorization should not be modified to specify Channel 22 in lieu of Channel 47 and that Forest City Publishing Company, permittee of Station WHK-TV, Channel 19, Cleveland, be ordered to show cause why its authorization should not be modified to specify

Channel 25 in lieu of Channel 19. These proposals were also contained in the Notice of Proposed Rule Making in the subject Docket.

3. Comments were filed by Metropolitan Pittsburgh Educational Television Station, licensee of Station WQED, Channel 13, Pittsburgh, Pennsylvania, WKST, Inc., permittee of Station WKST-TV, Channel 45, New Castle, Pennsylvania, Community Telecasting Company, permittee of WXTV, Channel 73, Youngstown, Ohio, Butler Broadcasting Company, Inc., licensee of Standard Broadcasting Station WISR, Butler, Pennsylvania, and The Joint Council on Educational Television (JCET).

4. Metropolitan Pittsburgh Educational Television Station states that it is the licensee of an educational television broadcast station, WQED, in Pittsburgh, which currently telecasts 81½ hours each week and has been in operation since April 1, 1954. It provides direct service to the public and parochial schools of the Pittsburgh area of two types: Direct total teaching and/or enrichment and supplementation. In the past year it has taught seven daily classes in 350 classrooms in 58 different school districts, 22 parochial schools, and 2 private schools of 7 counties. It has also conducted high school classes through which viewers have been able to earn high school diplomas, summer school classes over the air, and has provided programs in the arts, sciences, and cultural subjects for the schools and for the public. The additional channel is needed to enlarge this program both for classroom instruction and home instruction. The UHF channel would also be used for specialized educational service for the industries and professions of the Pittsburgh area. If Channel 22 is made available in Pittsburgh, Metropolitan proposes to apply for and build an educational television station, if possible, by the beginning of the fall term. The Joint Council on Educational Television verifies the contribution that Metropolitan has made to education via television and supports its request for the assignment of Channel 22 to Pittsburgh as a second educational reservation.

5. The proposal of Community Telecasting Company conflicts with the proposal of Metropolitan Pittsburgh Educational Television Station in that it would assign Channel 22 to Pittsburgh but would assign it to WTVQ in lieu of its present assignment of Channel 47. In its comments, Community did not deny the need for an additional educational channel in Pittsburgh and suggested that Metropolitan use Channel 73 for the second educational TV station. It supported its request for the assignment of Channel 33 to Youngstown on the premise that Channel 73 is at a competitive disadvantage because the other three stations operating in the Youngstown-New Castle area are on the lower UHF channels.

6. WKST, Inc. directed its opposition primarily toward the proposal of Community to place Channel 33 in Youngstown. It did not deny the need for a second educational channel in Pittsburgh but took the position that such a channel

could be obtained by revoking the construction permit of one or the other of the present permit holders in Pittsburgh for Channels 16, 47 or 53, all of which are inactive and any one of which could be made available for the educational station. The gist of the opposition of WKST, Inc., is that the Youngstown area does not need and cannot support a fourth VHF television broadcast station. Even if Youngstown does need a fourth UHF TV station it should not be permitted to preempt a lower UHF channel such as Channel 33 because this channel might be better used in some other community in Western Pennsylvania or Eastern Ohio.

7. Butler Broadcasting Company, Inc., stated that it had considered the possibility of entering the field of television broadcasting and objects to the preemption of Channel 33 by Community in Youngstown.

8. The Commission has carefully considered the comments filed in this proceeding and is of the opinion that a compelling need has been shown for a second educational television channel in Pittsburgh. The use of Channel 13 for 81½ hours per week averages almost 12 hours daily and from the standpoint of efficient use of the channel, compares favorably with regular commercial television broadcast stations. Under these circumstances the assignment of a second educational TV channel to Pittsburgh cannot be considered prodigal. The community of Clarksburg, West Virginia is most directly affected by the deletion of Channel 22, yet no opposition was voiced from that area. Therefore, there appears to be no valid reason why Channel 22 should not be assigned to Pittsburgh. The Commission is also of the view that Channel 22 should be reserved for education.

9. We also find considerable merit in the proposal of Community Telecasting Company to assign Channel 33 to Youngstown in lieu of Channel 73. Although we do not agree that the lower UHF channels are overwhelmingly superior to the upper UHF channels from the standpoint of technical potential, we are aware that in the present state of the art there are technological differences between the upper and lower UHF channels and more important, these differences affect the attitude of the television broadcasting industry. For these reasons, the argument of Community that it will be placed in a better competitive position and will therefore be able to inaugurate a fourth UHF television service for the Youngstown area seems convincing. Because we believe that the technological differences which exist today between the lower and upper UHF channels will disappear with the development of television broadcasting in the UHF band, we are not persuaded by the arguments that Channel 33 should be held in reserve for use at some future time in some other community in Western Pennsylvania or Eastern Ohio. By encouraging the implementation of the lower UHF channels we will bring closer the day when those differences are no longer significant. One of the original complexities of the proposal to place Channel 33 in Youngstown for use by

WXTV was the existence of an outstanding construction permit for Channel 19 in Cleveland, Ohio. The site specified in that construction permit was at less than the required minimum separation for Channel 33 at the site specified in the construction permit held by Community Telecasting Company. The construction permit for WHK-TV, Channel 19, Cleveland, was deleted April 24, 1958, thus removing this problem.

10. The assignment of Channel 33 to Youngstown will also require deletion of Channel 47 in Pittsburgh. Channel 73 may be substituted for Channel 47 in Pittsburgh. Golden Triangle Corporation, permittee of Station WTVQ, Channel 47, Pittsburgh, was ordered to show cause why its permit should not be modified to specify Channel 22 or Channel 73. It failed to respond to this Show Cause Order. However, on June 13, 1958, the construction permit held by Golden Triangle Corporation was deleted at the request of the permittee.

11. Finally, the Community proposal would have substituted Channel 79 for Channel 22 in Clarksburg, West Virginia. In view of the fact that no interests in the Clarksburg area have indicated a desire to construct and operate a television station on either Channel 22 or Channel 69 the substitution of Channel 79 for Channel 22 would be a mere gesture. Furthermore, the listing of these upper channels in the Table of Assignments is creating unnecessary problems in instances where small communities in the mountainous portions of the eastern states desire to operate television broadcast translators. We feel confident that if any party becomes interested in inaugurating television broadcast service on a UHF channel in the Clarksburg area, a suitable channel for such operation can be found.

12. On June 18, 1958, Pittsburgh Educational Television Station filed a counterproposal which took cognizance of the deletion of the Channel 47 construction permit and requested that WQED be assigned Channel 16 and that Telecasting, Inc., permittee of WENS, Channel 16, Pittsburgh, be assigned Channel 22 or Channel 47 in lieu of Channel 16. Telecasting, Inc., has consented to the proposed substitution of either Channel 22 or Channel 47.

13. In view of the time that has elapsed since this proceeding was instituted and the separate interests of Community Telecasting Company and Pittsburgh Educational Television Station, the Commission believes that this proceeding should be concluded without further rule making based on the Pittsburgh Educational Television Station counterproposal so that Community may proceed with its plans to inaugurate an additional UHF television service in Youngstown, and that a new rule making proceeding should be instituted to consider the Pittsburgh Educational Television Station counterproposal.

14. Accordingly, the Commission has decided to adopt the proposed amendment insofar as it assigns Channel 22 as an educational reservation to Pittsburgh, substitutes Channel 33 for Channel 73 in Youngstown, Ohio, deletes Channel 22

from Clarksburg, West Virginia, and substitutes Channel 73 for Channel 47 in Pittsburgh. Simultaneously with this action, it is adopting a Notice of Proposed Rule Making which proposes to change the educational reservation in Pittsburgh from Channel 22 to Channel 16 and orders Telecasting, Inc., permittee of WENS, Channel 16, Pittsburgh, to show cause why its permit should not be modified to specify Channel 22 in lieu of Channel 16.

15. Authority for the adoption of the amendments herein is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r) and 307 (b) of the Communications Act of 1934, as amended.

16. In view of the foregoing; *It is ordered*, That, effective August 25, 1958, the Table of Assignments contained in § 3.606 of the Commission rules and regulations is amended, insofar as the communities listed below are concerned, as follows:

City	Channel No.
Youngstown, Ohio	21-27, 33
Pittsburgh, Pa.	2-4, 11, *13-16, *22, 53+, 73-
Clarksburg, W. Va.	12+, 69-

17. *It is further ordered*, That effective August 25, 1958, pursuant to sections 303 (f) and 316 of the Communications Act of 1934, as amended, the construction permit for WXTV, Channel 73, Youngstown, Ohio, is modified, to specify operation on Channel 33 in accordance with the data furnished in response to the show cause order, subject to the condition that construction looking toward a changeover to the new frequency shall not commence until a modified authorization has been issued to Community Telecasting Company.

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

Adopted: July 16, 1958.

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-5631; Filed, July 22, 1958;
8:52 a. m.]

[Docket No. 12401; FCC 58-688]

[Rules Amdt. 19-5]

PART 19—CITIZENS RADIO SERVICE CONELRAD PLAN

In the matter of amendment to Part 19 of the Commission's rules and regulations to effectuate the Commission's CONELRAD Plan for the Citizens Radio Service.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 16th day of July 1958:

The Commission has before it for consideration its Notice of Proposed Rule Making in the above matter released April 21, 1958 (FCC 58-372) and published in the FEDERAL REGISTER April 24, 1958 (23 F. R. 2745).

No comments have been filed in this matter.

These amendments to Part 19 of the Commission's rules are promulgated

under authority of sections 303 (r) and 606 (c) of the Communications Act as amended and Executive Order 10312 signed by the President December 10, 1951.

Accordingly, it is ordered, That Part 19 of the Commission's rules is amended to include the rules set forth below, effective August 18, 1958.

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

SUBPART E—CONELRAD

Sec.
19.101 Scope and objective.
19.102 Alerting.
19.103 Operation during CONELRAD Radio Alert.
19.104 Special conditions.
19.105 Radio All Clear.
19.106 Tests.
19.107 Record entries.

AUTHORITY: §§ 19.101 to 19.107 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 303, 606, 48 Stat. 1082, as amended, 1104, as amended; 47 U. S. C. 303, 606; E. O. 10312, 16 F. R. 12452; 3 CFR 1951 Supp.

§ 19.101 *Scope and objective.* (a) This subpart applies to all radio stations in the Citizens Radio Service located within the continental United States, and is for the purpose of providing for the alerting and operation of radio stations in this service during periods of enemy air attack or imminent threat thereof.

(b) The objective of these CONELRAD rules is to minimize the navigational aid that an enemy might obtain from the electromagnetic radiations from radio stations in the Citizens Radio Service while simultaneously providing for a continued radio service under controlled conditions when such operation is essential to the public welfare.

§ 19.102 *Alerting.* (a) Licensees of radio stations in the Citizens Radio Service are responsible for making provisions to receive the CONELRAD Radio Alert and the CONELRAD Radio All Clear.

(b) The CONELRAD Radio Alert will be initiated by the Commanding Officer of the Air Division (Defense) or higher military authority.

(c) Citizens Radio Service mobile radio systems, including stations at fixed locations associated therewith, and point-to-point systems where applicable, may, if desired, be alerted at a single point, normally the control point or the control center. The control point thus receiving the CONELRAD Radio Alert will be responsible for the dissemination of the CONELRAD Radio Alert to all stations integrated into the radio system or systems and insuring that all associated stations execute CONELRAD requirements immediately. Relaying of a CONELRAD Radio Alert is considered a transmission of extreme emergency affecting the national safety and may be carried on under the authority of § 19.103 (a) (1).

(d) The CONELRAD Radio Alert for the Citizens Radio Service may be received by one or more of the methods outlined below:

(1) By monitoring any standard, FM, or TV broadcast station by aural or automatic means, to receive the CONELRAD Radio Alert.

(2) By reception of the CONELRAD Radio Alert from a point that has received the CONELRAD Radio Alert from a standard, FM, or TV broadcast station.

(3) Radio station licensees desiring to receive the CONELRAD Radio Alert by a means not covered by subparagraph (1) or (2) of this paragraph may request authority from the Secretary, Federal Communications Commission to receive the Alert in another manner. The request must include reason why methods described in subparagraph (1) or (2) of this paragraph are not suitable and must fully describe the proposed method for receiving the Alert.

NOTE: Every standard, FM, and TV broadcast station will be notified of the CONELRAD Radio Alert by telephone calls or by radio broadcasts. Immediately upon receipt of the Radio Alert each standard, FM, and TV broadcast station will proceed as follows on its normally assigned frequency:

(1) Discontinue the normal program.
(2) Cut the transmitter carrier for approximately five seconds. (Sound carrier only for TV stations.)

(3) Return carrier to the air for approximately 5 seconds.

(4) Cut the transmitter carrier for approximately 5 seconds.

(5) Return carrier to the air.
(6) Broadcast 1000 cycle (approximate) steady state tone for fifteen seconds.

(7) Broadcast the CONELRAD Radio Alert message as follows: "We interrupt our normal program to cooperate in security and Civil Defense measures as requested by the United States Government. This is a CONELRAD Radio Alert. Normal broadcasting will now be discontinued for an indefinite period. Civil Defense information will be broadcast in most areas at 640 and 1240 on your regular radio receiver".

(8) The CONELRAD Radio Alert message will then be repeated.

(1) through (6) above is for the purpose of attracting the listeners' attention, or, if desired, to operate an automatic alert receiver or warning device. (Caution: (1) through (6) is a warning that a Radio Alert may follow; the actual Radio Alert signal is the spoken word in the form of the CONELRAD Radio Alert message.)

The CONELRAD Radio Alert message as set forth in (7) above, is worded in a manner suitable for reception by the public; however, the message is also the CONELRAD Radio Alert. When this CONELRAD Radio Alert message is received, all licensees must immediately comply with the CONELRAD operating procedure. The precise CONELRAD Radio Alert message, above, will be broadcast only in the event of an actual alert. In the event of a CONELRAD test or drill, broadcast stations will make an announcement that a test or drill is taking place.

(e) All radio stations in the Citizens Radio Service not directly receiving the CONELRAD Radio Alert must use caution in returning to the air after an "out of service" period, to insure that a CONELRAD Radio Alert is not in progress before making any transmissions.

§ 19.103 *Operation during a CONELRAD Radio Alert.* (a) Radio stations in the Citizens Radio Service, upon receipt of a CONELRAD Radio Alert, will interrupt any communications in progress, leave the air and maintain radio

silence for the duration of the CONELRAD Radio Alert, except for transmissions handled in accordance with the following restrictions unless otherwise ordered by the Federal Communications Commission:

(1) No transmissions shall be made unless they are of extreme emergency nature affecting the national safety or the safety of people and property.

Note: Transmission affecting the safety or security of industrial plants, personnel or equipment and materials necessary to the national defense may be made. All transmissions not immediately necessary must be withheld until the CONELRAD Radio All Clear has been issued.

(2) All transmissions shall be as short as possible and the stations' carrier shall be removed from the air during periods of no message transmission.

(3) No station identification shall be given either by announcement of regularly assigned call sign or by announcement of geographical location. If identification is necessary to carry on the service, the use of special identifiers will be authorized.

§ 19.104 Special conditions. Licensees of radio stations or systems in the Citizens Radio Service, who for technical or operational reasons believe that compliance with § 19.103 cannot be met, may request a waiver of § 19.103. Such request must be made by letter to the Secretary, Federal Communications Commission, Washington 25, D. C., stating why § 19.103 cannot be complied with. The Commission upon investigation may modify the CONELRAD operating requirements of the station or system if it is found to be essential to the defense of the nation or the public welfare.

§ 19.105 Radio All Clear. The CONELRAD Radio All Clear will be initiated only by the Air Division (Defense) Commander or higher military authority and will be disseminated over the same channels as the CONELRAD Radio Alert. Broadcast stations will transmit the CONELRAD Radio All Clear message on normally assigned frequencies as follows:

The CONELRAD operating procedures have been ordered discontinued. All radio stations are authorized to return to normal operation on their regularly assigned frequencies:

I repeat

The CONELRAD operating procedures have been ordered discontinued. All radio stations are authorized to return to normal operation on their regularly assigned frequencies.

Radio stations and systems licensed in the Citizens Radio Service may resume normal operation when the CONELRAD Radio All Clear message is received unless otherwise restricted by order of the Federal Communications Commission.

§ 19.106 Tests. Tests of the CONELRAD alerting and operating systems may be conducted at appropriate intervals. Stations not normally in operation during the period of a test will not be required to take part. Tests of the operating system will not require the station to close down and will be conducted in a manner that will not interfere with

the transmission of normal traffic. Reports of the results of such tests may be required in a form to be prescribed by the Commission.

§ 19.107 Record entries. Appropriate entries of all CONELRAD tests, drills, and operations shall be made in the station records.

[P. R. Doc. 58-5632; Filed, July 22, 1958; 8:53 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 110—DESTRUCTION OF RECORDS

SUBPART F—PERSONS WHICH FURNISH CARS TO RAILROADS

At a session of the Interstate Commerce Commission, division 2, held at its office in Washington, D. C., on the 11th day of July A. D. 1958.

The matter of regulations to govern the destruction of records of persons which furnish cars to railroads being under consideration pursuant to provisions of section 20 (7) (b) of the Interstate Commerce Act, as amended, (34 Stat. 594, 35 Stat. 648, 54 Stat. 918; 49 U. S. C. 20); and,

It appearing that an order was entered May 2, 1952 requiring all persons which furnish cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company subject to section 20 (6) of the Interstate Commerce Act, and which were exempted from accounting regulations prescribed pursuant to that section, to comply with regulations to govern the destruction of carrier records as prescribed by that order; and,

It further appearing that a notice of proposed rule making was issued May 21, 1958 showing in detail the revised regulations which were receiving consideration, such notice being published in the FEDERAL REGISTER on June 4, 1958 (23 F. R. 3902) pursuant to provisions of section 4 (a) of the Administrative Procedure Act; and consideration having been given to responses to that notice by interested persons, which were received on or before June 30, 1958 as therein provided, in the formulation of regulations hereinafter prescribed:

It is ordered, That the said order entered May 2, 1952 and the regulations therein prescribed be, and both the order and the regulations hereby are, canceled effective September 1, 1958, as of which date the title of Subpart F of Part 110 of this chapter shall be changed to conform to the above heading of this order and the regulations hereinafter prescribed substituted for the text thereof.

It is further ordered, That effective September 1, 1958 all persons which furnish cars to railroad or express companies subject to provisions of section 20 (6) of the Interstate Commerce Act, but do not provide protective service against heat or cold, shall comply with regulations which are attached hereto, and are by this reference made a part of this order, before destroying accounts, books, records, memoranda, correspond-

ence, or other documents which pertain or relate to the cars so furnished.

And it is further ordered, That this order shall be served on each person which is subject to its provisions, and on every trustee, receiver, executor, administrator, or assignee of such persons, and that notice of the order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing the order with attached regulations with the Director, Federal Register Division.

By the Commission, Division 2.

[SEAL]

HAROLD D. MCCOY,
Secretary.

Regulations to govern the destruction of records of persons which furnish cars to railroads are as follows:

SUBPART F—PERSONS WHICH FURNISH CARS TO RAILROADS

Sec.

- 110.100 Regulations prescribed.
- 110.101 Statutory provisions.
- 110.102 Authority to destroy records.
- 110.103 Photographic copies.
- 110.104 Periods of retention.

AUTHORITY: §§ 110.100 to 110.104 issued under sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended; 49 U. S. C. 20.

§ 110.100 Regulations prescribed. All persons, including corporations and partnerships as well as individuals, which furnish cars to or on behalf of any carrier by railroad or express company subject to provisions of section 20 (6) of the Interstate Commerce Act, but do not furnish protective service against heat or cold, shall comply with regulations in this part before destroying records or documents which pertain or relate to the cars so furnished. Compliance with the regulations in this part will not, however, exempt such a person from statutory requirements other than provisions of the Interstate Commerce Act, for retention of such records or documents for periods longer than those hereinafter prescribed. (Car line companies which also provide protective service are subject to regulations in §§ 110.1 to 110.7.)

§ 110.101 Statutory provisions. (a) Section 20 (6) of the Interstate Commerce Act includes the following requirements:

The Commission * * * shall at all times have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of persons which furnish cars * * * to or on behalf of any carrier by railroad or express company * * *. *Provided, however*, That such authority shall be limited to accounts, books, records, memoranda, correspondence, or other documents which pertain or relate to the cars * * * so furnished. * * * Persons furnishing such cars * * * shall submit their accounts, books, records, memoranda, correspondence, or other documents, to the extent above provided, for inspection and copying * * * upon demand * * *.

(b) Section 20 (7) (b) of the Interstate Commerce Act includes the following provisions:

Any person who * * * shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the records of * * * accounts, records, or memoranda,

*** shall be deemed guilty of a misdemeanor and shall be subject *** to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents *** as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

§ 110.102 *Authority to destroy records.* Records and documents which pertain or relate to cars furnished subject to provisions of section 20 (6) of the Interstate Commerce Act may be destroyed after the same have been retained respectively for periods herein-after prescribed.

§ 110.103 *Photographic copies.* Records and documents covered by the regulations in this part may be destroyed at any time after they have been suitably photographed in the normal course of business under a program instituted for the protection or storage of other company records of a similar nature or purpose: *Provided, however*, That microfilm copies shall be retained for the periods of time prescribed for the original records or documents, respectively; that the microfilm copies shall be no less readily accessible than the original records or documents as normally filed or preserved would be; and that suitable facilities shall be available to locate, identify, read, or reproduce such microfilm copies.

§ 110.104 *Periods of retention.* Records and documents listed in this section, insofar as they pertain or relate to cars furnished to or on behalf of any carrier by railroad or express company, shall be retained for the periods of time shown

for each kind of record or document, respectively. Inclusion of a record or document in the list imposes no requirement that it shall be installed if the information normally so recorded is not otherwise required by provisions of the Interstate Commerce Act.

Item	Description of records	Period to be retained
1	Contracts, leases, and agreements.	5 years after expiration or termination.
2	Copies and files of tax returns.	3 years.
3	Insurance records, including the policies.	2 years after expiration of coverage.
4	Records of the cost or construction of cars (see note).	3 years after sale or retirement.
5	Records of rents and revenues from cars, of repairs to and maintenance of cars, and of safety appliances installed or repaired.	3 years.
6	Car location records and reports.	2 years.
7	Records and files of claims for personal injuries, and fire and other damages.	5 years after settlement or rejection.
8	Accident records and reports, if not included in Item 7.	2 years.
9	Reports to regulatory agencies, file copies of and supporting papers.	5 years.
10	Correspondence.....	For the period prescribed for the records to which correspondence relates.

NOTE: In addition to records that become the property of the company which acquires cars, the Commission's safety regulations require a car builder or noncarrier car repair shop to retain certain records relating to the construction or repair of tank cars. See Appendix W, A. A. R. Tank Car Specifications.

[F. R. Doc. 58-5625; Filed, July 22, 1958; 8:51 a. m.]

visions of Marketing Agreement No. 123, as amended, and Order No. 64, as amended, an assessment of \$1.35 for each ton of salable tonnage dried figs handled by him as the first handler thereof during the crop year which will begin on August 1, 1958, and will end on July 31, 1959, which assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

The term "salable tonnage dried figs," as used in § 964.303 (b), means and includes all natural condition dried figs acquired by a handler during the crop year which will begin on August 1, 1958, pursuant to the applicable provisions of the aforesaid marketing agreement, as amended, and order, as amended.

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

Dated: July 18, 1958.

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

[F. R. Doc. 58-5641; Filed, July 22, 1958; 8:54 a. m.]

[7 CFR Part 980]

[Docket No. AO-301]

HANDLING OF MILK IN WESTERN COLORADO MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of 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 a proposed marketing agreement and order regulating the handling of milk in the Western Colorado 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 marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Grand Junction, Colorado, on December 10-13, 1957, pursuant to notice thereof which was issued November 19, 1957 (22 F. R. 9394).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;
2. Whether marketing conditions show the need for the issuance of a milk mar-

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 964]

DRIED FIGS PRODUCED IN CALIFORNIA

APPROVAL OF BUDGET OF EXPENSES OF DRIED FIG ADMINISTRATIVE COMMITTEE FOR 1958-59 CROP YEAR AND FIXING RATE OF ASSESSMENT FOR SUCH CROP YEAR

Notice is hereby given that the Secretary of Agriculture is considering the approval of a budget of expenses of the Dried Fig Administrative Committee for the 1958-59 crop year and the fixing of a rate of assessment for that year, as hereinafter set forth. The amount of the budget and rate of assessment were unanimously recommended by the aforesaid committee in accordance with the provisions of Marketing Agreement No. 123, as amended, and Order No. 64, as amended (7 CFR Part 964), regulating the handling of dried figs produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining

thereto which are filed in triplicate with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., and received not later than the close of business on the eighth day after the publication of this notice in the FEDERAL REGISTER. In the event that the said eighth day after publication should fall on a legal holiday, Saturday, or Sunday, such submissions must be received by the Director not later than the close of business on the next following business day.

