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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Effective upon publication in the FEDERAL REGISTER, the headnote of § 6.147 is redesignated to read "National Aeronautics and Space Administration," and paragraph (a) is amended as set out below.

§ 6.147 *National Aeronautics and Space Administration.* (a) Thirty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 58-9043; Filed, Oct. 30, 1958; 8:49 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF DEFENSE

Effective upon publication in the FEDERAL REGISTER, subparagraph (23) is added to § 6.304 (a) as set out below.

§ 6.304 *Department of Defense—(a) Office of the Secretary.* * * * (23) One Assistant to the Secretary of Defense (Legislative Affairs).

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 58-9058; Filed, Oct. 30, 1958; 8:51 a. m.]

TITLE 7—AGRICULTURE

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

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

SUBPART—UNITED STATES CONSUMER STANDARDS FOR BEET GREENS¹

On September 26, 1958, a notice of proposed rule making was published in the FEDERAL REGISTER (23 F. R. 7487) regarding a proposed issuance of United States Consumer Standards for Beet Greens.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Consumer Standards for Beet Greens are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

GENERAL

Sec. 51.3170 General.

GRADES

51.3171 U. S. Grade A.

OFF-GRADE

51.3172 Off-grade.

BASIS FOR CALCULATING PERCENTAGES

51.3173 Basis for calculating percentages.

DEFINITIONS

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51.3178 Well trimmed.

51.3179 Whole plant.

51.3180 Clusters.

51.3181 Damage.

51.3182 Diameter.

51.3183 Serious damage.

AUTHORITY: §§ 51.3170 to 51.3183 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

¹ Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

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GENERAL

§ 51.3170 *General*. The standards contained in this subpart are applicable to beet greens consisting of either plants (with or without attached roots) or cut leaves, but they shall not be applicable to a mixture of plants and cut leaves in the same container. The standards apply only to the common red-rooted table varieties of beets (*Beta vulgaris*) but not to mangel wurzel varieties primarily grown for stock feed, or to sugar beets (*Beta vulgaris* var. *saccarifera*).

GRADES

§ 51.3171 *U. S. Grade A*. "U. S. Grade A" consists of washed beet greens of similar varietal characteristics which are fresh, clean, fairly tender, well trimmed, and free from other kinds of leaves, weeds, grass or other foreign material, and decay; which are free from damage caused by discoloration, freezing, disease, insects or mechanical or other means; and which are not infested by insects, larvae, or worms.

(a) In the case of beet greens with roots attached, the roots shall be free from damage by any cause and the maximum diameter of the root shall not be larger than five-eighths inch.

(b) The leaf blades of beet greens shall not be longer than six and one-half inches.

(c) Incident to proper grading and handling, the following tolerances shall be permitted in any lot (see § 51.3173):

(1) *For over-size roots*. 5 percent for beet greens with roots in any lot which are larger than five-eighths inch in diameter;

(2) *For over-size leaf blades*. 3 percent for beet leaves in any lot which are longer than six and one-half inches;

(3) *For small pieces*. 3 percent for pieces of beet leaf blades in any lot which are smaller than a circle three-fourths inch in diameter;

(4) *For mixtures of whole plants, clusters and leaves*. Not more than 10 percent of the beet greens may consist of cut leaves in a lot consisting of plants and not more than 3 percent of the beet greens may consist of whole plants and clusters in a lot consisting of cut leaves;

(5) *For leaves other than beet leaves, weeds, grass or other foreign material*. Not more than 3 pieces in a one-pound sample; and,

(6) *For other defects*. Not more than a total of 5 percent, but not more than two-fifths of this tolerance, or 2 percent, shall be allowed for defects causing serious damage, including therein not more than one percent for decay.

OFF-GRADE

§ 51.3172 *Off-grade*. "Off-grade" consists of beet greens which fail to meet the requirements of the foregoing grade.

BASIS FOR CALCULATING PERCENTAGES

§ 51.3173 *Basis for calculating percentages*. Percentages shall be calculated on the basis of weight or an equivalent basis, except that the amount of leaves other than beet leaves, blades of grass, weeds or other foreign material shall be calculated on the basis of count, using one pound of beet greens as the

sample. In inspecting the sample, the unit shall be the plant or leaf exactly as it occurs in the sample. A plant or portion of plant shall not be broken to remove the defective portion, but shall be considered as a unit.

DEFINITIONS

§ 51.3174 *Similar varietal characteristics.* "Similar varietal characteristics" means that the beet greens in any container are similar in color and type.

§ 51.3175 *Fresh.* "Fresh" means that the greens are not more than slightly wilted.

§ 51.3176 *Clean.* "Clean" means that the beet greens do not show more than a trace of grit, sand, dirt, silt, muck or other similar water insoluble, inorganic material.

§ 51.3177 *Fairly tender.* "Fairly tender" means that the beet greens are not tough, or excessively fibrous.