The proposed budget of expenses and rate of assessment follows:

§ 964.303 *Budget of expenses of the Dried Fig Administrative Committee and rate of assessment for the 1958-59 crop year—(a) Budget of expenses.* Expenses in the amount of \$26,460 are reasonable and are likely to be incurred by the Dried Fig Administrative Committee for its maintenance and functioning for the crop year which will begin on August 1, 1958, and will end on July 31, 1959.

(b) *Rate of assessment.* Each handler shall pay to the Dried Fig Administrative Committee, in accordance with the pro-

marketing agreement or order which will tend to effectuate the policy of the act; and

3. If an order is issued what its provisions should be with respect to:

- (a) The scope of regulation;
- (b) The classification and allocation of milk;
- (c) The determination and level of class prices;
- (d) Distribution of proceeds to producers; and
- (e) Administrative provisions.

Findings and conclusions—1. Character of the commerce. All milk to be regulated by the proposed marketing agreement and order is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products.

The marketing area specified in the order proposed herein includes all territory within three counties located in Western Colorado. There is continuous and substantial interstate commerce in the procurement of milk and the sale of fluid milk and its products to consumers. Two handlers who would be regulated under the proposed order regularly distribute packaged fluid milk products on routes into the counties of Grand and San Juan located in Southeastern Utah. Thus, Western Colorado handlers are in competition with each other across the Colorado-Utah state line, and with handlers located in Utah as well, in the sale of milk and milk products at the wholesale and retail levels.

Substantial quantities of manufactured dairy products, such as cottage cheese, condensed milk, and nonfat dry milk solids are sold in the proposed marketing area from sources located outside of the State of Colorado. The condensed milk is used for the manufacture of ice cream which is distributed locally. The nonfat dry milk solids are used occasionally for the manufacture of cottage cheese and also to fortify fluid milk products.

Producers for the Western Colorado market supply milk primarily for fluid use. However, there is necessarily some reserve for variations in sales and production. This reserve milk is commonly manufactured into butter at local plants and shipped to the west coast for distribution.

On a supplemental basis, substantial quantities of milk produced in Utah and Idaho were imported during the period of July 1956 through February 1957. However during this same period milk was being exported to New Mexico. The total quantity of milk imported during the above period was approximately 768,000 pounds and exports amounted to approximately 384,000 pounds. Thus, milk so imported was commingled with locally produced milk and distributed in bulk and packaged form in Colorado, Utah, and New Mexico.

It will be noted that there is interstate commerce in three major respects; procurement of milk for the market, distribution by handlers, and in close relationship with national markets for manufactured dairy products.

2. **Need for an order.** Marketing conditions in the Western Colorado area indicate that the issuance of a marketing order, such as that set forth herein, will tend to effectuate the declared policy of the act with respect to milk produced for the Western Colorado market.

Stability of the marketing conditions together with a reasonable certainty of an adequate supply of pure and wholesome milk can be assured for the Western Colorado marketing area only when all milk handlers in the area have substantially equal costs of milk according to use, and only when all farmers supplying milk to each handler in the market receive the same price per hundred-weight for Grade A milk.

These conditions do not exist. Most of the handlers distributing milk to consumers in the marketing area purchase their raw milk from farmers affiliated with the Western Colorado Milk Producers Association. The Association has been unable to attain a satisfactory arrangement with respect to checking of weights and tests of milk delivered to handlers by producers, the utilization of milk by the handlers, bargaining for the price to be received by producers for the milk, and the assignment of bases to producers.

Producers were unable to make satisfactory pricing arrangements for the sale of their milk. Prices paid for milk have been determined without consultation with the producers and without regard to the use of the milk. Producers were paid on a base-excess plan throughout the year. Producer bases were fixed most of the time and did not change from year to year as changes occurred in the production and sales patterns. The base prices paid by major handlers in the market had little relationship, if any, to the total Class I sales by their respective plants. Moreover, one handler paid two different base prices to his producers. A discounted base price was paid to producers for milk sold outside of the proposed marketing area.

The Western Colorado handlers have frequently found it necessary to purchase milk from outside sources in order to meet their needs. However, the quantities so purchased, the prices paid by handlers and the times when such milk was needed are not known to the producers. Handlers at times have had to pay more for such milk than the price generally paid to local producers. Moreover, there were times when the imported milk was available at prices lower than prices paid to producers. The producers' lack of knowledge about such outside milk results in mistrust and is a serious handicap to local producers in planning production to supply the market. The availability of surplus milk from other fluid milk markets purchased on an "opportunity" basis is a serious threat to market stability.

These variations in price plans and in net prices paid to producers reflect different raw material costs to various dealers who are selling milk in the marketing area. A condition of unequal costs among handlers may cause them to attempt to economize by reducing re-

turns to producers. This in turn would tend to stimulate successive price reductions by competitors. This development is contrary to the interest of producers and over a period of time may jeopardize an adequate supply of milk. Alternatively, some handlers may attempt to achieve equality by reducing the quantity of their purchases of milk in order to obtain the highest possible proportion of the higher value uses of milk. This reaction, however, may result in intermittent shortages of supply for the market.

If producers receive widely varying prices for their milk, they tend to shift around among milk dealers and to shift in and out of the market. Such shifts may become sufficiently frequent as to jeopardize a dependable supply of pure and wholesome milk.

A marketing agreement and order program is needed to establish and maintain orderly marketing conditions throughout the marketing area. The thorough auditing of the utilization of all milk received by handlers, the checking of butterfat tests and weights of all producer milk, and the publication of complete supply and use data for the market will aid in this objective by assuring producers that they will receive a proper accounting for their milk and by providing full information on market developments.

3. **Order provisions.** The major provisions of an order suitable for the Western Colorado area will be described in the following portions of this decision.

(a) **Marketing area.** The marketing area should include all the territory within the counties of Delta, Mesa and Montrose, all in the State of Colorado. The city of Grand Junction is the largest population center in the marketing area. It is estimated that the population in January 1957 of Grand Junction was approximately 20,000 out of a total population of 82,000 in the three-county area.

The three-county area is served exclusively by a group of six handlers. Three of these handlers have bottling plants in Grand Junction at which milk is received from producers. One handler has a bottling plant in the city of Delta and another plant in Grand Junction at which ice cream is manufactured. The latter plant would not be regulated under the attached order. The two other handlers have bottling plants located in the towns of Montrose and Paonia.

Of the six handlers distributing milk in the proposed marketing area, three handlers distribute milk into each of the counties in the proposed marketing area. The sales of the other three handlers are as follows: One handler distributes milk only in the city of Grand Junction. The two handlers whose plants are located in Montrose and Paonia distribute milk only in Montrose and Delta counties, respectively.

In addition to the sales competition, the six handlers also compete actively in the purchase of milk from dairy farmers. The milkshed area is, of course, somewhat larger than the defined marketing area but the farms of most of

the producers supplying each of the six handlers are intermingled. Approximately 177 producers supply these six handlers.

The three-county area requires all milk distributed for fluid purposes meet Grade A standards. The State of Colorado has a Grade A law which requires that all milk sold for fluid purposes must be Grade A milk. There are local health departments in Grand Junction and Montrose which have Grade A ordinances similar to the State of Colorado's law but there isn't any provision in these ordinances which restrict the movement of milk in the marketing area. The principal difference between the local ordinance and the State law is that the local health departments issue Grade A permits to the local dairy farmers whereas the State does not. The State inspects only the plants and issues permits to such plants.

Producers proposed that the marketing area also include the counties of Dolores, Garfield, Gunnison, Hinsdale, La Plata, Montezuma, Ouray, San Juan, and San Miguel. The cooperative association had no members delivering milk to the additional handlers who would be regulated, but they considered these counties to be an important and integral portion of the market. The six handlers who would be regulated hereunder and who are served in whole or part by the association testified that there was not any need to include any other territory than the handlers' primary market which would be the marketing area proposed herein. If the above-mentioned counties were included it would be necessary to regulate handlers whose primary market is not located in the Western Colorado area. Since no evidence was presented at the hearing as to the quantity of Class I sales the handlers had in these counties it is safe to assume that the competition was not sufficient to warrant regulation or that their major competition would only come from handlers who would be regulated under the order.

The marketing area as herein defined comprises a contiguous, generally populous territory, served by the same handlers. Such area is, in reality, a single milk market, all parts of which are regulated by health ordinances generally similar in scope and enforcement, and which constitutes a practical unit for the proposed regulation.

(b) *Milk to be priced.* The type of regulation provided by a milk order is essentially a matter of establishing minimum prices to be paid to dairy farmers who produce milk for the market. The scope of such regulation may be made specific by providing appropriate definitions.

The primary factor in determining which dairy farmers are producers of milk for the marketing area is the disposition of milk from the plant to which they deliver their milk. Market conditions described in the record indicate that the most practical method of order regulation would be to establish minimum prices to all farmers delivering Grade A milk to plants from which such milk is distributed in the marketing area.

In order to qualify under the definitions of the order, any dairy farmer or any milk plant should have the approval of an appropriate health authority for the production or disposition of milk for consumption as Grade A fluid milk. Since approval to produce or distribute milk in the proposed marketing area may be extended to farmers or plants under inspection of other health authorities, no requirement should be made that a dairy farm or a milk plant must hold a permit actually issued by a health authority in the marketing area.

A "fluid milk plant" should be defined as any plant from which Class I milk is disposed of on routes in the marketing area. In delineating the Western Colorado marketing area, it has been noted that all of the milk plants located within this area have a preponderance of their Class I sales within the defined marketing area. Since these milk plants are the only ones from which Class I milk is distributed in the defined marketing area, it is appropriate that the definition of a fluid milk plant should include all milk plants from which Class I milk is disposed of on routes in the marketing area. (To avoid the administrative problem of dealing with insignificant operations, plants from which less than 200 pounds per day of Class I milk may be disposed of on routes in the marketing area are specifically exempted from the pricing and payment provisions of the order.) In other words, any milk plant from which a significant volume of Class I milk is disposed of on routes in the marketing area will be subject to full regulation under the order.

At the present there are no plants serving as receiving stations or regular supply plants for fluid milk plants in this area. Such supplemental shipments as are needed by the market are in most cases of short duration and originate usually from plants located in Utah. It appears at this time that effective regulation in the marketing area may be accomplished without regulating supply plants which furnish only incidental shipments of bulk milk to fluid milk plants. If, in the future, supply plants serve as regular sources of supply for the market or supplies from such sources displace local producer milk, the question of pricing milk at such plants should be considered at another hearing.

Milk received at a regulated plant from plants not subject to the Western Colorado order should be designated as other source milk and allocated first to the lowest priced uses of the reporting handler. This procedure is necessary to assign the fluid milk sales to the regular producers who supply milk to the fluid plants and to preserve the effectiveness of the classified pricing plan.

Fluid milk plants from which a higher proportion of the Class I sales is disposed of in the marketing area under another Federal order need not be subject to this regulation provided that such plant is fully subject to regulation under the other order. It would not be feasible to extend regulation to such plants because to do so would subject them to duplicate regulation under the act. Provision should be made for the operators of such plants to report their receipts and utili-

zation to the market administrator as may be necessary to determine their status under the order.

A "nonfluid milk plant" should be defined as any milk plant other than a fluid milk plant. The term "route" is used in the definition of a fluid milk plant to cover a number of types of distributing operations in which handlers may engage in the proposed marketing area. "Route" should be defined as any delivery to retail or wholesale outlets (including a sale from a plant or plant store) of a fluid milk product other than a delivery to any milk processing plant.

"Handler" should be defined as the operator of a fluid milk plant. The operator of any fluid milk plant is included in order to require such a person to report to the market administrator and apply other order provisions pertaining to such handlers. The handler is the person to whom the provisions of the regulation are applicable. He is the person who receives the milk from dairy farmers and who is responsible for reporting receipts and utilization of milk at each fluid milk plant. He is also responsible for paying producers minimum prices. If a handler operates both a fluid milk plant and a nonfluid milk plant, this definition is not intended to include such person as an operator of such latter plant.

"Producer" should be defined as any person who produces milk in compliance with inspection requirements of a duly constituted health authority for Grade A milk for fluid consumption and whose milk is received at a fluid milk plant. This definition is intended to include the producers of milk for fluid use whose milk is supplied by a fluid milk plant to Federal installations within the marketing area. Provision should also be made to include a producer whose milk is diverted to a nonfluid milk plant by the handler for his account. The milk of producers which is diverted by a handler should continue to be pooled with the milk of his other producers so that the producers whose milk is diverted will be paid the handler's uniform price. This will facilitate the movement of milk to nonfluid milk plants for the purpose of adjusting utilization to short-term variations in supply and preserve the producer status of such dairy farmer so that his milk production will be available to supply the market's fluid milk needs at other times. For purposes of applying location differentials diverted milk should be deemed to have been received at the plant from which it was diverted.

"Producer-handler" should be defined as any person who receives receiver milk from his own dairy farms (but not from other producers) and who distributes fluid milk products in the marketing area. He may purchase supplemental milk for Class I use from fluid milk plants under the order. Producer-handlers should be subject to the order only to the extent that they must submit reports to the market administrator as required and maintain and make available to the market administrator accounts, records and facilities so that he may verify that such persons are producer-handlers.

The proponents proposed that any producer-handler who distributes more than 1,000 pounds of Class I milk per day on routes in the marketing area would lose his producer-handler status and become a fully regulated handler. The 1,000 pound limitation on a producer-handler under individual-handler pools has no value because the producer-handler would not have to make any equalization payments as he would under a marketwide pool. However, at the time of the hearing there were no producer-handlers distributing Class I milk in the marketing area. In view of the fact that the order provides for individual-handler pools and there are no producer-handlers in the market there is no need to place a quantity limitation on a producer-handler's Class I sales in the marketing area.

The classification provisions of the proposed order should provide that any milk, skim milk or cream transferred by a handler to a producer-handler will be Class I milk. Any supplemental milk which a producer-handler obtains from other handlers must, by virtue of the nature of the operation involved, be presumed to be needed for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Any milk which a handler receives from a producer-handler should be considered as other source milk and allocated to the lowest class utilization at the fluid milk plant of a handler after the allocation of shrinkage on producer milk. Milk disposed of to another handler by a producer-handler must be presumed to be surplus to the operation of the producer-handler.

"Other source milk" should be defined as all skim milk and butterfat contained in milk and milk products utilized by the handler in his operation except milk received from producers and fluid milk products received from other fluid milk plants. It will include all fluid milk and fluid milk products from plants other than fluid milk plants and all manufactured dairy products from any source which are reprocessed or converted into another product during the month. It will include those manufactured products from a plant's own production or from other fluid milk plants which are reprocessed or converted into another product in the plant during the same or a later month.

A "fluid milk product" should be defined as any product which the duly constituted health authority in the marketing area require be made from Grade A milk. These products would be milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream (sweet or sour, including any mixture of cream and milk or skim milk), and concentrated (frozen or fresh) milk, flavored milk, or flavored milk drinks which are neither sterilized nor in hermetically sealed cans.

(c) *Classification of milk.* All milk and milk products received by a handler should be classified on the basis of skim milk and butterfat according to the form in which or the purpose for which it is

used or disposed of as Class I, Class II or Class III milk. The handlers proposed a single surplus class, but the reasons for the three classifications of skim milk and butterfat are discussed in detail under Class Prices.

Skim milk and butterfat are not used in most products in the same proportion as contained in the milk received from producers, and therefore, should be classified separately according to their separate uses. The skim milk and butterfat content of milk products received and disposed of by handlers can be determined through recognized testing procedures. Some of these products such as ice cream and condensed products present an accounting problem in that some of the water contained in the milk has been removed. It is necessary in the case of such products to provide an acceptable means of ascertaining the amount of skim milk and butterfat used to produce them. This may be established through the use of adequate plant records made available to the market administrator for products produced by the handler or by means of standard conversion factors for products purchased by the handler. The accounting procedure to be used in the case of any milk product should be based on the pounds of milk or skim milk required to produce such products.

Class I milk. The products which should be included in Class I milk are those generally required by health authorities having jurisdiction in the marketing area to be made from milk or milk products from approved Grade A sources. The extra cost of getting quality milk produced and delivered to a market in the condition and quantities required makes it necessary to provide a price for milk for Class I utilization above the ungraded or manufacturing milk price.

Class I milk should include all the products defined in the fluid milk products provision. All of the enumerated forms of milk contained in the fluid milk product definition are required by the health authorities having jurisdiction in the defined marketing area to be made from milk produced on farms approved to supply milk for fluid use. Buttermilk is an exception to this since it is not required to be made from Grade A milk. However, all the handlers in the Western Colorado market make buttermilk out of Grade A milk and proposed that such product be included in Class I milk.

The Class I products which contain concentrated skim milk solids such as skim milk drinks and buttermilk to which extra solids are added or concentrated whole milk disposed of in fresh or frozen form for fluid use should be included under the Class I definition. Products such as evaporated or condensed milk in bulk, or packaged in hermetically sealed cans, should not be considered as concentrated milk.

Class II milk should be all the skim milk and butterfat used to produce ice cream, imitation ice cream, frozen desserts, ice cream mix, imitation ice cream mix, frozen dessert mix, yogurt, eggnog, aerated cream, skim condensed milk, whole condensed milk, cottage cheese curd and cream used in the creaming of

cottage cheese curd. Although these products are not required to be made of Grade A milk, when local Grade A milk is available these products are made from milk of approved sources. When local milk is not available such products as high quality, low temperature spray process nonfat dry milk are desired and used for these products. Most of the products contained in the definition of Class II are commonly made in local plants at little or no haul cost. Therefore, milk used to produce Class II products should be classified differently from the milk used to produce Class III products.

Class III milk should be all skim milk and butterfat used to produce all products not specified in Class I or Class II. Included in Class III are butter, cheese, evaporated and condensed milk, nonfat dry milk, and other products not designated as Class I or Class II.

Class III should include actual shrinkage on producer milk in an amount not in excess of 2 percent of receipts directly from producers and actual shrinkage on other source milk. Unaccounted for milk in excess of a reasonable allowance for plant loss should be Class I in order to require full accounting by handlers for their receipts. Two percent is considered reasonable maximum allowance for this purpose. An efficiently operated fluid milk plant should be able to keep its shrinkage within this allowance. No limit should be placed on shrinkage of other source milk. Such milk is deducted from the lowest use class under the allocation provision. Since it is not feasible to segregate shrinkage of producer milk from that of other source milk in the same plant, total shrinkage is prorated on the basis of the volume of receipts.

Class III should also include any skim milk and butterfat which is dumped after prior notification to and opportunity for verification by the market administrator or for livestock feed to the extent that verifiable records of such utilization are maintained by the handler.

Butterfat and skim milk used to produce Class II and Class III products should be considered to be disposed of when so used. Handlers will need to maintain stock records of such products, however, to permit audit of their utilization records by the market administrator. Class II and Class III products from any source which are used during the month in the production of another product should be subject to a reclassification charge if they are used in a higher price class. This will maintain priority of assignment of current receipts of producer milk to Class I utilization.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Inventory is intended to include stocks on hand of bulk milk, skim milk, cream, bottled milk and other fluid milk products designated as Class I. Manufactured products (Class II and Class III) on hand are not included in the inventory account because the milk

used to produce such products will already have been accounted for. However, handlers will need to keep records of such products but they will not be included in inventory for the purposes of accounting for current receipts.

It is concluded that inventory should be accounted for as Class III milk. If fluid milk products in inventory are accounted for as Class III milk at the end of a month, it will be necessary to provide a method to deal with the producer milk inventory which is used in the current month for Class I purposes but which the handler accounted for to producers as Class III milk at the end of the previous month. In plants which engage primarily in a fluid milk business, it is quite possible that a decrease in inventory in any given month may exceed their total utilization of milk in Class III. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by considering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class III milk following the subtraction of other source milk. To the extent that opening inventory is allocated to Class I and Class II milk and there was an equivalent amount of producer milk classified in Class III milk in the previous month (after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I or Class II price in the current month and the Class III price in the preceding month. This will promote equality in the cost of milk among handlers and returns to producers, irrespective of whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

Transfers. With respect to milk utilized in any given plant, the above described classification rules apply.

However, since some Class I items may be disposed of to other milk plants for processing, separate classification procedure should be prescribed for transfers to other plants.

Milk, skim milk, cream or other products designated as Class I milk transferred by a handler to the fluid milk plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II or Class III milk. However, sufficient Class II or Class III utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk, as described below. On the other hand, if the transferring handler had other source milk during the month, the assignment of products transferred to another plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while at the same time producer milk is allocated to Class II and Class III milk in the transferee handler's plant.

Milk, skim milk, or cream transferred in bulk to a nonfluid milk plant located more than 350 miles distant from the City Hall in Grand Junction should be classified as Class I. There are adequate facilities for the manufacture of excess milk into manufactured products within a radius of 350 miles. Both Salt Lake City and Denver are within this radius. The automatic classification as Class I of milk, skim milk or cream moved more than 350 miles is administratively necessary in order to reduce the administrative expense which would otherwise be involved in having the market administrator verify actual utilization in nonfluid milk plants located at extreme distances from the market.

The more common form of transfer to a nonfluid milk plant by Western Colorado handlers is the movement of excess milk to nearby manufacturing plants. It is provided that transfers of milk, skim milk, or cream from a fluid milk plant to a nonfluid milk plant located less than 350 miles distant be Class I unless Class II or Class III use is affirmatively established. Evidence of such use consists of a certification by the fluid milk plant operator that the transfer was intended for Class II or Class III use, and verification by the market administrator of the records made available by the nonfluid milk plant operator shows an equivalent quantity was so utilized.

Allocation. In view of the fact that the order class prices apply only to producer milk it is necessary, if a fluid milk plant has butterfat or skim milk other than that received in producer milk, to determine the quantities of milk in each class to be assigned to current receipts from producers. The milk received from producers (as defined herein) should be assigned to Class I before other milk is so assigned. The dairy farmers defined under the order as producers are the dairy farmers for whom minimum prices are established under the order and those relied upon to produce an adequate supply of milk for the market. If handlers were permitted to assign producer milk to Class II or Class III, while at the same time assigning milk received from other sources to Class I, the returns from the sale of Class I milk would not accrue to those farmers for whom minimum prices are established and who are relied upon to provide an adequate supply of milk for the market. Thus, the prior assignment of producer milk to Class I is essential to insure the effectiveness of the classified pricing program, under the order, and to effectuate the purposes of the act. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in § 980.46 of the order.

Under this procedure, the skim milk and butterfat, respectively, remaining in each class is assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class III milk:

- (1) Class III shrinkage of producer milk;
- (2) Other source milk as defined in § 980.13;
- (3) Beginning inventory;
- (4) Receipts from other handlers (according to classification);

(5) Overage.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described should be carried out with respect to all milk received during each month. To apply a shorter accounting period would place an accounting and reporting burden upon handlers and increase the cost of administering the order.

(d) **Class prices.** Class I prices should be established at a level which, together with appropriate Class II and Class III prices, will return to producers a uniform price sufficient to bring forth the required supply of Grade A milk throughout the year. Class I prices established too low will result in the production of insufficient milk to meet the Class I needs of the market. On the other hand, prices at too high a level will stimulate production and bring to the market more milk than is necessary to satisfy the Class I needs, including a reasonable reserve. The development of uneconomic reserves of Grade A milk will tend to depress the price paid to producers for the market.

Basic formula price. In their proposal, the producers suggested that a basic formula price and differential method of pricing be established. The purpose of the basic formula price is to reflect the national market price for milk used in manufacturing dairy products. Because the market for most manufactured products is nationwide, prices of such products reflect, to a large extent, changes in the general economic conditions affecting the supply and demand for ungraded milk. These prices, in turn, influence the local market prices for the same uses of milk. For these reasons, in most fluid milk markets it has been found appropriate to use the prices for butter and nonfat dry milk solids, or the prices paid by condenseries (with differentials over these basic manufacturing prices) to establish fluid milk prices. The differential added to the basic formula price should reflect the additional costs of getting Grade A milk produced and delivered to consumers in the quantities required meet the needs for fluid consumption in the Western Colorado marketing area. The use of alternative components as included in the attached order in the determination of the basic formula price will reflect the basic factors affecting the value of manufacturing milk at any given time.

The basic formula price should be the higher of (a) the prices paid by Wisconsin and Michigan condenseries for milk of 3.5 percent butterfat, or (b) a price calculated from a formula using the prices of butter and nonfat dry milk. This basic formula pricing plan is similar to that proposed by the proponents at the hearing except that for the sake of uniformity the same formula as is used in the Southwest Kansas and Wichita, Kansas, orders has been used.

The condensery price is the same as that proposed by producers and commonly used in Federal orders. However, a somewhat higher butter-powder formula should be used than that proposed by producers. The formula price per hundredweight of 3.5 percent milk should be comprised of a butterfat value

equal to the price of 92-score butter at Chicago less a "make" allowance of 3 cents, multiplied by a yield factor of 4.2 and a skim milk value equal to the average prices of spray and roller process nonfat dry milk at Chicago area manufacturing plants less a "make" allowance of 5.5 cents multiplied by a yield factor of 8.2. The principal reason for using a higher butter-powder formula is that higher formulas are used in the Federal markets closest to the Western Colorado area. At the support prices prevailing during the April 1958-March 1959 marketing season, the Southwest Kansas and Wichita formulas would produce a price of \$2.94 for 3.5 percent milk and the basic formula proposed by producers would be only \$2.81. Since inter-market relationships constitute a major factor in the use of basic formulas, the formulas already used in the Wichita and Southwest Kansas orders should be adopted.

Class I differential. For the first 18 months of the operation of an order for the Western Colorado area, the minimum Class I price per hundredweight of milk of 3.5 percent butterfat content should be determined during the months of March, April, May, and June by adding a differential of \$1.60 to the basic formula price for the preceding month and during all other months such differential should be \$2.05.

Some time after the order has been in operation a full year, a hearing can be called to consider more permanent Class I price provisions. At such time considerable marketwide data on all aspects of the marketing of milk in the area will have become available. These data can be expected to provide for a reappraisal of the Class I price structure, including the supply-demand adjustment.

The proponents proposed a Class I differential of \$2.45 per hundredweight over the basic formula price. They presented testimony that such a price was needed because of the higher costs of production and transportation in the Western Colorado area than in surrounding areas. The proposed Class I price would have averaged \$5.47, \$5.56 and \$5.59 in 1955, 1956 and 1957, respectively.

The historical prices paid for fluid milk for bottling purposes vary to a large extent in the market. At present there is no classified payment plan operating in the market. Producers are paid on a base and excess plan. The base price was reportedly tied to the amount of fluid sales each handler had in his plant and, therefore, constitutes the closest available approximation to a historical Class I price.

Although the producers were paid either on a per hundredweight or per pound of fat basis, the historical prices stated below have been converted to a Class I differential over a basic formula price. The basic formula price used is the same one provided in the proposed order applicable to the period. In 1955 the price paid to producers for base milk of 3.5 percent butterfat content by two of the three largest handlers averaged \$2.19 over a basic formula price of \$3.06 (for a total of \$5.25 per hundredweight) f. o. b. the plant. During the same

period another large handler paid two different base prices to his producers yielding Class I differentials of \$1.14 (total price of \$4.20 per hundredweight) and \$2.19 (\$5.25 per hundredweight). The Class I differential of \$1.14 was paid to producers whose milk was purported to have been sold outside of the marketing area provided herein. The prices per hundredweight paid to producers for base milk did not change from January 1955 through February 1957, although manufacturing values, as measured by the basic formula, varied somewhat.

In March 1957 the handler who paid the two different base prices increased them by 17 cents per hundredweight, but at the same time another handler decreased his base paying price. For the first 10 months of 1957 the average Class I differential over the basic formula price of \$3.14 paid for base milk in the Western Colorado market by all handlers, weighted by producer numbers, was \$1.84 (\$4.98 per hundredweight) f. o. b. the plant. During this period the range of average Class I differentials was from \$1.20 (\$4.34) to \$2.25 (\$5.39) and of the total of 177 producers delivering to the six plants which would be regulated 43 producers received a Class I differential of \$1.20 (\$4.34), 4 producers received \$1.30 (\$4.54), 66 producers received \$1.98 (\$5.12), 34 producers received \$2.11 (\$5.25) and 30 producers received \$2.25 (\$5.39). It is obvious that a significant number of new producers have been willing to supply milk under open bases at a Class I differential of about \$1.20. However, it is unlikely that such a price would bring forth an adequate supply of milk for the market since these shippers still represent less than one quarter of the total and have not had sufficient cost experience to determine whether they can produce permanently at the low price. Therefore, it is concluded that Class I differentials of \$1.60 during the months of March, April, May and June and \$2.05 during all other months would be more nearly in line with the prices which have been paid to the majority of producers.

A second guide to the appropriate level of Class I prices is the cost of alternative supplies of milk. If the Class I price in the Western Colorado market were established at a price which exceeded the cost of supplies from alternative sources over any extended period of time there would be an incentive for handlers to reduce their purchases from local producers and purchase milk from outside sources.

Supplemental milk was imported during the months of July 1956 through February 1957, mostly from Salt Lake City. The prices paid for this milk varied from \$1.00 per pound of fat (\$3.50 per hundredweight of 3.5 milk) in the latter part of January and the first part of February to \$1.50 per pound of fat (\$5.25 per hundredweight) during July of 1956. The hauling cost on this milk was 70 cents per hundredweight. The f. o. b. Grand Junction price of such milk at 3.5 percent butterfat would have ranged from \$4.20 to \$5.95, as compared with the average Class I price of \$5.25 provided herein for the same period.

The cost of supplemental milk from the usual midwestern sources of supply would be higher than the Class I price provided herein. A handler in Springfield, Missouri, said he could have delivered 3.5 percent milk to Grand Junction during the month of November 1957 for \$6.28 per hundredweight. A handler in St. Paul, Minnesota, quoted a price of \$6.25 per hundredweight for the same period. A handler from Minneapolis, however, quoted a price of \$5.92 per hundredweight f. o. b. Grand Junction for milk delivered on a year-round basis. The prices quoted exceed the proposed average Class I price of \$5.04 during the year of 1957.

The seasonality of the Class I differentials herein proposed, 45 cents less in March through June than in other months, gives greater incentive to the production of milk for the market in those months of normally short production. This seasonal variation in the Class I price differential is particularly important in view of the absence of a base-rating plan. (The base-rating plan is covered in more detail in another section of this decision.) On the basis of the prices which have been paid to producers in the past few years, the cost of supplemental supplies from other markets, and the advisability of providing an incentive for level production, it is concluded that Class I differentials of \$1.60 for the flush months of March through June and \$2.05 for the months of July through February will be appropriate.

Class II price. The Class II price should reflect a value for milk used to produce cottage cheese, ice cream and related products in the Western Colorado market. The price for such milk should be the basic formula price for the current month plus 60 cents.

Milk used for these purposes should command a premium over milk used in the manufacture of the major nationally marketed dairy products such as butter, nonfat dry milk, hard cheese and evaporated milk. The premium is based on the lower transportation and handling cost, the superior quality of Grade A milk in the manufacture of these products, and the cost of alternative sources of ingredients.

In this market much of the reserve supply of milk that is needed because handlers' Class I sales fluctuate on a daily basis is converted into such products as cottage cheese, ice cream and related products in handlers' plants or other nearby plants. Transportation and rehandling costs are either eliminated or minimized.

Ungraded milk for these purposes commands a higher price than milk used in the manufacture of Class III products. As an example, a local ice cream plant has paid \$3.85 per hundredweight for ungraded milk of 3.5 percent butterfat for use in ice cream. The price level of Class II milk should not be below that paid for ungraded milk for the same use, since such "pay" prices represent the prevailing value for milk for such uses. It is to be expected that milk in excess of Class I uses will be used in the highest valued manufactured products.

The cost of alternative supplies of milk for Class II use are more than the prices the handler must pay for butterfat and milk solids from producers.

Cream purchased from Springfield, Missouri, would cost the handlers about 75 to 80 cents per pound of butterfat delivered to Grand Junction. Milk solids purchased in the form of nonfat dry milk or condensed milk would cost the handler approximately \$1.10 to \$1.435 per hundredweight of skim milk equivalent. Thus, the total price paid for butterfat and milk solids would be more than the price per hundredweight handlers would be required to pay local producers for milk used in Class II products.

Class III price. The minimum Class III price per hundredweight for milk of 3.5 percent butterfat content should be the basic butter-powder formula price less 13 cents.

The problem of disposing of milk not needed for Class I or Class II purposes was discussed in detail at the hearing. When the local handlers have surplus milk over their Class I and Class II needs the only local outlets they have are two small butter plants which buy only cream. In most cases the skim milk would be returned to the producers for livestock feed or dumped down the sewer.

The prices paid at the local butter plants ran between 55 to 57 cents per pound of butterfat with 10-cent premium on sweet cream during the first 10 months of 1957 for a 3.5 percent value of \$2.28 to \$2.35 per hundredweight. The Class III price provided herein would have averaged \$2.97 for 1957. The butterfat value of Class III milk would be 71.5 cents per pound of fat or \$2.50 of the Class III price in 1957. Under the 1958-1959 support price level the Class III price will be \$2.71 of which the butterfat value will be \$2.43 or 69.3 cents per pound of butterfat. Thus, the major portion of the Class III price is contained in the value placed on the butterfat and relatively little value is placed on the skim milk.

Equivalent price. The order should include a provision that whenever a price quotation is not available, a price which is determined by the Secretary to be equivalent should be used. Price series may be unavailable through such causes as failure to report, termination of marketing quotations resulting from changes in dairy marketing, and combining or termination of other Federal orders.

Butterfat differentials. As pointed out previously herein, butterfat and skim milk should be accounted for separately for classification purposes. Since it is concluded that the class prices should be established for milk containing 3.5 percent butterfat, it will be necessary to adjust class prices in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in the value of the milk due to variations in the butterfat content. The values resulting from multiplying the average price of 92-score butter of Chicago by 0.135 for Class I and by 0.120 for Class II and Class III milk will provide an appropriate basis for adjusting such prices in this market. These adjustments will reflect changes in the central market price of butterfat. The Class

II and Class III butterfat differential reflects the local value of butterfat in milk or cream utilized for manufacturing purposes. The Class I butterfat differential reflects a somewhat higher value assigned to butterfat in milk, cream and other fluid milk products. However, it will be noted that the major portion of the Class I price differential over the manufacturing values is assigned to skim milk.

The use of butterfat differentials in this manner follows standard practices in most fluid milk markets for adjusting prices of milk of various butterfat contents. In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I butterfat differential be based on the average price of butter for the preceding month. This will permit the announcement of the Class I butterfat differential at the same time the Class I price is announced.

The Class II and Class III prices and butterfat differentials will not be announced until the end of the month. Handlers, however, will know that the prices of such milk will follow the central market prices for butter and nonfat solids and the competitive price paid for manufacturing milk.

The butterfat differentials to producers for milk containing more or less than 3.5 percent butterfat should correspond to the weighted average values of butterfat and skim milk in producer milk utilized by handlers in each class. This follows the same principle as the payment of a uniform price to all producers. Each producer shares equally in the total value of the handler's Class I, Class II and Class III utilization, at the basic test of 3.5 percent butterfat. It is equally appropriate that each should receive the average utilization value of butterfat and skim milk components for milk testing above or below 3.5 percent. It is probable that the weighted average will be slightly below the differential for Class I milk of 0.135 times the butter price because it will be heavily weighted by the Class I uses. The net result will, therefore, be close to the differential of 0.135 times the butter price proposed by producers.

Location differentials. Class I milk products, because of their bulky, perishable nature, incur a relatively high transportation charge if moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers in the marketing area is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance the handler must incur the additional cost of moving that milk into the central market. The producer, in turn, receives less for milk delivered to points distant from the market area in lieu of incurring the additional cost of hauling his milk into the central market. Under these conditions the value of producer milk delivered to plants located some distance from the central market is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the central market.

It is conceivable that a distant plant not subject to another order, such as one

located at Salt Lake City, Utah, could become regulated by this order. Such a plant would be located approximately 290 miles from Grand Junction, Colorado. Thus, the operator of this plant would incur a substantial transportation cost on the bulk or packaged milk before reaching any portion of the marketing area and should be allowed an offsetting credit in order to be fully competitive with the fluid milk plants located within the marketing area. In order to allow for the cost of moving Class I milk from distant plants that might become route distributors in the Western Colorado marketing area, it is necessary to establish the Class I price for such milk delivered to plants at a point in the market and then provide a schedule of deductions from the Class I price as location differentials. This will place all handlers on an equal competitive basis on the Class I milk distributed in the marketing area.

Grand Junction is the population center of the marketing area and represents a central point from which location differentials should be based. The distance used in determining location differentials should be measured from the Courthouse at Grand Junction, Colorado, by the shortest highway distance, as determined by the market administrator.

The location differential rates in Federal orders vary considerably. The Texas Panhandle rates are 35 cents in 100-110 mile zone plus 1.6 cents for each additional 10-mile zone. The Greater Kansas City rates are 16 cents in the 50-70 mile zone plus one-half cent for each additional 10 miles thereafter. The Oklahoma Metropolitan rates are 10 cents in the 50-150 mile zone, 2 cents per each 15 miles in the 150-240 mile zone and plus one cent for each additional 15 miles in excess of 240 miles. The Neosho Valley rates are 10 cents in the 50-60 mile zone plus 2 cents for each additional 15 miles. The Ozarks rate is 1.5 cents per 10 miles distance from the nearest point in the marketing area. The Southwest Kansas rates are 7.5 in the 100-110 mile zone plus 1.5 cents for each additional 10 miles.

The initial mileage zone should not be quite as large as the initial mileage zone in the Oklahoma Metropolitan market but large enough to encompass all the fluid milk plants presently serving the marketing area. Since all the fluid milk plants serving the marketing area are located within 100 miles of Grand Junction, there should not be any location differential applicable at plants located in the 0-100 mile zone. Accordingly, a rate of 15 cents should be established for the 100-110 mile zone plus 1.5 cents for each additional 10-mile zone. The location differential applicable to Salt Lake City and Denver plants would be 43.5 cents and 39 cents, respectively.

A method should be provided for determining the priority of milk from various plants in allocating to Class I for the purpose of computing the aggregate of location differentials to be allowed. Such differentials would be made for each handler in sequence beginning with milk received directly from producers and then milk received from those plants

which have the lowest location differential.

The producer should receive less for milk delivered to points which are distant from the marketing area in lieu of incurring the additional cost of hauling his milk to the marketing area. Under these conditions the value of producer milk delivered to plants should be reduced in proportion to the distance that such plant is from Grand Junction by the same rate that applies to Class I milk.

(e) *Distribution to producers of proceeds from the sale of milk—Individual-handler pooling.* Returns to producers should be distributed by means of individual-handler pools rather than by a marketwide pool.

Under individual-handler pooling the producers supplying each of the regulated handlers would be paid a blend price based upon that particular handler's proportionate utilization of milk in Class I, Class II, and Class III. Handlers would pay for milk on the basis of its class use value under either type of pooling. Also, under either type of pooling, uniform prices are announced for milk of a given butterfat content delivered to a given point or zone. Milk of other butterfat content or delivered to distant plants would be subject to butterfat and location differentials.

Milk marketing conditions in the Western Colorado area make individual-handler pooling feasible. This is a comparatively small market, is more nearly isolated and self-contained than most milk marketing areas, and supply and demand for Grade A milk is closely balanced at all of the handler's plants. All the distributors who would be regulated hereunder are specialized in fluid milk operations and have little manufacturing equipment other than vats for the manufacture of the cottage cheese.

Individual-handler pooling is somewhat simpler to administer than a marketwide pool. It not only avoids the pooling of funds but also involves less complicated standards for determining which plants are subject to regulation.

Producers favored a marketwide pool because of their concern with the widely varying treatment accorded them by the several handlers in the past. However, the order would provide several very substantial elements of uniformity that have not been present in the absence of regulation. It would provide a uniform system of classification and class prices supplemented by a thorough system of audit and check weighing and testing. It would also provide timely and dependable information on marketing conditions to all interested parties. It appears highly likely that under these circumstances there would be only small differences in the uniform prices payable to producers by each of the handlers. The attached order also specifically requires each handler to make payment to any duly authorized cooperative association for producer member milk delivered to such handler. The act specifies that the cooperative association which receives payment for member milk may reblend the proceeds from the sale of milk to the various handlers and distribute the returns uniformly among all producer members.

If actual operation of an order reveals that the differences in blend prices are of sufficient magnitude and persistence as to create substantial marketing difficulties, consideration could be given to the adoption of a marketwide pool.

Base and excess plan. A base and excess plan should not be used in the Western Colorado market as a method of distributing returns among producers and in order to encourage level production.

For a number of years the majority of producers supplying the Western Colorado market have been operating under a "closed" base or quota plan. Under this plan total bases were held to approximately each handler's level of Class I sales and new or established producers were allowed to make new base only to the extent a handler might need additional milk to satisfy his requirements. The producers did not know in advance which months would be the base-forming months for use in determining their bases in the following year if the handler allowed the producers to set new bases. In some instances producers were able to obtain or increase their bases by purchasing dairy cows with earned bases and by just buying the base itself.

At the hearing both the handlers and producers favored a base-rating plan under which new bases would be established by each producer each year but with the base-forming months not known in advance. The base-forming months would be the 4 months of lowest production in relation to Class I sales, as ascertained after the end of the year. This contrasts with the practice of establishing the base-forming months in advance as is done in all the Federal orders which utilize base-rating plans to encourage level production. It was contended that with advance notice and an opportunity to set new bases each year, producers would over-respond to a base plan. Clearly, the unknown base-forming period was desired for its effect on total production rather than as a means of leveling the seasonality of production.

The base plan endorsed by producers and the handlers would supplant the function which is intended under the Agricultural Marketing Agreement Act to be performed by the class prices established at the level required by the act. The act requires that prices established for milk be such as to assure an adequate supply for the market, reflect supply and demand conditions, and be in the public interest. Consequently, it would be contrary to the purpose of the act, if order provisions hinder the free action of forces of supply and demand so as to prevent attainment of an adequate supply of milk for the market at price levels which are in line with supply and demand conditions and in the public interest. In view of these considerations as to the purposes of the law under which Federal orders are issued, it would not be proper to establish a base plan which would tend to restrict the volume of milk produced for the market.

It would be difficult to predict what producer responses would be under a base plan when such producer has been under a quota plan for several years. There would probably be a great incen-

tive to producers to increase their production which would nullify the function of any "open" base plan. Therefore, it would be more effective to level out production with the pricing provisions of the order than to level out production with an open type of base-rating plan.

Payments to individual producers and to members of cooperative associations. Each handler should make final payment to each producer for milk delivered by such producer at the appropriate uniform price on or before the 15th day of the month following receipt of the milk. Provision is made for partial payments on milk received during the first 15 days of the month, such payment to be made on or before the 28th day of the month.

Payments due any producer for milk should be paid by the handler to a cooperative association if the cooperative association makes a written request for such payment and if the producer has given the cooperative association written authorization, in the form of a contract or in any other form, to collect such payments. The association's request should also provide for indemnifying the handler for any loss incurred because of any improper claim.

Provision is made for handlers to make payments to a cooperative association two days in advance of the time the handler is required to make payments to individual producers in order that all producers will receive payment on approximately the same date.

In making such payments for producer milk to a cooperative association, the handler should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being made, the volume and average butterfat content of milk delivered by each such producer, and the amount of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary so the cooperative association can make proper distribution of the money to producers for whom it collects payment.

Unless a cooperative association can receive payment for the milk marketed on behalf of its producer-members, it cannot reblend the sales proceeds from milk sold in various outlets. This important function is specifically provided for in the act.

(f) *Other administrative provisions.* In addition to those provisions heretofore determined to be appropriate, certain other provisions should be contained in the order to carry out, from an administrative viewpoint, the purposes of the regulation. Certain terms and definitions are desirable in the interest of brevity and to assure that the usage of a term always implies the same meaning. The terms that are defined in the proposed order are common to many other Federal milk orders. Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agent.

Records and reports. Provisions should be included in the order for the purpose of requiring handlers to maintain adequate records of their operations and to make certain reports as may be

required by the market administrator. Certain time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator. The following schedule will afford interested parties sufficient time to perform the functions as indicated below:

Day of Month and Function

6th—Announcement by the market administrator of Class I price and butterfat differential for current month and Class II and Class III prices and butterfat differentials for preceding month.

7th—Submission by handlers of monthly reports of receipts and utilization for preceding month.

10th—Announcement by market administrator of uniform price for each handler and notification to handlers of value for their producer milk received during the preceding month.

13th—Final payments by handlers to cooperative associations for milk received during the preceding month.

15th—Final payments by handlers to individual producers for milk received during preceding month and payments to market administrator for administrative assessment and marketing service deductions.

20th—Submission of producer payroll report by handlers for preceding month.

26th—Partial payments by handlers to cooperative associations.

28th—Partial payments by handlers to individual producers.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, and such facilities as are necessary to determine the accuracy of the information, submit such reports to the market administrator as he may deem necessary and furnish to him or his representative any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled and to verify all payments required under the order.

It is necessary that handlers retain records to prove the utilization of the milk received from, and that proper payments were made to, producers. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records be kept for a reasonable period of time.

The order should provide for specific limitations of the time that handlers should be required to retain their books and records and the period of time in which obligations under the order should terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F. R. 444). That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Expense of administration. Each handler should be required to pay the market administrator, as the handler's pro rata share of the cost of administering

the order, not more than five cents per hundredweight, or such lesser amounts as the Secretary may from time to time prescribe, on (a) receipts of producer milk (including such handler's own production) and (b) other source milk in a fluid milk plant which is classified as Class I milk.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handler's own production) and other source milk allocated to Class I milk.

In view of the anticipated volume of milk and the cost of administering orders in markets of comparable circumstances, it is concluded that an initial rate of five cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the five cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers such as verifying tests and weights of milk and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member-producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is need for a marketing service program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with correct market information. As previously discussed, detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a market-wide basis to all producers.

To enable the market administrator to furnish such services, provision should be made for a maximum deduction of six cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. In two briefs it was denied that the Western Colorado Milk Producers Association was a duly constituted cooperative association and that, in consequence, the testimony of witnesses in behalf of such association must be disregarded. However, the testimony offered by these witnesses was given under oath and after they had stated their personal qualification for giving such testimony. There is no requirement of law that the promulgation of this regulation must be supported at the hearing by a duly constituted producers' association. It is further noted that under the act and regulations producer approval, through cooperatives or otherwise, is not to be ascertained until after a final decision and proposed order is submitted for producer approval. In any event, as stated elsewhere in this decision, the record shows that the Western Colorado Milk Producers Association has in recent times actively represented a substantial number of producers in the marketing of their milk.

All of the 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 to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The proposed marketing agreement and order 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 are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable 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. The following order regulating the handling of milk in the Western Colorado 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 proposed order.

Order Regulating the Handling of Milk in the Western Colorado Marketing Area

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DEFINITIONS

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

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

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

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

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

§ 980.6 *Western Colorado marketing area.* "Western Colorado marketing area" hereinafter called "marketing area" means all the territory within the outer boundaries of the counties of Delta, Mesa, and Montrose, all in the State of Colorado.

§ 980.7 *Fluid milk plant.* "Fluid milk plant" means any milk processing or packaging plant from which Class I milk is disposed of under a Grade A label on route(s) in the marketing area during the month.

§ 980.8 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk plant other than a fluid milk plant.

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

§ 980.10 *Producer-handler.* "Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions are met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes to retail or wholesale outlets in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of fluid milk products does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of a fluid milk product from fluid milk plants of other handlers.

§ 980.11 *Handler.* "Handler" means any person in his capacity as the operator of a fluid milk plant.

§ 980.12 *Producer milk.* "Producer milk" means all skim milk and butterfat contained in milk produced by a producer and received at a fluid milk plant directly from producers or diverted pursuant to § 980.9.

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

(a) Receipts during the delivery period of fluid milk products except (1) fluid milk products received from fluid milk plants, or (2) producer milk; and

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

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

§ 980.15 *Route.* "Route" means any delivery to retail or wholesale outlets (including a sale from a plant or plant store) of a fluid milk product other than a delivery to any milk processing plant.

MARKET ADMINISTRATOR

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

§ 980.21 *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.