§ 51.3178 *Well trimmed.* "Well trimmed" in the case of cut leaf beet greens means that the length of leaf stem or petiole is not more than the length of the leaf blade and that the overall length of the leaf including blade and petiole is not more than 11 inches.

§ 51.3179 *Whole plant.* "Whole plant" means a single beet plant having all its component parts—root, petioles, and leaf blades.

§ 51.3180 *Clusters.* "Clusters" means that there are more than 3 leaves attached, except that clusters of heart leaves with any number of leaves shall not be considered as a cluster: *Provided,* That the length of the longest leaf in the cluster is not over 3 inches.

§ 51.3181 *Damage.* "Damage" means any defect which materially affects the appearance, or the edible or shipping quality of the individual leaf, or plant, or the general appearance of the beet greens in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Discoloration when the appearance of the individual leaf or plant is materially affected by yellowing, spotting, or any other type of discoloration, except that leaves showing a reddish color, often caused by cold weather, shall not be considered as damaged by discoloration. Plants which have small dried, withered, or slightly yellowed leaves at the base of the plant shall not be considered as damaged by discoloration unless the general appearance of the plant or of the plants in the container is materially affected; and,

(b) Mechanical damage when the individual leaf is badly crushed, torn or broken.

§ 51.3182 *Diameter.* "Diameter" means the greatest dimension of the root measured at right angles to a line from the center of the crown to the base of the root.

§ 51.3183 *Serious damage.* "Serious damage" means any defect which seri-

ously affects the appearance, or the edible or shipping quality of the individual beet leaf, or plant, or the general appearance of the beet greens in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

- (a) Discoloration when the individual leaf, or plant is badly discolored;
- (b) Insects when the individual leaf or plant is mutilated by feeding or other means to the extent that the appearance or edibility is affected; and,
- (c) Decay.

The United States Consumer Standards for Beet Greens contained in this subpart shall become effective November 1, 1958.

It is hereby found and determined that good cause exists for not postponing the effective date of these standards beyond the date herein specified (5 U. S. C. 1001 et seq.) in that (i) the packing and shipment of the 1958 fall crop of beet greens has already begun; (ii) it is in the interest of the public and the industry that the standards be made effective as soon as possible; and (iii) no special preparation on the part of the industry is required to comply with these standards.

Dated: October 28, 1958.

(SEAL) **F. R. BURKE,**
Deputy Administrator,
Marketing Services.

[F. R. Doc. 58-9057; Filed, Oct. 30, 1958; 8:51 a. m.]

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

PART 980—MILK IN WESTERN COLORADO MARKETING AREA

ORDER REGULATING HANDLING

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AUTHORITY: §§ 980.1 to 980.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

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

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

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

(3) The said order regulates the handling of milk in the same manner as,

and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held;

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, with respect to (a) receipts of producer milk, including handlers' own production and (b) other source milk allocated to Class I pursuant to § 980.46.

(b) *Additional findings.* It is necessary in the public interest to make this order partially effective not later than November 1, 1958, and fully effective not later than December 1, 1958.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued July 18, 1958, and the decision of the Acting Secretary containing all the provisions of this order was issued October 8, 1958. The fact that this order will constitute the original imposition of a regulatory program in this market makes it necessary that the provisions other than those relating to prices and payments to producers should be put into effect prior to the effective date of such pricing and payment provisions so that handlers may have opportunity to make necessary adjustments in their operational and accounting procedure to conform to all provisions of the order. In view of the foregoing, it is hereby found and determined that good cause exists for making this order partially effective November 1, 1958, and fully effective December 1, 1958, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

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

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

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

(3) The issuance of this order is approved or favored by at least three-fourths of the producers who participated in a referendum and who during the determined representative period

were engaged in the production of milk for sale in the marketing area.

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

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 § 980.80, § 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 (c) (3) and (4) 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, respec-

tively, 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) (3) 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 report 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 \$2.05.

(b) *Class II milk.* The basic formula price for the current month plus 20 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 Chicago 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 cents 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) Add to the amount computed pursuant to § 980.70 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 or 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 the month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, an advance payment with respect to milk received during the first 15 days of the month at the Class II price for the preceding month.

(b) On or before the 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 § 980.91.

§ 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 out-

standing obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 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 28th day of October 1958, to be effective as follows:

Sections 980.0 through 980.22 (h), §§ 980.30 through 980.46, §§ 980.60 through 980.61, § 980.84, and §§ 980.90 through 980.101 shall be effective November 1, 1958, and all of the remaining provisions shall be effective December 1, 1958.

[SEAL]

E. L. PETERSON,
Acting Secretary.

[F. R. Doc. 58-9055; Filed, Oct. 30, 1958; 8:50 a. m.]