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

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

duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds provided by § 980.84 the cost of his bond and those of his employee, his own compensation, and all other expenses (except those incurred under § 980.83) 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 by this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

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

(g) Verify all reports and payments by each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, and by such investigation as the market administrator deems necessary;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 980.30 to 980.32, or (2) payments pursuant to § 980.82, § 980.82, § 980.83, or § 980.84;

(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 6th day of each month, the minimum price for Class I milk computed pursuant to § 980.51 (a) and the Class I butterfat differential computed pursuant to § 980.52 (a), both for the current month;

(2) On or before the 6th day of each month the minimum prices for Class II and Class III milk computed pursuant to § 980.51 (b) and (c) and the Class II and Class III butterfat differentials computed pursuant to § 980.52 (b), all for the previous month; and

(3) On or before the 10th day after the end of each month the uniform price for each handler computed pursuant to § 980.72 and the producer butterfat differential computed pursuant to § 980.81.

(j) On or before the 10th day after the end of each month, mail to each handler at his last known address, a statement showing the amount and value of producer milk in each class and the totals thereof; and

(k) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and such

information concerning the operations hereof as are necessary and appropriate to the proper functioning of this part and which do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 980.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the receipts and utilization at his fluid milk plant(s) for such month, as follows:

(a) The quantities and butterfat content of producer milk received (including such handler's own farm production);

(b) The quantities of fluid milk products, with the butterfat content thereof, received from fluid milk plants of other handlers;

(c) The quantities of other source milk, with butterfat content thereof, received;

(d) The quantities and butterfat content of inventories of fluid milk products on hand at the beginning and end of the month;

(e) The utilization of all receipts of milk and milk products; and

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

§ 980.31 *Payroll reports.* On or before the 20th day of each month each handler shall submit to the market administrator his producer payroll for the preceding month which shall show (a) the total pounds of milk received from each producer and the average butterfat test of milk received, (b) the number of days on which milk was received from each producer, (c) the amount of payment to each producer or cooperative association, (d) the nature and amount of any deductions or charges involved in such payments, and (e) such other information with respect thereto as the market administrator may request.

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

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

(a) The receipts and utilization of all producer milk, milk and milk products from other handlers, and other source milk;

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

(c) Payments to producers or to cooperative associations; and

(d) The pounds of milk and milk products, with butterfat content, on hand at the beginning and end of each month.

§ 980.34 *Retention of records.* All books and records required under this part 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

§ 980.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat at fluid milk plants which is required to be reported for the month pursuant to § 980.30, shall be classified by the market administrator pursuant to the provisions of §§ 980.41 to 980.46.

§ 980.41 *Classes of utilization.* Subject to the conditions set forth in §§ 980.43 and 980.44, the classes of utilization shall be as follows:

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

(b) *Class II milk.* Class II milk shall be all the skim milk and butterfat used to produce ice cream, imitation ice cream, frozen desserts, ice cream mix, imitation ice cream mix, frozen dessert mix, yogurt, eggnog, aerated cream, skim condensed milk, whole condensed milk or cottage cheese.

(c) *Class III milk.* Class III milk shall be all the skim milk and butterfat: (1) Used to produce any product other than a fluid milk product or products designated as Class II pursuant to paragraph (b) of this section; (2) in inventory of fluid milk products on hand at the end of the month; (3) accounted for as livestock feed; (4) in skim milk dumped after prior notification to and opportunity for verification by the market administrator; (5) in shrinkage not to exceed 2 percent of skim milk and butterfat received directly from producers; and (6) in shrinkage of other source milk.

§ 980.42 *Shrinkage.* The market administrator shall allocate shrinkage over receipts at fluid milk plant(s) of each handler as follows:

(a) Compute the shrinkage of skim milk and butterfat; and

(b) Assign the remaining amounts pro rata to the handler's receipts, respectively, in milk received directly from producers and in other source milk.

§ 980.43 *Responsibility of handlers and reclassification of milk.* (a) All skim

milk and butterfat shall be Class I unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified as Class II or Class III milk.

(a) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 980.44 *Transfers.* Skim milk and butterfat disposed of each month from a fluid milk plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to a fluid milk plant of another handler, except a producer-handler, unless utilization in another class is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to § 980.30: *Provided*, That the skim milk or butterfat so assigned to Class II or Class III shall be limited to the amount remaining in Class II or Class III milk in the plant of the transferee handler after subtraction of other source milk pursuant to § 980.46 (a) (2) and the corresponding step of (b) and any additional amount of such skim milk or butterfat shall be classified as Class I milk: *And provided further*, That if either or both handlers have other source milk during the month, the skim milk or butterfat so transferred shall be assigned, in series, to next higher valued class of utilization classified at both plants so as to allocate the highest possible utilization to the producer milk of both handlers;

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

(c) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream in bulk to a nonfluid milk plant located more than 350 miles from the City Hall in Grand Junction, Colorado, by the shortest highway distance as determined by the market administrator;

(d) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream in bulk to a nonfluid milk plant located not more than 350 miles from the City Hall in Grand Junction, Colorado, by the shortest highway distance as determined by the market administrator, unless the following conditions are met:

(1) The transferring-handler claims Class II or Class III utilization in a product specified in § 980.41 (b) or (c);

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

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II or Class III in such transferor's plant;

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

§ 980.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for

other obvious errors the reports of receipts and utilization for the fluid milk plant(s) of each handler and shall compute the pounds of butterfat and skim milk in Class I milk, Class II milk and Class III milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 980.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 980.45 the market administrator shall determine the classification of milk received from producers at fluid milk plant(s) of each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk allocated to shrinkage in skim milk received from producers pursuant to § 980.41 (c) (5);

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

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

(4) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk received from other fluid milk plants according to its classification as determined pursuant to § 980.44 (a);

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

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

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

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

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

MINIMUM PRICES

§ 980.50 *Basic formula price.* The basic formula price for each month to be used in determining the class prices

set forth in § 980.51 shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section rounded to the nearest one-tenth cent:

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

Present Operator and Location

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

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

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

§ 980.51 *Class prices.* Subject to the provisions of §§ 980.52 and 980.53 the minimum prices per hundredweight for the first eighteen months beginning with the effective date of prices pursuant to this section to be paid by each handler for milk received at his fluid milk plant from producers during the month shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus \$1.60 during the months of March, April, May, and June and plus \$2.05 during all other months.

(b) *Class II milk.* The basic formula price for the current month plus 60 cents.

(c) *Class III milk.* The price computed pursuant to § 980.50 (b) for the current month less 13 cents.

§ 980.52 *Butterfat differential to handlers.* For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 980.51 shall be increased or decreased, respectively, for each one-tenth of one percent of butterfat by multiplying the simple average, as computed by the market administrator, of the daily wholesale calling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chi-

cago as reported by the Department during the month by the applicable factor specified below, and rounding to the nearest one-tenth cent.

(a) *Class I milk.* Multiply such price for the preceding month by 0.135; and

(b) *Class II and Class III milk.* Multiply such price for the current month by 0.120.

§ 980.53 *Location differentials to handlers.* For milk which is received from producers at a fluid milk plant located more than 100 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse in Grand Junction, Colorado, and which is classified as Class I milk the price computed pursuant to § 980.51 (a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such Courthouse and by an additional 1.5 cent for each 10 miles or fraction thereof that such distance exceeds 110 miles. *Provided,* That for the purpose of calculating such differential transfers between fluid milk plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plants, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence beginning with the plant at which the lowest location differential credit would apply.

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

APPLICATION OF PROVISIONS

§ 980.60 *Handler exemption.* Sections 980.40 to 980.46, 980.50 to 980.53, 980.70 to 980.72 and 980.80 to 980.85 shall not apply to a producer-handler or to a handler operating a fluid milk plant from which an average of less than 200 pounds per day of Class I milk is disposed of on routes in the marketing area.

§ 980.61 *Plants subject to other Federal orders.* Milk received at the plant of a handler at which the handling of milk is fully subject during the month to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area exceeds that in the Western Colorado marketing area shall be exempted for such month from all provisions of this part except that the handler operating such plant shall make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 980.70 *Net obligation of handlers.* The net obligation of each handler for

producer milk received at his fluid milk plant(s) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of such milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amount computed by multiplying pounds of overage deducted from each class pursuant to § 980.46 (a)

(7) and the corresponding step of § 980.46 (b) by the applicable class price;

(c) Add a reclassification charge equal to the difference between the Class I price value for the current month and the Class III price value for the preceding month or the Class II price value for the current month and the Class III price value for the preceding month for the skim milk and butterfat subtracted from Class I or Class II, respectively, pursuant to § 980.46 (a) (5) and the corresponding step of § 980.46 (b) which is not in excess of the skim milk and butterfat remaining in Class III in the previous month pursuant to § 980.46 (a) (5) and the corresponding step of § 980.46 (b); and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 980.71 *Computation of aggregate value used to determine uniform prices.* For each month the market administrator shall compute an aggregate value for each handler from which to determine the uniform price per hundredweight for producer milk of 3.5 percent butterfat content as follows:

(a) Adjust the amount computed pursuant to § 980.70 by the total of the location differentials to be made pursuant to § 980.81 (b).

(b) Add or subtract from the amount computed pursuant to § 980.70 for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 3.5 percent, an amount computed by multiplying such difference by the butterfat differential to producers, as determined pursuant to § 980.81 (a) and multiplying the result by the total hundredweight of producer milk; and

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price for such handler for the preceding month.

§ 980.72 *Computation of uniform prices for handlers.* The market administrator shall compute a uniform price for producer milk received by each handler as follows: Divide the aggregate value computed pursuant to § 980.71 by the total hundredweight of producer milk received by such handler. The result, less any fraction of a cent, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content, at a fluid milk plant f. o. b. marketing area.

PAYMENTS

§ 980.80 *Payments to producers.* Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class II price for the preceding month;

(b) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 980.72 subject to the butterfat and location differentials computed pursuant to § 980.81; plus or minus adjustments for errors made in previous payments to such producer; and less (1) payment made pursuant to paragraph (a) of this section, (2) marketing service deductions pursuant to § 980.83 and (3) proper deduction authorized in writing by such producer;

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 13th and 26th day of each month in lieu of payments pursuant to paragraphs (a) and (b) respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

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

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

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

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

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

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

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

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

§ 980.81 Producers differentials—(a) Butterfat differential. The applicable uniform prices to be paid pursuant to § 980.80 to producers delivering milk to each handler shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 980.52, weighted by the pounds of butterfat in producer milk used by such handler in each class and the result rounded to the nearest tenth of a cent.

(b) **Location differential.** For milk which is received from producers at an approved plant located more than 100 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse in Grand Junction, Colorado, there shall be deducted 15 cents per hundredweight of milk if such plant is located more than 100 miles but not more than 110 miles from such Courthouse, and an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

§ 980.82 Adjustment of accounts. Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

§ 980.83 Marketing services. (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 980.80, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association

which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 980.84 Expense of administration. As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to all (a) receipts of producer milk, including such handlers' own production; and (b) other source milk at a fluid milk plant which is allocated to Class I milk pursuant to § 980.46.

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

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

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

(b) If a handler fails or refuses, with respect to any obligation under this 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 calendar month following the month during which all such

books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this 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 calendar month during which the milk involved in the claim was received if an underpayment is claimed or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 980.90 Effective time. The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 980.101.

§ 980.91 Suspension or termination. The Secretary may suspend or terminate this part or any provisions of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 980.92 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.

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

tribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 980.100 *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.

§ 980.101 *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 18th day of July 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 58-5640; Filed, July 22, 1958;
8:54 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

DRUGS EXEMPTED FROM PRESCRIPTION-
DISPENSING REQUIREMENTS OF SECTION
503 (b) (1) (C) OF THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

DICYCLOMINE HYDROCHLORIDE PREPARA-
TIONS; LABELING REQUIREMENTS

The Commissioner of Food and Drugs, pursuant to the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 701 (a); 65 Stat. 649, 52 Stat. 1052, 1055; 21 U. S. C. 353 (b) (3), 355 (c), 371 (a)) and the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR, 1957 Supp., 130.101 (a)) has promulgated a regulation (21 CFR, 1957 Supp., 130.102 (a) (8)) exempting from prescription-dispensing requirements certain dicyclomine hydrochloride preparations, provided they comply in all respects with the provisions of that section. One of the provisions of the regulation relates to a warning statement in the labeling against use of the preparation if dryness of the throat, blurring of vision, dizziness, or rapid pulse occurs.

It now having been determined that such a warning statement is not required for the protection of the public health, the Commissioner of Food and Drugs, on his own initiative, and under the above-referenced authority, proposes to delete this requirement.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, submit written views and comments with reference to the proposed amendment, addressed to the Hearing Clerk Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C. All such views and

comments should be submitted in triplicate.

Dated: July 17, 1958.

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

[F. R. Doc. 58-5629; Filed, July 22, 1958;
8:52 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12538; FCC 58-684, 60735]

TELEVISION BROADCAST STATIONS, PITTS-
BURGH, PA.; TABLE OF ASSIGNMENTS

NOTICE OF PROPOSED RULE MAKING AND
ORDER TO SHOW CAUSE

In the matter of amendment of § 3.606
*Table of assignments, Television Broad-
cast Stations, Pittsburgh, Pennsylvania.*

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it for consideration a counterproposal in Docket No. 12385, filed on June 18, 1958, by Metropolitan Pittsburgh Educational Station, licensee of educational television station WQED, Pittsburgh, Pennsylvania, for rule making to amend § 3.606 *Table of assignments, Television Broad-
cast Stations*, so as to reserve Channel 16 in Pittsburgh for educational use in lieu of Channel 22. Petitioner also requests that the Commission order Telecasting, Inc., to Show Cause why its outstanding authorization for Station WENS in Pittsburgh should not be modified to specify operation on Channel 22 or 47 in lieu of Channel 16.

3. In support of its proposal petitioner submits that WENS consents to the reservation of Channel 16 for educational use; that it will not adversely affect the interests of any party; and that it will make possible the early commencement of educational programs on this channel in view of the fact that Channel 16 was in use for a period of three years and many existing TV receivers are equipped for reception of Channel 16.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views and relevant data.

5. Telecasting, Inc., holds a construction permit for Station WENS on Channel 16 in Pittsburgh. The proposal herein would reserve Channel 16 for educational use in lieu of Channel 22, and so would require WENS to shift to Channel 22. We are therefore directing Telecasting, Inc., to Show Cause why its authorization for WENS should not be

*This counterproposal was filed late in Docket 12385. In order to expedite action on this proposal without holding up a decision on other changes requested in that proceeding we are treating this pleading as a request for rule making. We are simultaneously issuing a Report and Order in Docket 12385 which, among other things, assigns Channel 22 to Pittsburgh and reserves it for educational use and substitutes Channel 73 for 47 in that city.

modified to specify operation on Channel 22 in lieu of Channel 16 at Pittsburgh.

6. Authority for the adoption of the amendment proposed herein is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r) and 307 (b) of the Communications Act of 1934, as amended.

7. Any interested party who is of the view 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 August 25, 1958, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. 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. Response to the Show Cause Order issued should also be filed on or before August 25, 1958.

8. 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 shall be furnished the Commission.

Adopted: July 16, 1958.

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-5633; Filed, July 22, 1958;
8:53 a. m.]

[47 CFR Part 9]

[Docket No. 12541; FCC 58-691]

AVIATION SERVICES

OPERATION OF RADIO FACILITIES IN TIME
OF WAR

In the matter of amendment of Part 9, Aviation Services, to provide specific rules governing the operation of aviation radio facilities in time of war.

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

2. The proposed amendments appearing below would supplement existing CONELRAD requirements by establishing specific operating procedures to be observed by radio stations in the Aviation Services in time of war. The procedures herein proposed would, among other things, curtail the use of HF band frequencies during a state of war involving the United States.

3. The proposed wartime operating procedures, as set forth in § 9.1205 (c) below, were developed in cooperation with the U. S. Air Force and the Departments of Commerce and Defense in response to a request by the Office of Defense Mobilization.

4. The proposed amendments are issued pursuant to authority contained in sections 303 (r) and 606 (c) of the Communications Act of 1934, as amended, and Executive Order No. 10312

signed by the President December 10, 1951.

5. Any interested person 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 20, 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. Rebuttal comments may be filed within 10 days from the last day for filing of original comments. 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.

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

Adopted: July 16, 1958.

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Amend Part 9, Aviation Services, as indicated below:

Delete § 9.1205 and substitute a new section to read as follows:

§ 9.1205 *Operation.* (a) During a period of CONELRAD Radio Alert, all ground stations in the Aviation Services will maintain radio silence, unless required by the appropriate CAA Air Route Traffic Control Center (ARTCC) to remain in the air for the purpose of air traffic control. Such operations will be in accordance with the CAA CONELRAD Plan dated May 1, 1953, and instructions issued by the appropriate ARTCC under the Defense/Commerce SCATER Plan dated May 7, 1957. Licensees of ground stations in the Aviation Services should contact the CAA ARTCC within whose flight advisory area the station is located, for the details of operation applicable to a specific station. When not required by the CAA for the purposes of security control of air traffic, all ground stations in the Aviation Services will promptly leave the air and maintain radio silence for the duration of a CONELRAD Radio Alert, except as specifically authorized by the appropriate ARTCC.

(b) During a period of CONELRAD Radio Alert, all aircraft radio stations in the Aviation Services will maintain radio silence, except for transmissions involving the national safety, or the safety of life and property in the air. Such operations will be in accordance with the CAA CONELRAD Plan dated May 1, 1953, and the instructions of the appropriate ARTCC within whose flight advisory area the aircraft may be located.

(c) Upon proclamation by the President that there exists a state of war involving the United States, and for the

duration of such state of war, all licensees in the Aviation Services shall observe the following supplemental restrictions on station operations:

(1) *Domestic.* Air/ground communications within the continental United States shall be limited to those involving safety of flight; air/ground and aeronautical fixed communications on HF band frequencies shall be discontinued except where other facilities are unavailable or inoperative and then only where appropriate security measures are employed. Security measures shall include at least the following: (i) Transmit emergency traffic only, (ii) identify by means other than clear text, and (iii) make transmissions as brief as possible.

(2) *International.* Air/ground communications shall be limited to those involving safety of flight and such communications in the HF band shall be discontinued, except that international air carriers arriving or departing from U. S. gateway airports may use HF band frequencies when VHF and UHF radio are inoperative, not available or will not provide the range required; international aeronautical fixed communications may be conducted on HF band frequencies only when appropriate security measures are employed. Security measures shall include at least the following: (i) Transmit emergency traffic only, (ii) identify by means other than clear text, and (iii) make transmissions as brief as possible.

(3) *Weather transmission.* The HF band shall not be employed for transmission of clear text weather information except in emergencies; unscheduled weather reports and forecasts (not exceeding two hours ahead) may be transmitted in clear text only on VHF or higher frequencies; scheduled weather information may be transmitted in clear text only on frequency bands other than the HF band, and then only when the station involved is 200 miles or more from the nearest coast line.

(4) *Navigational aids.* To the extent that ground based navigational aids are used for communication purposes, such facilities shall be operated in accordance with the provisions of this paragraph.

(d) None of the provisions of this subpart shall be interpreted to preclude the operation of certain stations in the Aviation Services in connection with the activities of local, state or federal civil defense organizations, provided such operations are not in conflict with operations necessary for CAA air route traffic control, and such operations are specifically authorized by the Federal Communications Commission.

[F. R. Doc. 58-5634; Filed, July 22, 1958; 8:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

PERMITTING INVESTMENT COMPANIES TO
PURCHASE SECURITIES WHERE AFFILI-
ATES PARTICIPATE IN UNDERWRITING

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has un-

der consideration the adoption of § 270.10f-3 (Rule N-10F-3) under the Investment Company Act of 1940 to permit registered investment companies, under prescribed conditions, to purchase securities during the existence of an underwriting syndicate, notwithstanding an affiliation between any such investment company and one or more members of the underwriting syndicate.

Section 10 (f) of the Investment Company Act provides that no registered investment company shall purchase, during the existence of any underwriting syndicate, any security a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of such registered company, or is a person of which any such officer, director, member of an advisory board, investment adviser, or employee is an affiliated person. Such section, however, authorizes the Commission, by rules and regulations, as well as by order, to exempt any such transaction from such prohibitions, if and to the extent that such exemption is consistent with the protection of investors.

The experience gained by the Commission in its consideration of requests for orders of exemption under this exemptive authority indicates that protection of investors may be adequately insured by the conditions and safeguards specified in the proposed rule. These include limitations with respect to the consideration paid, as related both to the amount of the offering and the assets of the investment company. Moreover, underwriters' commissions may not exceed stated amounts, no purchase may be made from an affiliated underwriter, and the offering must be effectively registered under the Securities Act of 1933.

The conditions are designed to permit purchases without an exemptive order where the circumstances are such as to make it unlikely that the purchase would not be consistent with the protection of investors. The conditions relating to the percent of offering and assets are standards which have been met by most of the purchases which we have heretofore permitted by order. The condition that no purchase may be made from an affiliated underwriter eliminates from the operations of the rule cases where further investigation would be necessary to be satisfied that an exemption is appropriate for the protection of investors.

The proposed limitations on underwriters' commissions were also satisfied by most of the purchases heretofore permitted by order, and it is believed that they would tend to restrict operation of the rule to investment grade offerings. It should be emphasized that purchases that do not meet the strict conditions of the rule may nevertheless be exempted by order upon application where the statutory standard is satisfied.

The text of the proposed rule follows:

§ 270.10f-3 *Exemption of certain purchases of securities during the existence of an underwriting or selling syndicate.* Any purchase of securities by a registered investment company prohibited by section 10 (f) of the act shall be exempt

from the provisions of such section if the following conditions are met:

(a) The securities to be purchased are (1) part of an issue effectively registered under the Securities Act of 1933 which is being offered to the public; (2) purchased at the public offering price within twenty-four hours after the first date on which the registered issue is offered to the public, if not offered for subscription upon exercise of rights or, if so offered, purchased at any time within seven days after the beginning of the rights period; and (3) offered pursuant to an underwriting agreement under which the underwriters are committed to purchase all of the registered securities being offered.

(b) The gross commission, spread or profit to the principal underwriters (excluding, in the case of a rights offering, any profits or losses resulting from purchases or sales by the underwriters of rights or securities during or after the rights period) shall not exceed: (1) 7.0 percent of the public offering price if the security to be purchased is a common stock; (2) 3.25 percent of the public offering price if the security to be purchased is a preferred stock, whether or not convertible into common stock; (3) 2.25 percent of the public offering price if the security to be purchased is a subordinated debenture, or a bond or debenture convertible into common stock or having common stock purchase warrants attached; or (4) 1.25 percent of the

public offering price in respect of any other security to be purchased.

(c) The issuer of the securities to be purchased shall have been in continuous operation for not less than three years, including the operations of any predecessors.

(d) The amount of securities of any class of such registered issue to be purchased by the registered investment company having the same investment adviser, shall not exceed 3 percent of the amount of the offering of such class.

(e) The consideration to be paid by the registered investment company in purchasing the securities being offered shall not exceed 3 percent of the total assets of such registered investment company, provided that if such consideration shall exceed \$1,000,000, it shall not exceed 1 percent of such company's total assets.

(f) Such registered investment company does not purchase the securities being offered directly or indirectly from an officer, director, member of an advisory board, investment adviser or employee of such registered investment company or from a person of which any such officer, director, member of an advisory board, investment adviser or employee is an affiliated person.

(g) The purchase of the securities being offered shall have been authorized or approved by a resolution of the board of directors of the registered investment

company, or of a previously existing executive, investment, or similar committee composed of members of such board, which resolution shall certify: (1) That all directors who are affiliated persons of a principal underwriter of the issue in question refrained from participation in consideration of the transaction; (2) that there voted in favor of such a resolution a majority of the board of directors or of the committee, none of whom were affiliated persons of any principal underwriter; and (3) that in its judgment the purchase of such securities meets all the requirements of paragraphs (a) to (f) of this section.

(h) A full statement of the transaction indicating compliance with this section shall be filed with the Commission within ten days after consummation thereof.

All interested persons are invited to submit views and comments on the proposed rule. Written statements of views and comments and any requests for oral argument in respect of the proposed rule should be submitted to the Securities and Exchange Commission, Washington 25, D. C., on or before August 15, 1958.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

JULY 15, 1958.

[P. R. Doc. 58-5615; Filed, July 22, 1958; 8:40 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

BOISE PROJECT, IDAHO

ORDER OF REVOCATION

JULY 1, 1958.

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U. S. C. 416), and pursuant to Departmental Order No. 2765 of July 30, 1954, I hereby revoke the departmental orders of April 15, 1919 and June 23, 1943, in so far said orders affect the following-described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the land hereinafter described:

BOISE MERIDIAN

T. 6 N., R. 4 W.,

Sec. 11, SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate approximately 595 acres.

FLOYD E. DOMINY,
Acting Commissioner.

[Idaho 09188]

JULY 17, 1958.

I concur. The records of the Bureau of Land Management will be noted accordingly.

1. The land is in five scattered parcels lying from 12 to 15 miles north of Caldwell, Idaho. Elevation of the land is about 2,600 feet. Vegetative cover is mainly cheatgrass with scattered sagebrush. The soil is mainly fine sand to fine sandy loam with some rock. The surface is undulating.

2. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

3. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

(a) Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections

will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on August 22, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 21, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on November 21, 1958, will be considered as simultaneously

filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

4. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

5. The lands have been open to applications and offers under the mineral-leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a. m. on November 21, 1958.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

CHARLES P. MEAD,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 58-5608; Filed, July 22, 1958;
8:46 a. m.]

BOISE PROJECT, IDAHO ORDER OF REVOCATION

SEPTEMBER 18, 1956.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby revoke Departmental Order of April 26, 1938, in so far as said order affects the following-described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the land hereinafter described:

BOISE MERIDIAN, IDAHO

T. 14 N., R. 3 E.,
Sec. 25, Lot 7.
T. 12 N., R. 4 E.,
Sec. 7, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 13 N., R. 4 E.,
Sec. 6, Lots 2 and 13;
Sec. 7, Lot 3;
Sec. 8, Lots 3 and 6;
Sec. 17, Lot 10 and the unsurveyed island in the NW $\frac{1}{4}$;
Sec. 20, Lots 2 and 11;
Sec. 29, Lots 5 and 10;
Sec. 30, Lots 7, 9 and 11;
Sec. 31, The unsurveyed island in the NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 6 N., R. 5 W.,
Sec. 28, S $\frac{1}{2}$ NE $\frac{1}{4}$.

The above areas aggregate approximately 500 acres.

DON S. CAMPBELL,
Acting Assistant Commissioner.
[1724268]

JULY 17, 1958.

I concur.

1. The lands are in Valley County, from one-half to nine miles from Cascade, Idaho.

2. Subject to any valid existing rights, to existing withdrawals for power purposes hereinafter referred to, and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and location in accordance with the following:

(1) All applications, except any from the State of Idaho under paragraph 5, infra, presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on August 22, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 21, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on November 21, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

3. The following described lands in T. 13 N., R. 4 E., are withdrawn in Power Site Reserve No. 207:

Sec. 6, lot 13;
Sec. 8, lots 3 and 6;
Sec. 17, lot 10;
Sec. 20, lot 11;
Sec. 29, lots 5 and 10;
Sec. 30, lots 7, 9, and 11;
Sec. 31, Unserved island in the NE $\frac{1}{4}$ NW $\frac{1}{4}$.

4. The following-described lands in T. 13 N., R. 4 E., were the subject of a favorable determination of the Federal Power Commission in DA-443-Idaho issued July 8, 1954:

Sec. 17, lot 10;
Sec. 20, lot 2;
Sec. 29, lot 5;
Sec. 30, lot 7.

5. With respect to the lands described in paragraph 4, this opening is subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818) as amended. The said lands shall be subject to application by the State of Idaho, until 10:00 a. m. on October 17, 1958, for rights-of-way for public highways or as a source of material for construction and maintenance of such highways, in accordance with and subject to the provisions of the said section 24 of the Federal Power Act.

6. The lands have been open to applications and offers under the mineral-leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a. m. on November 21, 1958, the lands described in paragraph 4 being so opened subject to the provisions of the act of August 11, 1955 (69 Stat. 682; 30 U. S. C. 621).

7. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

CHARLES P. MEAD,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 58-5609; Filed, July 22, 1958;
8:47 a. m.]

SHOSHONE PROJECT, WYOMING ORDER OF REVOCATION

JUNE 30, 1958.

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U. S. C. 416), and pursuant to Departmental Order No. 2765 of July 30, 1954, I hereby revoke the Departmental Orders of April 21, 1903, February 16, 1909, August 2, 1913, and April 20, 1928, so far as said orders affect the following-described lands; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders, or affect any other order withdrawing or reserving the lands herein-after described:

SIXTH PRINCIPAL MERIDIAN

T. 53 N., R. 100 W.
Sec. 6, lots 6, 7, 12, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 7, lots 1, 5, 9, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
T. 53 N., R. 102 W.
Sec. 35, lot 7.

The areas described aggregate 317.13 acres.

WILLIAM I. PALMER,
Acting Associate Commissioner.
[Wyoming 047652]

JULY 17, 1958.

I concur. The records of the Bureau of Land Management will be noted accordingly.

1. The lands are located along the Shoshone River, north of Cody, Wyoming. At this point the river is in a fairly deep canyon, with more or less precipitous sides.

2. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other non-mineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

3. Subject to any valid existing rights, the requirements of applicable law, and the provisions of paragraphs 5 and 6 of this order, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on August 22, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 21, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on November 21, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

4. The lands have been open to applications and offers under the mineral leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a. m. on November 21, 1958.

5. The following-described lands are reserved for power purposes in Power Site Classification No. 253 of May 12, 1930, or Power Site Reserve No. 563 of December 20, 1916, and were the subject of a favorable determination by the Federal Power Commission in DA-124-Wyoming, issued April 21, 1953:

SIXTH PRINCIPAL MERIDIAN

T. 53 N., R. 100 W.
Sec. 6, lot 12;
Sec. 7, lots 1, 5 and 9.
T. 53 N., R. 102 W.
Sec. 35, lot 7.

As to these lands, therefore, this opening is subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818), as amended.

6. The lands described in paragraph 5 above shall be subject until 10:00 a. m.

on October 17, 1958, to application by the State of Wyoming under any statute or regulation applicable thereto, for rights-of-way for public highways or as a source of material for the construction and maintenance of such highways pursuant to section 24 of the Federal Power Act, supra. Such preference right shall have precedence over the priority provisions of paragraph 3 a (2) of this order.

7. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyoming.

CHARLES P. MEAD,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 58-5610; Filed, July 22, 1958;
8:47 a. m.]

YAKIMA PROJECT, WASHINGTON

ORDER OF REVOCATION

JULY 7, 1958.

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 338; 43 U. S. C. 416), and pursuant to Departmental Order No. 2765 of July 30, 1954, I hereby revoke the Departmental orders of December 22, 1905, and September 18, 1916, insofar as said orders affect the following-described lands; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other order withdrawing or reserving the lands hereafter described:

WILLAMETTE MERIDIAN

T. 9 N., R. 26 E.,
Sec. 24, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 9 N., R. 27 E.,
Sec. 12, E $\frac{1}{2}$;
Sec. 30, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$, and SE $\frac{1}{4}$.
T. 8 N., R. 28 E.,
Sec. 2, W $\frac{1}{2}$;
Sec. 10, SW $\frac{1}{4}$.
T. 9 N., R. 28 E.,
Sec. 22, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 9 N., R. 29 E.,
Sec. 30, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 8 N., R. 30 E.,
Sec. 32, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate approximately 1,390 acres.

FLOYD E. DOMINY,
Associate Commissioner.

[Washington 03022]

JULY 17, 1958.

I concur. The records of the Bureau of Land Management will be noted accordingly.

1. The lands are semi-arid, low-value, grazing lands in the Kennewick-Richland area. The extremely sandy soil and lack of precipitation precludes their cultivation without water for irrigation. The E $\frac{1}{2}$ sec. 12, T. 9 N., R. 27 E., is in an allowed homestead entry, and the N $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 30, T. 9 N., R. 28 E., is withdrawn for power purposes.

2. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

3. Subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on August 22, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 21, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on November 21, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

4. The lands have been open to applications and offers under the mineral-leasing laws. They will be open to location under the United States mining laws

beginning at 10:00 a. m. on November 21, 1958, the lands in sec. 30, T. 9 N., R. 28 E., being so opened pursuant to the provisions of the act of August 11, 1955 (69 Stat. 682; 30 U. S. C. 621).

5. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Spokane, Washington.

CHARLES P. MEAD,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 58-5611; Filed, July 22, 1958;
8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MINNESOTA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in Otter Tail County, Minnesota, a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named county after June 30, 1959, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 18th day of July 1958.

(SEAL) MARVIN L. McLAIN,
Acting Secretary.

[F. R. Doc. 58-5644; Filed, July 22, 1958;
8:55 a. m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 9703, 9714]

U. S. AIRCOACH AND MELVIN N. CHAPMAN
NOTICE OF HEARING

In the matter of the application of U. S. Aircoach for an exemption (to lease an airplane from a person engaged in a phase of aeronautics) for approval of interlocking relationships and, in the alternative, for a waiver, Docket No. 9703.

In the matter of the application of Melvin N. Chapman for approval of control under section 408 of the Civil Aero-

nautics Act of 1938, as amended, Docket No. 9714.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled applications is assigned for July 24, 1958, at 10:00 a. m., e. d. s. t., in Room 1064, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Leslie G. Donahue.

Dated at Washington, D. C., July 18, 1958.

(SEAL) FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-5664; Filed, July 22, 1958;
8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 58-686]

[Amdt. O-43]

STATEMENT OF ORGANIZATION, DELEGATIONS OF AUTHORITY, AND OTHER INFORMATION

INTERNATIONAL BROADCASTING

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 16th day of July 1958;

The Commission having before it for consideration the Delegations of Authority to the Chief Engineer with respect to International Broadcasting, and its rules governing International Broadcast Stations (Subpart F of Part 3 of the Commission's rules); and

It appearing that certain amendments to the aforementioned delegations are necessary in order to achieve consistency with the aforementioned rules; and

It appearing that no rule-making procedure is required in view of the fact that these amendments relate to a matter of agency management, and are, therefore, exempted from section 4 of the Administrative Procedure Act; now therefore

It is ordered, Pursuant to sections 303 (f), 303 (r) and 5 (d) (1) of the Communications Act of 1934, as amended, that section 0.331 (a) of Part O, the Commission's Statement of Organization, Delegations of Authority, and Other Information, be amended effective July 25, 1958, as set forth below.

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

(SEAL) MARY JANE MORRIS,
Secretary.

Amend section 0.331 (a) to read as follows:

(a) With respect to International Broadcasting to act upon the following matters:

(1) Requests for the use of frequencies and frequency hours for transmissions to specific target areas subject to the conditions set forth in the Commission's Rules governing International Broadcast Stations.

(2) Applications for modification of construction permit to make changes in the antenna system where such applica-

tions do not involve departure from the policy set by the Commission.

[F. R. Doc. 58-5635; Filed, July 22, 1958;
8:53 a. m.]

[Docket No. 12243; FCC 58M-778]

PIERCE BROOKS BROADCASTING CORP.
(KGIL)

ORDER CONTINUING HEARING

In re application of Pierce Brooks Broadcasting Corp. (KGIL), San Fernando, California, Docket No. 12243, File No. BP-10512; for construction permit.

The Hearing Examiner having under consideration informal request of Pasadena Presbyterian Church for a week's continuance of the hearing herein;

It appearing, that counsel for all other parties to the proceeding have informally consented to immediate consideration and grant of the request;

It is ordered, This 18th day of July 1958, that the above request is granted; and the hearing now scheduled for July 21, 1958, at 9:00 a. m., is continued until July 28, 1958, at 10:00 a. m.

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

(SEAL) MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-5636; Filed, July 22, 1958;
8:53 a. m.]

[Docket No. 12469; FCC 58-676]

CLASS B FM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

In the matter of amendment of the revised tentative allocation plan for Class B FM Broadcast Stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 16th day of July 1958;

The Commission having under consideration a proposal to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations, and

It appearing, that Notice of Proposed Rule Making (FCC 58-538) setting forth the above proposal was issued by the Commission on June 5, 1958 and was duly published in the FEDERAL REGISTER (23 F. R. 4062), which notice provided that interested parties might file statements or briefs with respect to the said proposal on or before July 7, 1958; and

It further appearing, that no comments were filed, either in favor or opposition to the proposed amendment; and

It further appearing, that adoption of the proposed amendment will make Channel 282 available for assignment in Athens, Alabama, for which an application, File No. BPH-2435, has been filed by the Athens Broadcasting Company, Inc.; and

It further appearing, that authority for the adoption of the proposed amendment is contained in sections 4 (f), 301, 303 (c), (d), (f), and (r), and 307 (b).

of the Communications Act of 1934, as amended:

It is ordered, That effective July 16, 1958, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is amended as follows in respect to the city of Athens, Alabama:

General area	Channels	
	Delete	Add
Athens, Alabama.....		283

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-5637; Filed, July 22, 1958;
8:53 a. m.]

[Docket No. 12470; FCC 58-677]

CLASS B FM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

In the matter of amendment of the revised tentative allocation plan for Class B FM broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 16th day of July 1958;

The Commission having under consideration a proposal to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations, and

It appearing that Notice of Proposed Rule Making (FCC 58-539) setting forth the above proposal was issued by the Commission on June 5, 1958, and was duly published in the FEDERAL REGISTER (23 F. R. 4063), which notice provided that interested parties might file statements or briefs with respect to the said proposal on or before July 7, 1958; and

It further appearing that no comments were filed, either in favor of or in opposition to the proposed amendment; and

It further appearing that adoption of the proposed amendment will make Channel 238 available for assignment in Lancaster, Ohio, for which an application, File No. BPH-2434, has been filed by the Hocking Valley Broadcasting Corp.; and

It further appearing that authority for the adoption of the proposed amendment is contained in Sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended;

It is ordered, That effective July 16, 1958, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is amended as follows in respect to the cities of Lancaster and Columbus, Ohio:

General area	Channels	
	Delete	Add
Lancaster, Ohio.....		238
Columbus, Ohio.....	238	

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-5638; Filed, July 22, 1958;
8:53 a. m.]

[Docket No. 12471; FCC 58-678]

CLASS B FM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

In the matter of amendment of the revised tentative allocation plan for Class B FM broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 16th day of July 1958;

The Commission having under consideration a proposal to amend the revised tentative allocation plan for Class B FM broadcast stations, and

It appearing that Notice of Proposed Rule Making (FCC 58-540) setting forth the above proposal was issued by the Commission on June 5, 1958, and was duly published in the FEDERAL REGISTER (23 F. R. 4063), which notice provided that interested parties might file statements or briefs with respect to the said proposal on or before July 7, 1958; and

It further appearing that no comments were filed, either in favor of or in opposition to the proposed amendment; and

It further appearing that adoption of the proposed amendment will make Channel 235 available for assignment to Class A FM Broadcast Station KCLE-FM, Marti, Inc., licensee, Cleburne, Texas, which has an application, File No. BPH-2418, pending for such an assignment; and

It further appearing that authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended;

It is ordered, That effective July 16, 1958, the revised tentative allocation plan for Class B FM broadcast stations is amended as follows in respect to the city of Cleburne, Texas:

General area	Channels	
	Delete	Add
Cleburne, Tex.....		235

Released: July 18, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-5639; Filed, July 22, 1958;
8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1783]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF PETITION TO AMEND ORDER

JULY 17, 1958.

Take notice that on June 30, 1958, Transcontinental Gas Pipe Line Corporation (Transco), a Delaware corporation, having its principal place of business at Houston, Texas, filed a petition to amend the Commission's order issued December 15, 1955. The order of December 15, 1955 in the above entitled proceedings modified and affirmed as modified, the Presiding Examiner's decision issued October 17, 1955, which authorized Transco to sell and deliver the following volumes of natural gas to Duke Power Company on an interruptible basis for use in the company's plant at its Lee Electric generating station near Williamston, South Carolina:

Year	Maximum annual volume in Mcf
1956 (first).....	11,700,000
1957 (second).....	8,300,000
1958 (third).....	6,930,000
1959 (fourth).....	6,850,000
1960 (fifth).....	6,850,000

As of June 15, 1958, Transco had delivered 4,832,617 Mcf to Duke, leaving 2,097,383 Mcf of the 1958 allocation still to be delivered.

Transco's petition recites that it will have capacity available south of its Compressor Station 15 during August and September of this year for the sale and delivery of up to 1,300,000 Mcf of interruptible gas to Duke, over and above the presently authorized 1958 delivery of 6,930,000 Mcf. This excess capacity will be available, according to the petition, because Transco cannot begin injection of cushion gas into the proposed Leidy storage pool in Pennsylvania as it had planned, since authorization of the Leidy project is currently pending in Docket No. G-13590, et al. Transco further submits that Duke is the only outlet for the increased volumes which will be available, because its customers in the south do not take their full allocations during the summer months. Because of the expected development of the Leidy pool at a later date, Applicant will be required to inject larger volumes than originally planned into that pool during the summer of 1959, but will have excess gas available during the summer of 1958. It, therefore, proposes to sell and deliver to Duke during 1958 up to 1,300,000 Mcf of natural gas, in addition to the presently authorized volume of 6,930,000 Mcf, and to reduce the 1959 allocation by the excess delivered to Duke in 1958. It appears from Transco's petition that the total volumes delivered to Duke will be unchanged from those authorized in the Commission's order of December 15, 1955, and that Duke is agreeable to the proposed changes.

Take further notice that protests or petitions to intervene with respect to the petition to amend 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 August 6, 1958.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-5612; Filed, July 22, 1958;
8:47 a. m.]

[Docket No. G-15076]

ARKANSAS LOUISIANA GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

JULY 17, 1958.

Take notice that Arkansas Louisiana Gas Company (Applicant) a Delaware corporation with a principal office in Shreveport, Louisiana, filed an application on May 8, 1958, and supplements thereto on June 2 and July 3, 1958, pursuant to section 7 of the Natural Gas Act for:

(1) Under section 7 (a) for an order of the Commission directing Texas Eastern Transmission Corporation (Texas Eastern) to establish a physical connection of its existing facilities with a natural gas transmission line proposed to be constructed and owned by the towns of Tupelo, McCrory and Patterson, Arkansas, and to sell natural gas to Applicant who will operate the pipeline and resell the gas for distribution in the above towns and in several unincorporated towns and to other customers along the route of the line.

(2) Under section 7 (c) for a certificate of public convenience and necessity to operate the proposed pipeline under a lease agreement with the towns with an option to purchase the system at a later date. Applicant will also operate distribution systems in all the towns, which are also to be owned and built by the towns.

Tupelo, McCrory and Patterson propose to construct the transmission line extending from a tap on Texas Eastern's line to the three towns, consisting of approximately 24 miles of 4½-inch and 2¾-inch pipe, together with distribution systems in each of the towns and distribution or service connections along the route of the line between the towns. The unincorporated communities which will also receive service from the line include Auvergne, Schoffner, Weldon and Overcup, all in Arkansas, as well as some cotton gins and irrigation pumping units.

Applicant proposes to operate the said leased transmission line and distribution systems under a lease arrangement providing (a) for the payment of rentals by the Applicant sufficient to cover the principal and interest payments on gas revenue bonds of the municipalities, and (b) an option to purchase said leased properties from the municipalities.

The application recites that Applicant operates several distribution plants which are beyond the economic reach of its own integrated pipeline system. The town of Tupelo, City of McCrory and town of Patterson are too far removed from Applicant's system to warrant construction or extension of a line

to bring gas service to these towns. Texas Eastern's Big Inch transmission line is reasonably close to the towns and can serve them from a proposed tap on that line to the towns, a distance of about 24 miles.

The estimated gas requirements of the market area, based on Applicant's experience in other similar areas, are as follows:

Vols. in Mcf @ 15.025 psia

Year	Peak day	Annual
1st.....	733	87,765
2d.....	742	91,460
3d.....	750	96,095
4th.....	759	99,980
5th.....	767	104,145

The application further recites that the cost of the proposed transmission line is estimated at \$274,780, which cost will be shared proportionately by the three major towns. The estimated costs of the distribution systems in each town including proportionate shares of the cost of the transmission line plus overheads, contingencies and other items are as follows: Tupelo—\$80,500; McCrory—\$395,500; and Patterson—\$99,000. The municipalities propose to issue 25-year 4-per cent revenue bonds for the above amounts to finance the cost of their respective systems, and portion of transmission line.

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 August 14, 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 August 1, 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. 58-5613; Filed, July 22, 1958;
8:48 a. m.]

[Project No. 2172]

COOS-CURRY ELECTRIC COOPERATIVE, INC.

NOTICE OF APPLICATION FOR LICENSE

JULY 17, 1958.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by Coos-Curry Electric Cooperative, Inc., of Coquill, Oregon, for license for proposed water-power Project No. 2172 to be located on Illinois River, a tributary to Rogue River, in Curry and Josephine Counties, Oregon, approximately 25 miles east of Gold Beach, Oregon, affecting lands of the United States within the Siskiyou National Forest. The proposed project, known as Bald Mountain Project, would be located at river mile 21.8 and would consist of a concrete gravity overflow diversion dam about 124 feet high and 600 feet along the crest; five automatic spillway gates to maintain a constant water surface at elevation 644 feet; a small reservoir with an area of 225 acres and no usable storage other than pondage; fish ladders, both for upstream and downstream migration; an intake structure; a concrete-lined tunnel, 15 feet in diameter and 3.9 miles long; underground penstocks; a powerhouse located about 12 river miles below the dam, containing three 36,300 horsepower turbines connected to 27,000 kilowatt generators and one 14,750 horsepower turbine connected to an 11,000 kilowatt generator; a step-up substation; two 115-kv transmission lines extending from the powerhouse to Gold Beach; and appurtenant mechanical and electrical facilities.

A preliminary permit for the proposed project was issued to Coos-Curry Electric Cooperative, Inc., effective May 1, 1955, and expired April 30, 1958.

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 of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is September 2, 1958. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-5614; Filed, July 22, 1958;
8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3717]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

NOTICE OF FILING REGARDING ISSUE AND SALE OF PROMISSORY NOTES BY SUBSIDIARIES TO BANKS AND TO PARENT COMPANY

JULY 16, 1958.

Notice is hereby given that a joint application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by New England Electric System ("NEES"), a registered holding company, and twenty-one of its public-

utility subsidiaries ("the borrowing companies"), namely, Attleboro Electric Company ("Attleboro"), Central Massachusetts Gas Company ("Central Mass."), Granite State Electric Company ("Granite"), Lawrence Gas Company ("Lawrence"), Lynn Gas and Electric Company ("Lynn"), Merrimack-Essex Electric Company ("Merrimack"), The Mystic Power Company ("Mystic"), Mystic Valley Gas Company ("Mystic Valley"), The Narragansett Electric Company ("Narragansett"), Northampton Electric Lighting Company ("Northampton"), Northampton Gas Light Company ("Northampton Gas"), North Shore Gas Company ("North Shore"), Northern Berkshire Electric Company ("Northern"), Norwood Gas Company ("Norwood"), The Pequot Gas Company ("Pequot"), Quincy Electric Company ("Quincy"), Southern Berkshire Power & Electric Company ("Southern"), Suburban Electric Company ("Suburban"), Wachusett Gas Company ("Wachusett"), Weymouth Light and Power Company ("Weymouth"), and Worcester County Electric Company ("Worcester"). NEES and the borrowing companies have designated sections 6 (a), 7, 10, and 12 (f) of the act and Rules 42 (b) (2), 43, 50 (a) (2) and 50 (a) (3) thereunder as applicable to the proposed transactions, which are summarized as follows:

The borrowing companies propose to issue from time to time through December 31, 1958, unsecured promissory notes to (a) banks in the aggregate principal amount of \$34,234,000 and (b) NEES in the aggregate principal amount of \$25,450,000 or a total of \$59,684,000. The maximum amount of the proposed notes to be outstanding at any one time during the six months to December 31, 1958, is stated at \$47,094,000. The proceeds of the proposed borrowings are to be used to pay then outstanding notes due to banks and/or to NEES (estimated at an aggregate of \$33,979,000 principal amount at July 1, 1958) and to provide new money (estimated at \$13,115,000 for the six months ending December 31, 1958) for construction expenditures or to reimburse the treasury therefor. The notes will bear interest at not in excess of the prime rate in effect at the time such loans are made, and will mature on or prior to March 31, 1959. Provision will be made for certain subsidiaries to pay their bank indebtedness, in whole or in part, with borrowings from NEES, or vice versa. In the case of notes issued to NEES to prepay notes to banks, the interest rate will be the prime interest rate, but not in excess of the interest rate on the notes being prepaid to the date of their maturity. In the case of notes issued to banks to prepay notes to NEES, if the interest rate exceeds that of the notes to be prepaid, NEES will file an amendment hereto to become effective only pursuant to rule or order of the Commission.

Each of the borrowing companies proposes that if any permanent financing is done prior to the maturity of the indebtedness to be issued hereunder, it will apply the proceeds therefrom in reduction of, or in total payment of, its note indebtedness then outstanding; that the

balance of its note indebtedness then unissued hereunder, if any, will be reduced by the amount, if any, by which the proceeds of such permanent financing exceeds its note indebtedness at the time outstanding; and that the maximum amount of its note indebtedness proposed to be outstanding hereunder will be reduced by the amount of the proceeds obtained by it from such permanent financing.

The following table shows for each borrowing company (1) the aggregate amount of notes proposed to be issued to banks and to NEES, and (2) the maximum amount of notes issued hereunder to be outstanding with banks and with NEES at any one time.

[000's omitted]

Borrowing company	Aggregate amount of notes to be issued		Maximum amount of notes to be outstanding	
	Banks	NEES	Banks	NEES
Attleboro		\$800		\$800
Central Mass.	\$1,000		\$1,000	
Granite	1,250		200	\$1,050
Lawrence	450		450	
Lynn	3,250		3,250	
Merrimack	9,325	\$5,000	4,325	\$5,000
Mystic	175		175	
Mystic Valley	1,300		1,300	
Narragansett	6,500		6,500	
North Shore	1,200		1,200	
Northampton	790		790	
Northampton Gas		665		665
Northern	1,350	1,350		1,350
Norwood		840		840
Pequot	19	30	19	30
Quincy	2,725	2,725		2,725
Weymouth		3,850		3,850
Southern		1,615		1,615
Suburban	1,400		1,400	
Wachusett	800		800	
Worcester	2,700	7,700		5,000
Total	34,234	25,450	20,619	13,615

While no definite arrangements have yet been made by any of the borrowing companies, it is expected that borrowings from banks will be made from any one or more of the following:

The First National Bank of Boston, Boston, Mass.
 Second Bank-State Street Trust Company, Boston, Mass.
 The Chase Manhattan Bank, N. Y.
 The Hanover Bank, N. Y.
 Irving Trust Company, N. Y.
 The New York City Company, N. Y.
 The First National City Bank of New York.
 Industrial National Bank of Providence, Providence, R. I.
 Rhode Island Hospital Trust Company, Providence, R. I.
 Hartford National Bank & Trust Company, Hartford, Conn. (Mystic River Branch.)
 First National Bank, Northampton, Mass.
 Northampton National Bank, Northampton, Mass.
 South Shore National Bank, Quincy, Mass.
 Norfolk County Trust Company, Quincy, Mass.
 Quincy Trust Company, Quincy, Mass.
 Haverhill National Bank, Haverhill, Mass.
 The Andover and Merrimack National Bank, Haverhill, Mass.
 First National Bank, Adams, Mass.
 Greylock National Bank, Adams, Mass.
 North Adams National Bank, North Adams, Mass.
 North Adams Trust Company, North Adams, Mass.
 First National Bank, Malden, Mass.
 Malden Trust Company, Malden, Mass.

Middlesex County National Bank, Everett, Mass.
 Union National Bank, Lowell, Mass.
 Arlington Trust Company, Lawrence, Mass.
 Bay State Merchants National Bank, Lawrence, Mass.
 Attleboro Trust Company, Attleboro, Mass.
 First National Bank, Attleboro, Mass.
 Merchants-Warren National Bank, Salem, Mass.
 Naumkeag Trust Company, Salem, Mass.
 Guaranty Bank & Trust Company, Worcester, Mass.
 The Mechanics National Bank of Worcester, Worcester, Mass.
 Worcester County Trust Company, Worcester, Mass.

Incidental services in connection with the proposed note issues will be performed at cost by New England Power Service Company, an affiliated service company, such cost being estimated at not exceeding \$200 for each applicant-declarant.

No further action by any regulatory commission, other than this Commission, is necessary to carry out the proposed transactions. The Public Utilities Commission of New Hampshire has issued an order authorizing the notes proposed to be issued by Granite.

Notice is further given that any interested person may, not later than July 31, 1958 at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues of fact or law, if any, raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the joint application-declaration as filed or as amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules 20 (a) and 190, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] NELLYE A. THORSEN,
 Assistant Secretary.

[F. R. Doc. 58-5618; Filed, July 22, 1958; 8:50 a. m.]

[File No. 24FW-1143]

MISSILE OIL CORP.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR AND NOTICE OF OPPORTUNITY FOR HEARING
 JULY 17, 1958.

I. Missile Oil Corporation ("Issuer") a Nevada corporation with its principal office at 1435 South La Cienega Boulevard, Los Angeles, California filed with the Commission on June 26, 1958, a notification on Form 1-A and an offering circular relating to an offering of 300,000 shares of its 10-cent par value non-assessable common stock at \$1.00 per share for the purpose of obtaining an exemption from the registration requirements

of the Securities Act of 1933, as amended, pursuant to the provisions of sections 3 (b) and Regulation A thereunder.

II. The Commission has reason to believe that:

A. The offering circular and other material contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The statement on page 2 of the offering circular that "Officers, Directors and present Stockholders will own 63 percent of the outstanding stock * * * in exchange for leases costing in excess of \$207,000, services rendered and an actual cash expenditure of \$37,000", in that the directors, officers, and stockholders have not paid said \$207,000 for the subject leases and are not obligated to make such payments, but such amount is to be paid from the proceeds of the offering.

2. The failure to disclose in the offering circular that the public investors, if the offering is completely sold, will have invested approximately 88½ percent of the cash in the enterprise for their 37 percent interest, while the officers, directors, and present stockholders will have contributed approximately only 11½ percent of the cash investment for their 63 percent interest.

3. The inclusion in the financial statements as an asset the sum of \$210,000, described as "Oil Leases, at Cost", when, in fact, there is only an agreement to purchase oil leases, and the only cost incurred was a \$3,000 earnest money deposit.

4. The statement on page 3 of the offering circular setting forth the conclusion of the Conkling Brothers, geologists, that the leases are a "safe and profitable investment", in that said conclusion, taken from the geological report, referred to the proposed purchase price of \$210,000 and not to the interests of the public in the leases which would amount to only 37 percent of the total outstanding interests.

5. The failure to disclose in the offering circular that the royalties to be paid on the Texas and California properties are materially higher than customary, and are particularly burdensome on the Texas properties.

6. The statement on page 5 of the offering circular that in connection with the California properties the Issuer plans "an extensive exploratory and drilling program there" in that there is a failure to disclose that even if the entire offering were sold and the proceeds distributed in the manner set forth in the offering circular there would be little if any funds available for such exploration and drilling.

7. The failure to include in the offering circular adequate maps showing the location of the leases and the present status and depth of all wells drilled for oil and gas on or in the immediate vicinity of such leases in both Texas and California and the geological structural contours in the area where the California leases are located.

8. The statement on page 6 of the offering circular that, in connection with the Texas properties, "oil production on two of the four wells can be increased, possibly up to the allowable (212 barrels per allowable day)" and " * * * by so recompleting these wells the oil production from this property should be doubled and have a sizable increase in the gas production", in that the productivity of the wells in the area referred to does not indicate such statements would be reasonable for any substantial period of time.

9. The failure to include in the offering circular the actual oil and gas production by months from the date of completion of each of the Texas wells to the present time; the total allowable production for each well during each month; and the net production of oil and of gas for each month which would have accrued to the Issuer's interest.

10. The statement on page 6 of the offering circular implying that the increase of gas production from the Texas wells offset the decline in oil production, in that such increase does not offset the loss from decline in oil production.

11. The statement on page 7 of the offering circular that there are estimated gross future recoverable reserves from the Texas wells in the amount of 194,971 barrels as of January 1, 1958, in that the productivity of such wells indicates such estimation is excessive and without adequate foundation.

12. The statement on page 7 relating to reserves estimated to be recoverable through secondary methods in that there is no past experience from such methods of operation on or in the general vicinity of Issuer's leases to justify the inclusion of reserves based on recovery from secondary methods.

13. The statement on page 7 that the value of the Texas property net to the working interest is \$2,143,857 in that past experience, and future unknown and indeterminable factors make such an estimation of value unreasonable and without adequate basis.

14. The statement on page 8 relating to the 1957 earnings from the four wells on the Texas properties in that such figure, \$201,243, apparently represents gross income.

15. The statement on page 8 of the offering circular implying that reduced allowable production accounted solely for the decline in production in that other material factors were involved which accounted for the production decline.

16. The statement on page 9 relating to the value of the California properties in the amount of \$403,340 in that the assigned value of \$20 per acre is of such a speculative, arbitrary and fluctuating nature as to preclude the inclusion of such amount as a representation.

17. The failure to disclose in the offering circular the use of proceeds in the event the amount sold is insufficient to purchase the Texas properties.

B. The terms and conditions of Regulation A have not been complied with in that:

1. Copies of the underwriting agreement and signed consents of under-

writers have not been filed as required by Items 11 (b) and 11 (c) of Form 1-A.

III. It is ordered, Pursuant to Rule 261 (a) of the rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any persons having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for such hearing will be promptly given by the Commission.

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 58-5617; Filed, July 23, 1958;
8:49 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 193]

KANSAS

DECLARATION OF DISASTER AREA

Whereas, it has been reported that during the month of July, 1958, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the Office below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

County: Atchison (Flash flood occurring on or about July 11, 1958).

Office: Small Business Administration Regional Office, Home Savings Building, Fifth

Floor, 1006 Grand Avenue, Kansas City 6, Missouri.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1958.

Dated: July 11, 1958.

WENDELL B. BARNES,
Administrator.

[P. R. Doc. 58-5619; Filed, July 22, 1958;
8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 226]

MOTOR CARRIER APPLICATIONS

JULY 18, 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 1184 (Sub No. 11), filed June 26, 1958. Applicant: GEORGE F. BURNETT COMPANY, INC., P. O. Box 2538, 20450 West Ireland Road, South Bend, Ind. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foreign automobiles*, in truckaway service, from Muskegon, Mich., to South Bend, Ind. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, 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, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: September 18, 1958, in U. S. Court Rooms, Indianapolis, Ind., before Joint Board No. 23.

No. MC 7073 (Sub No. 3), CORRECTION, filed March 31, 1958, published in the FEDERAL REGISTER June 11, 1958 on Page 4115. Applicant: EUGENE E. BOOS, doing business as BOOS APPLIANCE & HARDWARE COMPANY, Highland, Kans. Applicant's attorney: Ernest W. Rothfelder, 1012-15 Corby Building, St. Joseph, Mo. The previous publication indicated that the proposed transportation of the various commodi-

ties listed in the first part of the notice would originate from Kansas City, Mo., and points in Doniphan County, Kans. This was in error. The origin point of the proposed operation is Kansas City, Mo., only, and the commodities are destined to points in Doniphan County, Kans., and points in Brown County, Kans., on and east of Combined U. S. Highways 159 and 73, also the ice and fertilizer will originate only at St. Joseph, Mo., and are destined to Highland, Kans., and points in Kansas. Ordinary livestock will be transported on return.

HEARING: Remains as assigned 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 10761 (Sub No. 75), filed May 5, 1958. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value and except Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Exeter, Pa., as an off-route point in connection with applicant's authorized regular route operations between Pittsburgh, Pa., and New York, N. Y., over U. S. Highway 22, New Jersey Highway 29 and U. S. Highway 1. Applicant is authorized to transport similar commodities in Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, West Virginia, and Wisconsin.

HEARING: September 3, 1958, at the Fulton Building, 101-115 Sixth Street, Pittsburgh, Pa., before Examiner Alfred B. Hurley.

No. MC 13700 (Sub No. 2), filed May 19, 1958. Applicant: ROCKS TRANSFER LINES, INC., 13-15 West 7th Street, Holland, Mich. 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, livestock, commodities in bulk, and those requiring special equipment, (1) between Holland, Mich., and Port Sheldon, Mich., over unnumbered county road, commonly known as Butternut Drive, serving no intermediate points; and (2) between junction U. S. Highway 31 and unnumbered county road known as Port Sheldon Road (Ottawa County), Mich., from junction U. S. Highway 31 and unnumbered county road known as Port Sheldon Road, over Port Sheldon Road to junction Butternut Drive, thence over Butternut Drive to Port Sheldon, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in Illinois and Michigan.

HEARING: September 8, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76.

No. MC 13964 (Sub No. 2), filed May 22, 1958. Applicant: JOHN R. MORGAN, 20116 Greendale Avenue, Detroit 19, Mich. Applicant's attorney: Rex Eames, 2606 Guardian Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses, other than ordinary, grooms, mascots, equipment and tack*, between points in Michigan, on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Maryland, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Louisiana, Arkansas, Iowa, Missouri, Wisconsin, Colorado, Arizona, and California. Applicant is authorized to transport similar commodities in Michigan, Ohio, Indiana, Illinois, and Kentucky, and household goods as defined by the Commission in Connecticut, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Tennessee, Wisconsin, and the District of Columbia.

HEARING: September 9, 1958, at the Federal Building, Detroit, Mich., before Examiner Alfred B. Hurley.

No. MC 15728 (Sub No. 2), filed June 21, 1958. Applicant: AUTO PRODUCTS TRANSPORT, INC., 16244 James Couzens Highway, Detroit, Mich. Applicant's attorney: Quentin A. Ewert, 909 Prudden Building, Lansing 26, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Plymouth, Mich., to points in Indiana on and north of U. S. Highway 136 from the Indiana-Illinois State line to Indianapolis, and on and north of U. S. Highway 40 from Indianapolis to the Indiana-Ohio State line, and from Plymouth, Mich., to points in Ohio on and north of U. S. Highway 30 from the Ohio-Indiana State line to Delphos, on and north of U. S. Highway 30-N from Delphos to Bucyrus, and on and west of Ohio Highway 4 from Bucyrus to Sandusky, and empty containers or other such incidental facilities (not specified) used in transporting paper and paper products on return. Applicant is authorized to transport paper and paper products in Michigan and Ohio.

HEARING: September 10, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 9.

No. MC 19778 (Sub No. 30), filed June 27, 1958. Applicant: CHICAGO MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, 516 West Jackson Boulevard, Chicago 6, Ill. Applicant's attorney: W. L. Hunter, Chicago. Milwaukee, St. Paul and Pacific Railroad Company, 888 Union Station, Chicago 6, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (1) between Rockford, Ill., and junction of U. S. Highway 51 and Illinois Highway 72 near David Junction, from Rockford over Illinois Highway 2 to junction Belt Line Road, thence over Belt Line Road to junction of U. S. Highway 51, thence over U. S. Highway 51 to junction of Illinois Highway 72, and return over the same route; (2) between Hampshire, Ill., and Lenark, Ill., over Illinois

Highway 72; (3) between junction of Illinois Highways 72 and 26 west of Forreston, Ill., and Freeport, Ill., over Illinois Highway 26; (4) between Freeport, Ill., and Rockford, Ill., over U. S. Highway 20, serving the intermediate points of Hampshire, Genoa, Kirkland, Monroe Center, Davis Junction, Stillman Valley, Bryon, Adeline, Forreston, Shannon, Lenark, Freeport, and Rockford, Ill., which are stations on the rail line of applicant. Applicant is authorized to conduct operations in Illinois and Iowa.

HEARING: September 12, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149.

No. MC 34865 (Sub No. 36), filed June 10, 1958. Applicant: CONTRACT CARRIERS, INC., 2425 Walton Street, Anderson, Ind. Applicant's attorney: Robert C. Smith, 512 Illinois Building, Indianapolis 4, Ind. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Aluminum ingots*, from the site of the plant of American Smelting and Refining Company, Wood River Township, Madison County, Ill., to Muncie, Red Key, and Winchester, Ind. Applicant is authorized to conduct regular route operations in Illinois, Indiana, Missouri and Ohio, and irregular route operations in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, 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.

HEARING: September 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 21.

No. MC 50069 (Sub No. 199), filed June 12, 1958. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 2111 Woodward Avenue, Detroit 1, Mich. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum residuum*, in bulk, in tank vehicles, for export only, from Lima, Ohio, to Toledo, Ohio. Applicant is authorized to conduct operations in Ohio, Michigan, Indiana, Pennsylvania, West Virginia, Illinois, Kentucky, Missouri, Wisconsin, New York, Iowa, Minnesota, Maryland, Virginia, Connecticut, Delaware, Kansas, Nebraska, Oklahoma, Tennessee, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, North Dakota, South Dakota, Georgia, and Florida.

HEARING: September 24, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 117.

No. MC 53325 (Sub No. 2), filed June 30, 1958. Applicant: DAVID C. KEMPER, doing business as KEMPER TRUCKING CO., 1530 Ewing Street, Seymour, Ind. 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: *Fertilizer*, in bags, from St. Bernard, Ohio, to Louisville, Ky. Applicant is authorized to conduct operations in Ohio, Indiana, and Kentucky.

HEARING: September 18, 1958, in the U. S. Court Rooms, Indianapolis, Ind., before Joint Board No. 208.

No. MC 55811 (Sub No. 43), filed June 23, 1958. Applicant: CRAIG TRUCKING, INC., Albany, Ind. Applicant's attorney: Howell Ellis, 520 Illinois Building, Indianapolis, Ind. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Concrete mix*, consisting of cement and fine aggregate, or cement and fine and coarse aggregate, dry, in paper sacks, *paving or paving joint compounds*, *asphalt*, *reclaimed rubber*, *rosin* and *chemicals*, with or without limestone, sand or vermiculite, in bags, from Cincinnati, Ohio, to Lafayette, Ind., and Louisville, Ky., and *pallets*, from Muncie, Ind., and points in Indiana within sixty (60) miles of Muncie, and Lafayette, Ind., to Cincinnati, Ohio. Applicant is authorized to conduct operations in Indiana, Michigan, Kentucky, Missouri, Pennsylvania, Illinois, Ohio, Iowa, Wisconsin, and West Virginia.

HEARING: September 18, 1958, in the U. S. Court Rooms, Indianapolis, Ind., before Joint Board No. 60.

No. MC 59206 (Sub No. 15), filed May 26, 1958. Applicant: HOLLAND MOTOR EXPRESS, INC., 1 West Fifth Street, Holland, Mich. Applicant's attorney: Leonard D. Verdier, Jr., Michigan Trust Building, Grand Rapids 2, Mich. 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 the site of the Consumers Power Company plant, located in Port Sheldon Township, Ottawa County, Mich., as an off-route point in connection with applicant's authorized regular route operations between Muskegon, Mich., and Benton Harbor, Mich., over U. S. Highway 31. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Michigan, and Ohio.

HEARING: September 8, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76.

No. MC 61231 (Sub No. 9), filed June 17, 1958. Applicant: ALKIRE TRUCK LINES, INC., Livestock Exchange Building, 1600 Genesee, Kansas City, Mo. Applicant's attorney: Lowell L. Knipmeyer, Waittower Building, Kansas City 6, Mo. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber*, from Belle Plaine, Iowa, to Chicago, Ill., Waukesha, Wis., and Grand Rapids, Mich. Applicant is authorized to conduct irregular route operations in Illinois, Indiana, Iowa, Missouri, Nebraska, and Oklahoma, and irregular route operations in Illinois, Indiana, and Iowa.

HEARING: September 22, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alfred B. Hurley.

No. MC 64932 (Sub No. 243), filed July 2, 1958. Applicant: ROGERS CARTAGE CO., 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chi-

cago 3, Ill. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Formaldehyde*, in bulk, in tank vehicles, from Toledo, Ohio, to Chicago, Ill. Applicant is authorized to conduct operations in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: September 12, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 58.

No. MC 66539 (Sub No. 13), filed June 2, 1958. Applicant: PHIL KRASS AND MARY KRASNOWSKY, doing business as I. L. & C. COMPANY, 4535 North Kedzie Avenue, Chicago 25, Ill. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago 41, Ill. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Tape recorders* and *hi-fidelity sound equipment and parts, supplies, and materials* used in the manufacture, distribution, and sale of tape recorders and hi-fidelity sound equipment, from Chicago, Ill., to New York, N. Y. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, New York, and Pennsylvania.

NOTE: Applicant states that the proposed service will be performed for Bell & Howell Co., Pentron Corp., and Revere Camera Co., all located in Chicago, Ill. A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a common or contract carrier, assigned Docket No. MC 66539 (Sub No. 12).

HEARING: September 22, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alfred B. Hurley.

No. MC 68909 (Sub No. 58), filed June 19, 1958. Applicant: DECATUR CARTAGE COMPANY, 1932 South Wentworth Avenue, Chicago, Ill. 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 livestock, Class A and B explosives, inflammables, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Forest Products Division of Olin Mathieson Chemical Corporation plant located approximately four miles southeast of the junction of U. S. Highway 6 and U. S. Highway 66, as an off-route point in connection with applicant's authorized regular route operations between Joliet, Ill., and La Salle, Ill., over U. S. Highway 6. Applicant is authorized to conduct operations in Illinois, Indiana, Missouri, and Ohio.

HEARING: September 11, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149.

No. MC 69116 (Sub No. 45), filed June 19, 1958. Applicant: SPECTOR FREIGHT SYSTEM, INC., 3100 South Wolcott Avenue, Chicago, Ill. 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, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Forest Products Division of the Olin Mathieson Chemical Corporation plant located approximately four (4) miles southeast of junction U. S. Highways 6 and 66, as an off-route point in connection with applicant's authorized regular route operations between Topeka, Kans., and Chicago, Ill., over U. S. Highway 66. Applicant is authorized to conduct operations in Connecticut, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Wisconsin, and the District of Columbia.

HEARING: September 11, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149.

No. MC 71452 (Sub No. 2), filed June 13, 1958. Applicant: W. C. SMITH, doing business as INDIANA FILM TRANSPORT COMPANY, 220 Osage Street, Indianapolis 4, Ind. Applicant's attorney: Ferdinand Born, 1019 Chamber of Commerce Building, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, 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 Indianapolis, Ind., and points in Carroll, Cass, Miami, Wabash, White, Tippecanoe, Clinton, Howard, Tipton, Grant, Blackford, Montgomery, Boone, Hamilton, Madison, Delaware, Randolph, Putnam, Hendricks, Marion, Hancock, Henry, Wayne, Parke, Vigo, Clay, Owen, Morgan, Johnson, Shelby, Rush, Fayette, Monroe, Martin, Lawrence, Brown, Jackson, Bartholomew, Jennings, Decatur, Greene, and Jay Counties, Ind. Applicant indicates the authority as here requested is subject to the restriction that only those shipments which have had an immediately prior or an immediately subsequent movement by aircraft will be transported. Applicant states that it is his view that the operations as proposed are exempt; that the service would be incidental to transportation by aircraft; and applicant contends that the exemption in section 203 (b) (7a) is applicable. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, and Ohio.

HEARING: September 17, 1958, in the U. S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72.

No. MC 75830 (Sub No. 4), filed June 11, 1958. Applicant: INTER-CITY TRANSPORT & MOTOR COMPANY, P. O. Box 88, Buckhannon, W. Va. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by chain retail

variety stores and *material, equipment and supplies* used in the conduct of such business houses, between McKeesport, Pa., on the one hand, and, on the other, points in Minnesota within 20 miles of Minneapolis, Minn., including Minneapolis, and Milwaukee, Wis., and points within 20 miles thereof, and Madison, Oshkosh, and Sheboygan, Wis. Applicant is authorized to conduct operations in Pennsylvania, West Virginia, Kentucky, Ohio, Indiana, and Illinois.

NOTE: Applicant states that the above service will be conducted under special and individual contracts with persons as defined in section 203 (a) of the Interstate Commerce Act who operate chain retail variety stores.

HEARING: September 5, 1958, at the Fulton Building, 101-115 Sixth Street, Pittsburgh, Pa., before Examiner Alfred B. Hurley.

No. MC 92722 (Sub No. 10), filed June 14, 1958. Applicant: ROBERT R. WALKER, INC., 1818 West Sample Street, P. O. Box 206, South Bend, Ind. Applicant's attorney: Wilmer A. Hill, Transportation Building, Washington, D. C. This is a second publication, which covers a Report of the Commission, Division 1, adopted June 27, 1958. The application as filed sought authority for the transportation of certain vehicles and parts both in initial and secondary movement. The secondary authority requested was for operation between all points in the territory described in the initial movement portion of the application subject to certain restrictions. As published in the *FEDERAL REGISTER* of July 4, 1958, however, the secondary authority sought was described as from South Bend to points in the territory named. Division 1, in its Report, states: "We find that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, (1) of *motor vehicles*, except trailers, in initial movements in truckaway service, from South Bend, Ind., to points in Alabama, Georgia, New Mexico, Tennessee, and those in North Carolina east of a line commencing at the Virginia-North Carolina State line and extending along U. S. Highway 21 to Statesville, N. C., thence along U. S. Highway 70 to Salisbury, N. C., and thence along U. S. Highway 52 to the North Carolina-South Carolina State line, and (2) of the commodities described in (1) above, in secondary movements, in truckaway service, between all points in the territory described in (1) above, limited to the transportation of such shipments as have been transported by applicant or other carriers in initial movements from South Bend and restricted against the transportation of such traffic as has had an immediately prior movement by water; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder; that an appropriate certificate should be granted after the lapse of 30 days from the date of republication in the *FEDERAL REGISTER* of a corrected statement of the authority sought herein, provided that no petitions for further

hearing are received during that period; and that the application in all other respects should be denied."

No. MC 94430 (Sub No. 16), filed June 11, 1958. Applicant: WEISS TRUCKING COMPANY, INC., Mongo, Ind. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles and in containers, from points in Lucas and Erie Counties, Ohio, to points in the following counties in Indiana: Cass, Delaware, Fulton, Hamilton, Hancock, Henry, Howard, Madison, Marion, Marshall, Randolph, St. Joseph, Tipton, and Wayne, and *empty containers or other such incidental facilities* used in transporting cement on return. Applicant is authorized to conduct operations in Ohio, Indiana, Michigan, and Illinois.

HEARING: September 23, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 60.

No. MC 103654 (Sub No. 44), (RE-PUBLICATION) filed April 4, 1958. Applicant: SCHIRMER TRANSPORTATION COMPANY INCORPORATED, 649 Pelham Boulevard, St. Paul, Minn. Applicant's attorney: Donald A. Morken, 100 First National-Soo Line Building, Minneapolis 2, Minn. This is a second notice of an application which, as originally filed sought authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid or dry packing house products, materials and supplies, rendering plant products, materials and supplies* that can be poured, scooped or shoveled, in bulk, between points in Minnesota, North Dakota, South Dakota, Iowa, Wisconsin, Illinois, Nebraska, Missouri, the Upper Peninsula of Michigan, and Kansas. Under date of April 22, 1958, prior to the original publication, applicant's attorney tendered an amendment to the application to broaden the scope and include that part of the Chicago, Ill., Commercial Zone in the State of Indiana. The amendment was accepted and applicant's attorney so advised. However, when the application was assigned for hearing the publication in the *FEDERAL REGISTER* failed to include the additional territory sought: "that part of the Chicago, Ill., Commercial Zone in Indiana". At a hearing held June 25, 1958 at Minneapolis, Minn., before Examiner Harold P. Boss applicant was allowed to present evidence of need as to service to that portion of the Chicago, Ill., Commercial Zone extending into Indiana. The application was also further amended in certain respects. The Examiner's Report and Recommended Order will give consideration to the need for service to that territory. However, such report will not be served until a lapse of 30 days after this publication within which time any person or persons who may have been prejudiced by the allowance of the amendment and the failure of the previous publication in the *FEDERAL REGISTER* to reflect such amendment may file an appropriate petition for further hearing.

No. MC 105269 (Sub No. 24), filed July 3, 1958. Applicant: GRAFF TRUCKING

COMPANY, INC., 2110 Lake Street, Kalamazoo, Mich. Applicant's attorney: Kit F. Clardy, Olds Tower, Lansing, Mich. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Waste materials, waste paper, rags and junk*, between points in the lower peninsula of Michigan on the one hand, and, on the other, points in Indiana and Illinois. Applicant is authorized to conduct operations in Michigan, Kentucky, Missouri, Iowa, Wisconsin, Illinois, Indiana, and Ohio.

HEARING: September 15, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 73.

No. MC 110420 (Sub No. 188), filed June 10, 1958. Applicant: QUALITY CARRIERS, INC., Calumet Street, Burlington, Wis. Applicant's attorney: Paul F. Sullivan, 1821 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Blends or mixtures of corn syrup, and blends or mixtures of liquid sugar, in bulk, in tank vehicles*, (1) from points in the Chicago, Ill., Commercial Zone, as defined by the Commission, to points in Wisconsin, Iowa, Indiana, Nebraska, Minnesota, Michigan, Missouri, Ohio, Illinois, Arkansas, Kentucky, South Dakota, Tennessee, New York, Pennsylvania, West Virginia, and Kansas; (2) from Cedar Rapids, Iowa, Pekin, Ill., and North Kansas City, Mo., to points in Wisconsin, Iowa, Indiana, Nebraska, Minnesota, Michigan, Missouri, Ohio, Illinois, Arkansas, Kentucky, South Dakota, and Kansas; (3) from Keokuk, Iowa, to points in Wisconsin, Iowa, Indiana, Nebraska, Minnesota, Michigan, Missouri, Ohio, Illinois, Kentucky, Tennessee, and Alabama; (4) from Clinton, Iowa, to points in Wisconsin, Iowa, Indiana, Nebraska, Minnesota, Michigan, Missouri, Ohio, Illinois; (5) from points in the Minneapolis-St. Paul, Minn., Commercial Zone, as defined by the Commission, to points in Wisconsin, Iowa, Indiana, Nebraska, Minnesota, Michigan, Missouri, Ohio, Illinois, Arkansas, Kentucky, South Dakota, and Tennessee; (6) from points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission, to points in Arkansas, Kentucky, South Dakota, Tennessee, Illinois, Alabama, Georgia, Louisiana, Oklahoma, Davenport, Burlington, and Sioux City, Iowa, Indianapolis, Ind., Omaha, Nebr., St. Paul, Minn., that part of Wisconsin on and south of Wisconsin Highway 60, that part of Michigan on and south of U. S. Highway 16, that part of Ohio north and west of a line beginning at Cleveland, Ohio, and extending along U. S. Highway 42 to Delaware, Ohio, thence along U. S. Highway 23 to Columbus, Ohio, thence along U. S. Highway 40 to Lafayette, Ohio, and thence along U. S. Highway 42 to Cincinnati, Ohio, including points on the indicated portions of the highways specified, and that part of Texas on and east of U. S. Highway 81; and (7) from Granite City, Ill., to Kansas City, Mo. *Corn syrup, blends and/or mixtures of corn syrup, and blends and/or mixtures of liquid*

sugar, from St. Louis, Mo., to points in Iowa and Nebraska. Applicant is authorized to conduct operations in Illinois, Wisconsin, Iowa, Minnesota, Missouri, Indiana, Nebraska, Michigan, Ohio, Alabama, Florida, Kansas, Louisiana, Mississippi, Massachusetts, New York, Oklahoma, Pennsylvania, Tennessee, Texas, South Dakota, Virginia, and West Virginia.

HEARING: September 23, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alfred B. Hurley.

No. MC 113843 (Sub No. 25), filed June 2, 1958. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston 10, Mass. Applicant's attorney: James M. Walsh, 316 Summer Street, Boston 10, Mass. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittsburgh, Pa., to points in Michigan. Applicant is authorized to conduct operations in Ohio, Massachusetts, New York, Maryland, the District of Columbia, Virginia, West Virginia, Illinois, Wisconsin, Connecticut, Indiana, Michigan, New Jersey, Pennsylvania, Rhode Island, Kentucky, Maine, New Hampshire, Texas, North Carolina, South Carolina, Tennessee, Delaware, Missouri, Minnesota, Nebraska, Iowa, and Colorado.

HEARING: September 4, 1958, at the Fulton Building, 101-115 Sixth Street, Pittsburgh, Pa., before Joint Board No. 244, or, if the Joint Board waives its right to participate, before Examiner Alfred B. Hurley.

No. MC 114829 (Sub No. 4), filed June 23, 1958. Applicant: GENERAL CARTAGE COMPANY, INC., P. O. Box 298, Sterling, Ill. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago 41, Ill. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, such as reinforcing bars, bar joists, spirals, concrete accessories, wire mesh, fencing and fencing materials, bars, sheets, angles, beams, channels, plate, floor plate, wire, and structural steel, from Sterling, Ill., to points in Iowa, Minnesota, Missouri, and Wisconsin. Applicant is authorized to conduct operations in Illinois, Iowa, Missouri, and Wisconsin.

NOTE: Applicant states the proposed transportation is for the account of Midwest Metals Corp., Sterling, Ill.

HEARING: September 24, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alfred B. Hurley.

No. MC 115668 (Sub No. 2), filed June 12, 1958. Applicant: WARREN G. HARDING, R. R. 2, Allen Chapel Road, Kendallville, Ind. Applicant's representative: Thomas P. Scanlan, 111 West Washington Street, Chicago 2, Ill. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Cookies and cakes*, from River Forest, Ill., to points in Berrien, Cass, Van Buren, Kalamazoo, and Saint Joseph Counties, Mich., and empty containers or other such incidental facilities (not specified) used in transport-

ing cookies and cakes on return. Applicant is authorized to transport cookies and cakes in Illinois, Indiana, and Michigan.

NOTE: Applicant states he is serving Continental Baking Company of River Forest, Ill. 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 115668 (Sub No. 1).

HEARING: September 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 73.

No. MC 116069 (Sub No. 1), filed May 22, 1958. Applicant: MARINE TRANSPORT, INC., Richland Center, Wis. Applicant's attorney: Claude J. Jasper, One West Main Street, Madison 3, Wis. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Rowboats and outboard motor boats*, between all points in the United States east of the Eastern boundaries of Montana, Wyoming, Colorado, and New Mexico. *Inboard motor boats not exceeding 40 feet in length*, from Baltimore and Solomons, Md., Lancaster, Pa., Tell City, Ind., and New Orleans, La., to all points in the above-described territory.

NOTE: Application is pending in No. MC-FC 61141 to transfer the operating rights in Certificate No. MC 116069 from R. L. Schmitz and Charles G. Olsen, doing business as O & S Transport, Inc., to Marine Transit, Inc. Certificate No. MC 116069 authorizes operations in Arkansas, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin.

HEARING: September 17, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alfred B. Hurley.

No. MC 117100 (Sub No. 1), (RE-PUBLICATION), filed May 16, 1958, published in the FEDERAL REGISTER issue of June 5, 1958, on page 2956. Applicant: SAM ORGEL AND JULE ORGEL doing business as ELIZABETH RUBBER WASTE, 248 First Street, Elizabeth, N. J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. This is a second notice of an application which as originally published incorrectly described the method of transportation of the commodities sought to be transported by reason of the omission of the phrase "and in containers". At a hearing held on July 10, 1958, before Examiner John P. McCarthy, applicant was allowed to amend the application to correct the error. The application was also further amended in certain respects. The operations proposed by applicant, and as set forth at the hearing cover the transportation of rubber (crude, natural or synthetic), except that transported in bulk, in tank vehicles, reclaim rubber, scrap rubber and hard rubber scrap-pulverized, plastic pellets or granules and powder, plastic scrap, loose and in containers, between points in Essex, Union, Hudson, Bergen, Passaic and Middlesex Counties, N. J., and New York, N. Y., on the one hand, and, on the other, points in Delaware, Maryland, District of Columbia, Virginia, and that part of Pennsylvania on and east of a

line beginning at the Maryland-Pennsylvania State line and extending north along U. S. Highway 111 to Harrisburg, Pa., thence along U. S. Highway 15 to the New York State line, over irregular routes. Evidence was received in support of the application as amended. The Examiner's Report and Recommended Order will not be served until a lapse of 30 days after this publication within which time any person who may have been prejudiced by the allowance of the amendment may file an appropriate petition for a further hearing.

No. MC 117100 (Sub No. 2) (REPUBLICATION), published in FEDERAL REGISTER July 9, 1958, at page 5223, filed July 19, 1958. Applicant: SAM ORGEL AND JULE ORGEL, doing business as ELIZABETH RUBBER WASTE, 248 First Street, Elizabeth, N. J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber* (crude, natural or synthetic) except in bulk, in tank vehicles, *reclaimed rubber, scrap rubber and hard scrap-pulverized, plastic pellets or granules and powder, plastic scrap, loose, in containers, and in bulk, between points in New Jersey and New York, N. Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, and New York.*

NOTE: Applicant states that the above-described operations will be limited to a transportation service to be performed under a continuing contract or contracts with A. Schulman, Inc., Akron, Ohio.

HEARING: September 9, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo W. Cunningham.

No. MC 117167 (REPUBLICATION), filed February 7, 1958. Applicant: EDWIN J. BARRETT, doing business as BARRETT'S AUTO SERVICE, 6902 Railroad Avenue, Omaha, Nebr. Applicant's attorney: John C. Barrett, 4825 South 24th Street, Omaha 7, Nebr. This is a second notice of an application which was originally published inadvertently omitted the *State of Iowa* which applicant proposed to serve in addition to the States of Nebraska, Missouri, Colorado, Wyoming, Kansas, South Dakota, and Minnesota, in the transportation as a common carrier, over irregular routes, of *wrecked and disabled motor vehicles and trailers, in truckaway service, requiring the use of wrecker equipment.* At a hearing held July 7, 1958, before Examiner Lucian A. Jackson applicant was allowed to present evidence of need as to service to Iowa. The Examiner's Report and Order will consider the need for service to Iowa as well as the States shown above. However, such report will not be served until a lapse of 30 days after this publication within which time any person or persons who may have been prejudiced by the allowance of the evidence pertaining to the need for service to Iowa may file an appropriate petition for further hearing.

No. MC 117335, filed April 14, 1958. Applicant: COURTNEY C. MCCOY, South Webster, Ohio. Applicant's attorney: Richard H. Brandon, Hartman

Building, Columbus 15, Ohio. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, (1) from points in Greenup and Carter Counties, Ky., to points in Jackson, Scioto, and Lawrence Counties, Ohio; (2) from points in Lawrence County, Ohio, to points in Greenup County, Ky.

NOTE: Applicant states it is not certain whether his operations would be that of a contract or common carrier under the new definition as prescribed by the Commission in section 203 (a) (15) of the Interstate Commerce Act. Applicant has filed with this application a Motion to Dismiss on the grounds that the authority sought above is not required.

HEARING: September 19, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 37.

No. MC 117336, filed April 14, 1958. Applicant: VINTON H. MCCOY, Rt. 2, Oak Hill, Ohio. Applicant's attorney: Richard H. Brandon, Hartman Building, Columbus 15, Ohio. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, (1) from points in Greenup and Carter Counties, Ky., to points in Jackson, Scioto and Lawrence Counties, Ohio; (2) from points in Lawrence County, Ohio, to points in Greenup County, Ky.

NOTE: Applicant states it is not certain whether his operations would be that of a contract or common carrier under the new definition as prescribed by the Commission in section 203 (a) (15) of the Interstate Commerce Act. Applicant has filed with this application a Motion to Dismiss on the grounds that the authority sought above is not required.

HEARING: September 19, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 37.

No. MC 117344 (Sub No. 7), filed July 7, 1958. Applicant: THE MAXWELL CO., 2200 Glendale-Milford Road, Cincinnati 15, Ohio. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Cincinnati, Ohio to points in Indiana, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations as a contract carrier in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

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 MC 50404 (Sub No. 55).

HEARING: September 25, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 208.

No. MC 117344 (Sub No. 8), filed July 7, 1958. Applicant: THE MAXWELL CO., 2200 Glendale-Milford Road, Cincinnati 15, Ohio. Applicant's attorney:

Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in bulk, in tank or hopper-type trucks, from Cincinnati, Ohio, to points in Indiana, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations as a contract carrier in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

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 MC 50404 (Sub No. 55).

HEARING: September 25, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 208.

No. MC 117416, filed May 23, 1958. Applicant: NEWMAN AND PEMBERTON CORPORATION, 222 Daylight Building, Knoxville, Tenn. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place, NW, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the production and distribution of canned goods, from points in Anderson Township, Hamilton County, Ohio, to Chestnut Hill, Clinton, Newport, Sevierville, Jefferson City, and Tellico Plains, Tenn., and *used canning machinery, and damaged, defective, rejected, or returned shipments of materials, equipment and supplies* used in the production and distribution of canned goods on return. Applicant is authorized to conduct contract carrier operations under Permit No. MC 102541 and Sub numbers thereunder. 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 102541 (Sub No. 6).

NOTE: Applicant states that if this application is determined prior to final determination of the conversion application, applicant seeks interim authority for the operations described above.

HEARING: September 24, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 209.

No. MC 117441, filed June 5, 1958. Applicant: RUTTER, INC., 1246 West Melrose Street, Chicago 13, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum products*, in bulk, in tank semi-trailers, from the sites of the Badger Pipeline Terminal, Highway 83, west of Mount Prospect Road, and Kingsbury Marine Terminal, Kingsbury Street, and North Branch of Chicago River in Illinois to points in Illinois and Wisconsin within the territory bounded by U. S. Highway 6 at its junction with the Illinois-Indiana State line, thence north along the Illinois-Indiana State line to Lake Michigan, thence north along the shores of Lake Michigan to Milwaukee, Wis., thence west on U. S. Highway 18 to its junction with U. S.

Highway 12, thence southeast on U. S. Highway 12 to its junction with Illinois Highway 83, thence south on Illinois Highway 83 to its junction with U. S. Highway 54, thence south on U. S. Highway 54 to its junction with U. S. Highway 6, thence east on U. S. Highway 6 to origin point, serving all points lying on the above named highways and within the boundaries named, and empty containers or other such incidental facilities (not specified) used in transporting the above commodities on return.

HEARING: September 15, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 13.

No. MC 117447, filed June 11, 1958. Applicant: GLENN M. KIER, 2208 Hemlock Drive, McKeesport, Pa. Applicant's attorney: Jerome Solomon, 1325-27 Grant Building, Pittsburgh, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel structural footwork*, from McKeesport, Allegheny County, Pa., to points in Ohio, New York, West Virginia, Maryland, New Jersey, Delaware, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, and empty containers or other such incidental facilities (not specified) used in transporting the above commodities on return.

HEARING: September 8, 1958, at the Fulton Building, 101-115 Sixth Street, Pittsburgh, Pa., before Examiner Alfred B. Hurley.

No. MC 117468, filed June 20, 1958. Applicant: WILLIAM P. VARGA, 4897 Dublin Road, Columbus, Ohio. Applicant's attorney: Walter E. Schaeffer, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Tuscarawas, Holmes, Coshocton, and Wayne Counties, Ohio, to points in Monroe County, Mich., and empty containers or other such incidental facilities used in transporting coal, on return.

HEARING: September 23, 1958, in the New Post Office Building, Columbus, Ohio, before Joint Board No. 57.

No. MC 117476, filed June 25, 1958. Applicant: FRANCIS MERLE HUNTER, 103 West Main Street, North East, Pa. Applicant's attorney: Arthur J. Diskin, 810 Frick Building, Pittsburgh 19, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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, between points in Erie County, Pa., and Chautauque County, N. Y.

Note: Applicant states it will also render pick-up and delivery service for other interstate common carriers.

HEARING: September 3, 1958, at the Fulton Building, 101-115 Sixth Street, Pittsburgh, Pa., before Examiner Alfred B. Hurley.

No. MC 117497, filed July 7, 1958. Applicant: RALPH F. LUDWIG AND RAYMOND H. LUDWIG, doing business as

LUDWIG BROTHERS TRUCKING CO., 11369 Robson Avenue, Detroit 27, Mich. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump vehicles, (1) from Detroit, Mich., to points in Ashland, Auglaize, Columbiana, Crawford, Cuyahoga, Defiance, Delaware, Fulton, Hancock, Henry, Huron, Knox, Logan, Lorain, Lucas, Mahoning, Marion, Medina, Portage, Richland, Sandusky, Seneca, Summit, Stark, Trumbull, Wayne, Wood, Wyandot, Williams, Ottawa, Paulding, Putnam, Van Wert, Allen, Hardin, Union, Morrow, Madison, Franklin, Holmes, Erie, Lake, Geauga and Ashtabula Counties, Ohio, and points in Adams, Allen, DeKalb, Elkhart, Fulton, Kosciusko, La Porte, Marshall, Noble, St. Joseph, LaGrange, Steuben, and Whitley Counties, Ind., (2) from Detroit, Mich., to the ports of entry on the international boundary line between the United States and Canada in or near Detroit and Port Huron, Mich.

HEARING: September 10, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 9.

MOTOR CARRIERS OF PASSENGERS

No. MC 41257 (Sub No. 4), filed June 2, 1958. Applicant: NORTH STAR LINE, INC., 341 Ellsworth Avenue SW., Grand Rapids, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, and express, mail and newspapers, in the same vehicle with passengers, between Grand Rapids, Mich., and Allegan, Mich., from Grand Rapids over U. S. Highway 131 to the junction of Michigan Highway M-118, thence over Michigan Highway M-118 to Allegan, and return over the same route, serving no intermediate points, except highway intersection. Applicant is authorized to conduct similar operations in Michigan.

HEARING: September 9, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76.

No. MC 67226 (Sub No. 5), filed July 11, 1958. Applicant: THE BALTIMORE MOTOR COACH COMPANY, 609-619 West Biddle Street, Baltimore, Md. Applicant's attorney: Aaron Margolis, Central Savings Bank Building, Baltimore 2, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in seasonal operations between June 6 and September 1, both inclusive, of each year, between Baltimore, Md., and the Charles Town Race Track at Charles Town, W. Va., from Baltimore over U. S. Highway 40 to junction U. S. Highway 340, at Frederick, Md., thence over U. S. Highway 340 to the Charles Town Race Track at Charles Town, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations throughout the United States.

Note: Applicant states that the proposed operation is to be seasonal to the extent of

the actual operation of the Charles Town Race Track; that it has been advised that the Race Track will maintain an 85-day meeting, beginning June 6, 1958, and that the dates of future meetings are indefinite, but that it proposes to maintain its service during all meetings of the Race Track. Applicant further states that it does not propose to tack the authority herein applied for to any portion of its present authority.

HEARING: September 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 113.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 504 (Sub No. 30), filed July 7, 1958. Applicant: HARPER MOTOR LINES, INC., 213 Long Avenue, Elberton, Ga. Applicant's attorney: Reuben G. Crimm, 805 Peachtree Street Building, Atlanta 8, Ga. 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 the intermediate points and/or communities of Barretts and Bemiss, Ga., located on Georgia Highway 125, in connection with applicant's authorized regular route operations between Ray City, Ga., and Valdosta, Ga., over Georgia Highway 125. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

No. MC 28322 (Sub No. 8), filed July 7, 1958. Applicant: SALT LAKE-KANAB FREIGHT LINES, INC., 350 South First West Street, Salt Lake City, Utah. Applicant's attorney: Wood R. Worsley, 701 Continental Bank Building, Salt Lake City 1, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, livestock, liquid commodities in bulk, in tank vehicles, household goods as defined by the Commission, and commodities which because of their size or weight require the use of special equipment, other than flat bed trucks, serving the Glen Canyon Dam site in Arizona (located on the Colorado River near the Utah-Arizona State line), and points in Arizona within ten (10) miles thereof, as off-route points in connection with applicant's authorized regular route operations between Salt Lake City, Utah, and Phoenix, Ariz. Applicant is authorized to conduct operations in Arizona and Utah.

No. MC 36436 (Sub No. 29), filed July 11, 1958. Applicant: HOWARD MOLAND, CLARENCE MOLAND, LOTHARD MOLAND, AND H. T. MOLAND, doing business as MOLAND BROS. TRUCKING COMPANY, 2502 West Huron Street, Duluth, Minn. Applicant's attorney: Claude J. Jasper, One West

Main Street, Madison 3, Wis. 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 Mauston, Wis., and junction Wisconsin Highways 82 and 13, over Wisconsin Highway 82, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (2) Between Wisconsin Dells, Wis., and junction Wisconsin Highways 13 and 73, over Wisconsin Highway 13, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (3) Between Marshfield, Wis., and junction Wisconsin Highways 97 and 64, over Wisconsin Highway 97, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; and (4) Between Merrill, Wis., and junction Wisconsin Highways 64 and 13, over Wisconsin Highway 64, 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 Illinois, Michigan, Minnesota, and Wisconsin.

No. MC 66562 (Sub No. 1428), filed June 17, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: James E. Thomas, 1220 The Citizens and Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, including Class A and B explosives, moving in express service, between Copperhill, Tenn., and Blue Ridge, Ga., from Copperhill over Tennessee Highway 68 to junction U. S. Highway 64, thence over U. S. Highway 64 to junction North Carolina Highway 60, thence over North Carolina Highway 60 to the North Carolina-Georgia State line, thence over Georgia Highway 60 to junction U. S. Highway 76, thence over U. S. Highway 76 to Blue Ridge, and return over the same route, serving no intermediate points, but serving Murphy, N. C., as an off-route point. RESTRICTION: The service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of air or Railway Express Service. Shipments transported by said applicant shall be limited to those moving on a through bill of lading or express receipt, covering, in addition to a motor carrier movement by said applicant, an immediately prior or immediately subsequent movement by air or rail, except as to shipments originating at or consigned to Atlanta, Ga. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states that the proposed service is an extension and will connect with applicant's authorized regular route to Atlanta, Ga. Applicant further states that

interchange with rail or air express service will be made at Atlanta, Ga.

No. MC 66562 (Sub No. 1437), filed June 30, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated, (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, moving in express service, between Traverse City, Mich., and Frankfort, Mich., from Traverse City over U. S. Highway 31 to junction Michigan Highway 137, thence over Michigan Highway 137 to National Music Camp at Interlochen, Mich., thence return over Michigan Highway 137 to junction U. S. Highway 31, thence over U. S. Highway 31 to junction Michigan Highway 115, thence over Michigan Highway 115 to Frankfort, and return over the same route, serving the intermediate points of National Music Camp at Interlochen, Mich., and Beulah, Mich. Applicant indicates the conditions applicable to the proposed service are as follows: The service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of, air or railway express service. Shipments transported by said applicant shall be limited to those moving on a through bill of lading or express receipt, covering in addition to a motor carrier movement by said applicant, an immediately prior or immediately subsequent movement by rail or air. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states the proposed authority is sought in connection with its present authority in MC 66562 (Sub No. 1047).

No. MC 66562 (Sub No. 1438), filed June 30, 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 a regular route, transporting: *General commodities*, including Class A and B explosives, moving in express service, between Berlin, Wis., and Waupun, Wis., from Berlin over Wisconsin Highway 49 to Waupun, and return over the same route, serving the intermediate points of Ripon and Brandon, Wis. Applicant indicates the conditions to which the proposed service is subject are that the service to be performed will be limited to that which is auxiliary to, or supplemental of, express service, and the shipments 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.

NOTE: Applicant states the operations applied for are to extend those authorized in Dockets No. MC 66562 Sub No. 269 and Sub No. 934.

No. MC 92983 (Sub No. 304), filed July 11, 1958. Applicant: ELDON MILLER,

INC., Box 232, 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, resins, varnishes and ingredients thereof*, in bulk, in tank vehicles, from points in the Kansas City, Mo., Commercial Zone, as defined by the Commission, to points in Arkansas, Kentucky, Tennessee, and Mississippi. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

No. MC 108223 (Sub No. 10), filed July 7, 1958. Applicant: CENTURY-MATTHEWS MOTOR FREIGHT, INC., 202 South 26th Avenue West, Duluth, Minn. Applicant's attorney: Hoyt Crooks, 842 Raymond Avenue, St. Paul 14, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: (1) *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 Aurora, Minn., as off-route points, in connection with applicant's authorized regular route operations between Virginia, Minn., and Winston, Minn., over Minnesota Highway 35. (2) *General commodities*, including Class A and B explosives, moving in express service, serving points within 10 miles of Aurora, Minn., as intermediate and off-route points, in connection with applicant's authorized regular route operations between Aurora, Minn., and Allen Junction, Minn., which authorized regular route operations are 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, express service. Shipments transported by said carrier shall be limited to those moving on a through bill of lading, or express receipt, covering, in addition to a motor carrier movement by said carrier, an immediately prior or immediately subsequent movement by rail. 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, express service. Applicant is authorized to conduct operations in Minnesota and Wisconsin.

NOTE: Applicant states authority is sought as an extension of present terminal and origin areas to permit service to and from an expanded area under active development by the taconite industry. Villages, mining pits, plants, camps, and other locations requiring service are presently being established and from time to time will be newly established at various locations within the area as development proceeds.

No. MC 111812 (Sub No. 49), filed July 7, 1958. Applicant: MIDWEST COAST TRANSPORT, INC., Wilson Terminal Building, P. O. Box 747, Sioux Falls, S. Dak. Applicant's attorney: Donald

Stern, 924 City National Bank Building, Omaha, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, and adhesives, pastes, waxes, primers and cleaners*, from Marcus Hook, Pa., and Kearney, N. J., to Sioux Falls, S. Dak. Applicant is authorized to conduct operations in South Dakota, Washington, Oregon, Minnesota, Iowa, California, Nevada, Nebraska, Montana, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, and New York.

No. MC 114194 (Sub No. 12), filed July 10, 1958. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup and blends thereof*, from St. Louis, Mo., to points in Iowa and Nebraska, except no corn syrup to Davenport, Burlington, Sioux City, Clinton, and Keokuk, Iowa, and Omaha, Nebr. Applicant is authorized to conduct operations in Illinois, Missouri, Tennessee, Indiana, and Ohio.

No. MC 116714 (Sub No. 2), filed July 7, 1958. Applicant: MARKET HAULAGE, INC., 333 North Bedford Road, Mt. Kisco, N. Y. 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: *Such commodities as are sold by retail and general groceries and food business houses and stores, and supplies, equipment and advertising material and related items used in the conduct of such business*, from Mount Kisco, N. Y., to Westerly, R. I., and rejected, damaged and returned shipments of the above-described commodities, and empty containers or other such incidental facilities used in transporting said commodities, on return. Applicant is authorized to conduct similar operations from Mount Kisco, N. Y., to points in Fairfield, Hartford, and New Haven Counties, Conn.

Note: Applicant requests that the proposed operations be restricted as follows: The operations described above shall be limited to a transportation service to be performed under a continuing contract or contracts with the Grand Union Company.

No. MC 117495, filed July 7, 1958. Applicant: MERCHANTS REFRIGERATED TRANSFER, INC., 840 Brady Street, Jacksonville, Fla. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and packing-house products*, from Jacksonville, Fla., to points Alachua, Baker, Bradford, Clay, Columbia, Duval, Flagler, Gadsden, Jefferson, Lake, Leon, Madison, Marion, Nassau, Orange, Saint Johns, Seminole, Sumter, Suwannee, and Volusia Counties, Fla., and to points in Appling, Bacon, Brantley, Brooks, Camden, Charlton, Clinch, Colquitt, Decatur, Dougherty, Echols, Glynn, Grady, Lowndes, Macon, Mitchell, Sumter, Terrell, Thomas, Ware, and Wayne Counties, Ga.

No. MC 117500, filed July 7, 1958. Applicant: EDWARD LAFAYETTE WATSON, doing business as WATSON TRUCKING COMPANY, Route 30, Mattoon, Ill. Applicant's attorney: Harold T. Halfpenny, 111 West Washington Street, Chicago 2, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement and mortar*, in bulk and in bags, in dump trucks, flatbed, tank, and hopper-type equipment, from Burlington, Ind., to points in that part of Illinois bounded on the north by the Illinois-Wisconsin State line, on the west by U. S. Highway 51, and on the south by U. S. Highway 36, and empty cement bags on return.

APPLICATIONS UNDER 212 (c) CONVERSION PROCEEDINGS

No. MC 18383 (Sub No. 2). Applicant: ALVAH T. LONGLEY, Concord, N. H. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 15, 1958, the carrier requested dismissal of the application, and an order was entered July 2, 1958, effective August 18, 1958, dismissing the application and discontinuing the proceeding.

No. MC 18585 (Sub No. 1) WALTER PUZIO, Wallington, N. J.

No. MC 110930 (Sub No. 2) ANDREW MATERNA and WALTER MATERNA, Doing business as MATERNA'S PADDED VAN SERVICE, Garfield, N. J.

The above-numbered proceedings were instituted under section 212 (c) on the Commission's own initiative, on February 17, 1958, to determine the carriers' status pertaining to their contract authority issued on or before August 22, 1957. Such proceedings were instituted because the carriers had failed to file verified statements in response to a Questionnaire mailed September 20, 1957. Such statements have now been filed and the order entered February 17, 1958, instituting proceedings is hereby vacated and set aside as of August 18, 1958.

No. MC 84568 (Sub No. 1) Applicant: ANTONIO ROMANO, SALVATORE ROMANO, MICHAEL ROMANO, AND MARIO ROMANO, Doing business as, ROMANO & SONS TRUCKING CO., New York, N. Y. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 22, 1958, the carrier requested dismissal of the application, and an order was entered on July 2, 1958, effective August 18, 1958, dismissing the application and discontinuing the proceeding.

No. MC 109504 (Sub No. 2). Applicant: PAUL EDWARD McMAHON, South Meriden, Conn. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 1, 1958, the carrier requested dismissal of the application, and an order was entered on July

9, 1958, effective August 25, 1958, dismissing the application and discontinuing the proceeding.

No. MC 111735 (Sub No. 1). Applicant: HARRY A. DECATO AND EUGENE J. DECATO, Doing business as, DECATO BROS. TRUCKING CO., Lebanon, N. H. Carrier filed an application under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 14, 1958, the carrier requested dismissal of the application, and an order was entered July 2, 1958, effective August 18, 1958, dismissing the application and discontinuing the proceeding.

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 6943 (correction) (LOUIS L. MOCKENHAUPT—CONTROL—VICTORVILLE-BARSTOW TRUCK LINE AND B & L TRUCK & TRANSFER CO.), published in the July 2, 1958, issue of the FEDERAL REGISTER on page 5056. The operations of B & L TRUCK & TRANSFER CO. should have been described, in part, as "specified commodities" in lieu of "general commodities, with certain exceptions." This authority is more specifically described in a Form BMC-75 statement now pending before the Interstate Commerce Commission.

No. MC-F 6955. Authority sought for purchase by SULLIVAN LINES, INC., 129 South State Street, Dover, Del., of the operating rights and certain property of ROBERT E. SULLIVAN, doing business as SULLIVAN LINES, 308 Bourse Building, Philadelphia 6, Pa., and for acquisition by ARTHUR A. GALLAGHER and ROBERT PINTO, both of Philadelphia, of control of such rights and property through the purchase. Applicants' attorney: Vernon L. Stouffer, 50 West Broad Street, Columbus 15, Ohio. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes between Philadelphia and Pittsburgh, Pa., New York and Buffalo, N. Y., Newark, N. J., Baltimore, Md., Washington, D. C., and Akron, Canton, Cleveland, Toledo, Columbus, Dayton, and Cincinnati, Ohio, over the following routes, or any combinations thereof: (between Philadelphia, Pa., and Toledo, Ohio) from Philadelphia over U. S. Highway 30 to Lancaster, Pa., thence over U. S. Highway 230 to Harrisburg, Pa., thence over U. S. Highway 22 to Ebensburg, via Duncansville, Pa., thence over U. S. Highway 422 to Youngstown, Ohio, via Butler, Pa. (also from Philadelphia over U. S. Highway 30 via

Bedford, Pa., to Pittsburgh, Pa., thence over Pennsylvania Highway 8 to Butler; also from Bedford, Pa., over U. S. Highway 220 to Duncansville, thence over Ohio Highway 18 to junction Ohio Highway 176, thence over Ohio Highway 176 to Ghent, Ohio, thence over U. S. Highway 21 to Cleveland, Ohio, (also from Youngstown over U. S. Highway 62 to Canton, Ohio, thence over Ohio Highway 8 to Cleveland; also from Edinburg, Ohio, over Ohio Highway 14 to Cleveland), thence over Ohio Highway 254 to junction Ohio Highway 57, thence over Ohio Highway 57 to Lorain, Ohio, thence over U. S. Highway 6 to Sandusky, Ohio, and thence over Ohio Highway 2 to Toledo; (between Philadelphia, Pa., and Cincinnati, Ohio) from Philadelphia to Cleveland as specified above, thence over U. S. Highway 42 to Cincinnati, via Delaware and Xenia, Ohio, from Philadelphia to Xenia as specified above, thence over U. S. Highway 35 to Dayton, Ohio, and thence over U. S. Highway 25 to Cincinnati, and from Philadelphia to Delaware as specified above, thence over U. S. Highway 23 to Columbus, Ohio, thence over U. S. Highway 40 to junction U. S. Highway 42, and thence over U. S. Highway 42 to Cincinnati; (between New York, N. Y., and Toledo, Ohio) from New York over U. S. Highway 1 to junction New Jersey Highway 29, thence over New Jersey Highway 29 to junction U. S. Highway 22, thence over U. S. Highway 22 to Ebersburg, Pa., and thence over the highways specified above to Toledo; (between Washington, D. C., and Toledo, Ohio) from Washington over U. S. Highway 1 to Baltimore, thence over U. S. Highway 111 to Harrisburg, Pa., and thence over the highways specified above to Toledo; (between Baltimore, Md., and New York, N. Y.) from Baltimore over U. S. Highway 1 to Philadelphia, Pa., (also from Baltimore over U. S. Highway 40 to State Road, Del., thence over U. S. Highway 13 to Philadelphia), and thence over U. S. Highway 1 to New York; (between Baltimore, Md., and Pittsburgh, Pa.) from Baltimore over U. S. Highway 111 to Harrisburg, Pa., thence over U. S. Highway 11 to junction U. S. Highway 22 at Amity Hall, Pa., and thence over U. S. Highway 22 to Pittsburgh; (between New York, N. Y., and Pittsburgh, Pa.) from New York over the highways specified above to Ebersburg, Pa., and thence over U. S. Highway 22 to Pittsburgh; (between Philadelphia, Pa., and Buffalo, N. Y.) from Philadelphia over the highways specified above to Harrisburg, Pa., thence over U. S. Highway 15 to Wayland, N. Y., thence over New York Highway 63 to Dansville, N. Y., thence over New York Highway 36 to Leicester, N. Y., thence over Alternate U. S. Highway 20 to Aurora, N. Y., and thence over New York Highway 16 to Buffalo; return over these routes or any combination thereof to the above-specified origin points; service is authorized to and from certain intermediate points; *general commodities*, with certain exceptions including household goods and commodities in bulk, over a regular route between Detroit, Mich., and Toledo, Ohio, serving all intermediate and certain off-route points. Vendee holds no authority from

this Commission; however its controlling stockholder is a partner in the partnership known as ARTHUR A. GALLAGHER AND LOTTIE GALLAGHER, REMAINING TRUSTEE OF THE ESTATE OF EDWARD A. GALLAGHER, DECEASED, doing business as E. A. GALLAGHER & SONS, Philadelphia, Pa., which is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, New York, Maryland, Delaware, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, Kentucky, Wisconsin, Michigan, West Virginia, Ohio, Indiana, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

No. MC-F 6956. Authority sought for purchase by REMY MOVING & STORAGE CORP., corner Third and Wade Streets, Fall River, Mass., of the operating rights of CAPE COD MOVING & STORAGE CO., INC., 538 Beares Way, Hyannis, Mass., and for acquisition by EDWARD F. SIMARD, also of Fall River, of control of such rights through the purchase. Applicants' representative: Edward F. Simard, President, Remy Moving & Storage Corp., corner Third and Wade Streets, Fall River, Mass. Operating rights sought to be transferred: *Ship stores and supplies*, as a *common carrier*, over a regular route between Providence, R. I., and Wellfleet, Mass., serving certain intermediate points; *household goods*, as defined by the Commission, over irregular routes between Falmouth, Mass., and points in Massachusetts within 50 miles of Falmouth, on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, and between certain points in Massachusetts, on the one hand, and, on the other, points in Connecticut, Rhode Island, and Maryland; *curtains, cotton piece goods, materials, and supplies* used in the manufacture and distribution of curtains, between Wellfleet, Mass., and Danielson, Conn.; *used furniture*, uncrated, between Provincetown, Mass., and New York, N. Y. Vendee is authorized to operate as a *common carrier* in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Virginia, and Maine. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6957. Authority sought for purchase by INTERSTATE MOTOR LINES, INC., 235 West Third South, Salt Lake City 1, Utah, of the operating rights and property of T. S. CARTER, R. S. CARTER, T. J. CARTER, AND LEONARD D. SEIFFERS, doing business as ELY TRANSFER COMPANY, 235 West Third South, Salt Lake City 1, Utah, and for acquisition by T. S. CARTER, also of Salt Lake City, of control of such rights and property through the transfer. Applicants' attorneys: Berol and Silver, 100 Bush Street, San Francisco 4, Calif. Operating rights

sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes between McGill, Nev., and Kimberly, Nev., and between Ely, Nev., and Las Vegas, Nev., serving certain intermediate and off-route points. Vendee is authorized to operate as a *common carrier* in Illinois, California, Wyoming, Idaho, Oregon, Colorado, Missouri, Utah, Nevada, Nebraska, Iowa, Arizona, and Kansas. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6958. Authority sought for purchase by HOWARD SOBER, INC., 2400 West St. Joseph Street, P. O. Box 1288, Lansing 4, Mich., of a portion of the operating rights of UNITED TRANSPORTS, INC., 4900 North Santa Fe, P. O. Box 9547, Oklahoma City, Okla., and for acquisition by HOWARD SOBER, 627 North Harrison Road, East Lansing, Mich., of control of such rights through the purchase. Applicants' attorney: Albert F. Beasley, 1019 Investment Building, Washington 5, D. C. Operating rights sought to be transferred: *New trucks, and new chassis*, in initial movements, in driveaway service, as a *common carrier*, over irregular routes, from Springfield, Ohio, to Joplin, Mo., and points in Oklahoma, with the right to stop shipments in transit for installation of bodies or parts, on shipments from Springfield to points in Oklahoma; *new trucks, new bodies, new cabs, new chassis, and parts thereof*, in initial movements, in truckaway service, from Springfield, Ohio, to Joplin, Mo.; *new trucks, new commercial cars, new chassis, and parts thereof*, in initial movements, in driveaway service, from places of manufacture and assembly in Fort Wayne, Ind., to points in Oklahoma, with the right to stop shipments in transit for the installation of bodies or parts; *automobiles, trucks, tractors, chassis, cabs, bodies, and parts thereof*, restricted to initial movements, in driveaway service, from points of manufacture and assembly in Fort Wayne, Ind., and Springfield, Ohio, to points in Arizona; *trucks, truck-tractors, chassis, and stationwagon type vehicles* on truck chassis designed to transport passengers and property, with or without bodies, and parts thereof, in initial movements, in truckaway service, from Fort Wayne, Ind., and Springfield, Ohio, to points in Kansas, Oklahoma, Texas, Arizona, and New Mexico; *motor vehicles* (other than automobiles and trailers) and *chassis*, in initial movements, in driveaway service, from Fort Wayne, Ind., and Springfield, Ohio, to points in Kansas, Oklahoma, Texas, Arizona, and New Mexico; *parts of, or accessories for, such vehicles as are described above*, when transported with vehicles moving under the above-described authority, from Fort Wayne, Ind., and Springfield, Ohio, to points in Kansas, Oklahoma, Texas, Arizona, and New Mexico. Vendee is authorized to operate as a *common carrier* in all States in the United States and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6959. Authority sought for purchase by CANNON BALL TRANSIT COMPANY, INCORPORATED, 523 East Windsor Avenue, Alexandria, Va., of a portion of the operating rights of A. W. HAWKINS, INC., 128 Commerce Street, Culpeper, Va., and for acquisition by ROBERT A. SILLS, also of Alexandria, of control of such rights through the purchase. Applicants' attorney: Francis J. Ortman, 1366 National Press Building, Washington 4, D. C. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, and *emigrant movables*, as a common carrier over irregular routes between points in Culpeper, Madison, and Rappahannock Counties, Va., on the one hand, and, on the other, points in Maryland, Pennsylvania, Delaware, New Jersey, New York, North Carolina, South Carolina, West Virginia, and the District of Columbia; *household goods and carnival and show equipment*, between points in Virginia, on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Tennessee, Kentucky, West Virginia, Ohio, Indiana, Illinois, Maryland, Delaware, Pennsylvania, New York, New Jersey, and the District of Columbia. Vendee is authorized to operate as a common carrier in Maryland, Virginia, Pennsylvania, New Jersey, New York, and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6960. Authority sought for purchase by DORSEY OWINGS, R. F. D. No. 4, Ellicott City, Md., of the operating rights of MARY PHILLIPS, GEORGE PHILLIPS AND ANDREW PHILLIPS, doing business as PHILLIPS BROS., 7712 Norbush Avenue, Baltimore, Md. Applicants' attorney: Francis J. Ortman, 1366 National Press Building, Washington 4, D. C. Operating rights sought to be transferred: *Corrugated and fiber boxes*, as a contract carrier over irregular routes from Baltimore, Md., to Washington, D. C., and points in Lehigh, Northampton, Franklin, Chester, Lancaster, Dauphin, Adams, Berks, and York Counties, Pa., and New Castle County, Del. Vendee is authorized to operate as a contract carrier in Maryland, West Virginia, Pennsylvania, and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-5627; Filed, July 22, 1958;
8:51 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF JULY 18, 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. 34820, *Crushed stone from Colorado points to Tornillo, Texas.*

Filed by Southwestern Freight Bureau, Agent (No. B-7335), for interested rail carriers. Rates on crushed stone, carloads, from Canon City and Salida, Colo., to Tornillo, Texas.

Grounds for relief: Short line distance formula.

Tariff: Supplement 62 to Southwestern Freight Bureau tariff I. C. C. 4252.

FSA No. 34821, *Molasses residuum from New Orleans, La., to I. F. A. territory.* Filed by Illinois Freight Association, Agent (No. 16), for interested rail carriers. Rates on distillery molasses residuum, carloads, from New Orleans, La., to points in Illinois Freight Association territory.

Grounds for relief: Short line distance formula.

Tariff: Supplement 21 to Illinois Freight Association tariff I. C. C. 899.

FSA No. 34822, *Feed from New Orleans, La., to I. F. A. territory.* Filed by Illinois Freight Association, Agent (No. 17), for interested rail carriers. Rates on animal or poultry feed, carloads, from New Orleans, La., to points in Illinois Freight Association territory.

Grounds for relief: Short line distance formula.

FSA No. 34823, *Paper and paper articles in official territory.* Filed by O. E. Schultz, Agent (ER No. 2451), for interested rail carriers. Rates on paper and related articles, carloads, and cores, skids or platforms, empty, returned, carloads, between points in official territory, on the one hand, and points in Illinois, Iowa, Michigan, Wisconsin, and western trunk line Zone 1 territory, on the other.

Grounds for relief: Short line distance formula.

Tariffs: Supplement 7 to Tariff Publishing Officer H. R. Hirsch's tariff I. C. C. C-13, and supplement 10 to Tariff Publishing Officer W. J. Prueter's tariff I. C. C. A-4193.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-5624; Filed, July 22, 1958;
8:51 a. m.]

[Notice 44]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 18, 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 Special 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 pro-

posed operations 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-29938 (Deviation No. 1), WRIGHT TRUCKING, INC., 16 Main Street, P. O. Box 889, Lowell, Mass., filed June 30, 1958. Carrier proposes to operate as a common carrier by motor vehicle, of general commodities, with certain exceptions, over a deviation route, between the Eastern Terminus of the Massachusetts Turnpike at Weston, Mass., and Springfield, Mass., as follows: From the Eastern Terminus of the Massachusetts Turnpike over the Massachusetts Turnpike to Springfield 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 Lowell, Mass., over Massachusetts Highway 110 to Worcester, Mass., thence over Massachusetts Highway 12 to Auburn, Mass., thence over U. S. Highway 20 via Sturbridge, Mass., to Springfield, Mass., thence over U. S. Highway 5 via Hartford, Conn., to New Haven, Conn. (also from Springfield over Alternate U. S. Highway 5 to Hartford, thence over U. S. Highway 5 and Alternate U. S. Highway 5 to New Haven), and thence to Newark, N. J.; from Boston, Mass., over U. S. Highway 20 to Auburn, Mass.; and from Boston over Massachusetts Highway 9 to Worcester, Mass.; and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC-1501 (Deviation No. 13), THE GREYHOUND CORPORATION, 5600 Jarvis Avenue, Chicago 31, Ill., filed July 9, 1958. Attorney for said carrier, Raymond H. Warns, 5600 Jarvis Avenue, Chicago 31, Ill. Carrier proposes to operate as a common carrier by motor vehicle of passengers over a deviation route, between junction Tri-State Toll Highway and Illinois Highway 41 at the Lake County-Cook County Line near Deerfield, Ill., and junction Tri-State Toll Highway and Illinois Highway 173, as follows: from junction Tri-State Toll Highway and Illinois Highway 41 over the Tri-State Toll Highway to junction Illinois Highway 173 and return over the same route, for operating convenience only, using Illinois Highway 173 as an access road to and from the Tri-State Toll Highway to and from Illinois Highway 41, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Chicago, Ill., and Milwaukee, Wis., over U. S. Highway 41.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-5626; Filed, July 22, 1958;
8:51 a. m.]