PART 989—RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

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

Notice was published in the October 10, 1958, issue of the FEDERAL REGISTER (23 F. R. 7862) that consideration was being given to the approval of proposed expenses of the Raisin Administrative Committee for the 1958-59 crop year and the fixing of a rate of assessment for such crop year, pursuant to the provisions of Marketing Agreement No. 109, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Within the period reserved therefor, two handlers jointly filed data, views, and arguments to limit approval of expenses of the Raisin Administrative Committee in the 1958-59 crop year to not more than \$76,000 rather than \$91,500 as proposed in the notice. They stated that \$76,000 would be ample to cover the committee's expenses. Both handlers suggested that the amounts budgeted for salaries, office rent, and reserve for contingencies be decreased to accomplish the reduction of \$15,500. In support of their proposal, they expressed the view that the small 1958 raisin production with no pooling would, especially after most of the production is delivered to handlers, require fewer committee em-

ployees and less office space than contemplated in the notice.

The 1958 production of raisins is smaller than average in size. However, due to the damage from rains, a substantial portion of the crop will have to be reconditioned and this will increase the accounting, surveillance and compliance work load of the committee's staff. It is not certain at this time that the reconditioning will be completed by the end of the 1958 calendar year. Normally, reconditioning extends into the spring months of the following year. In lieu, therefore, of providing a fixed date for the reduction of personnel, it is deemed more appropriate to leave this matter for future determination when and if the work load permits such a reduction.

It is deemed inadvisable at this time to provide less office space for the committee's staff, files of confidential and other data, and equipment than the reduced space contemplated in the notice. The level to which the space is being reduced would permit some expansion of the committee's staff to handle expanded activities in future seasons. Furthermore, it is necessary in the current season to provide sufficient space for growers and handlers to meet with the committee's staff and for meetings of subcommittees.

It is possible that certain provisions of the marketing agreement and order may be involved in amendment proceedings during this crop year, and such action could entail expense to the committee to be borne by assessment funds. No specific basis is available to the Department to reduce the reserve for contingencies by \$3,060 as proposed by the two handlers nor did they advance any specific reasons for such a reduction. The amount of the reserve is considered modest in view of the difficulties in estimating the assessable tonnage for the current crop year.

In view of the foregoing reasons, the proposal by the two handlers is not adopted. However, this does not relieve the committee of the continuing obligation to effect economies in its operations wherever and whenever practicable.

In the notice it was stated that damage caused by rains when grapes were being sun dried in the production of raisins was such that more information was needed as to its nature and scope before estimates of the 1958 production of assessable tonnage could be developed. It was further stated that a specified rate of assessment per ton of standard raisins acquired by handlers in the 1958-59 crop year would be fixed at the time the final rule is issued, also, that such assessment rate would be determined in accordance with § 989.80 by dividing the approved total amount of expenses by an estimate of the assessable tonnage based on the latest information then available with respect to the production of standard raisins, and, in case the result of that division was not a whole number of cents, the assessment rate would be such result rounded to the next highest whole number of cents.

The character of the rain damage to the 1958 production of raisins is such

that adequate information for arriving at a reasonably accurate estimate of the standard raisins portion of this production is not available. However, as the committee does not now have on hand adequate funds for the maintenance and functioning of the committee and the Raisin Advisory Board, it is necessary to make some estimate at this time with respect to assessable tonnage so that an assessment rate may be computed and fixed promptly. Hence, for the purpose of such rate of assessment, the computation thereof will be based on the assumption that the assessable tonnage handlers will acquire during the 1958-59 crop year will total 132,000 tons of standard raisins. The approved total amount of expenses (i. e., \$91,500) divided by such tonnage and rounded to the next highest whole number of cents results in an assessment rate of 70 cents per ton.

After consideration of all relevant matters presented and available information, it is hereby found and, therefore, ordered that the expenses of the committee and the rate of assessment for the crop year beginning September 1, 1958, shall be as follows:

§ 989.309 *Expenses of the Raisin Administrative Committee and rate of assessment for the 1958-59 crop year—(a) Expenses.* Expenses in the amount of \$91,500 are reasonable and likely to be incurred by the Raisin Administrative Committee for its maintenance and functioning and the maintenance and functioning of the Raisin Advisory Board for the crop year September 1, 1958-August 31, 1959, both dates inclusive.

(b) *Rate of assessment.* Each handler shall pay to the Raisin Administrative Committee, in accordance with the provisions of §§ 989.79, 989.80 and 989.180, an assessment at the rate of 70 cents (\$0.70) per ton of free tonnage (standard) raisins acquired by him during the crop year beginning September 1, 1958, which assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.), in that: (1) Under said marketing agreement, as amended, and order, as amended, assessments apply to all free tonnage (standard) raisins acquired by handlers during the 1958-59 crop year; (2) acquisition of such raisins is already occurring and the assessment rate is therefore applicable to all such raisins; (3) the committee does not have on hand sufficient assessment funds to pay the current expenses authorized to be incurred by the committee; (4) the committee must be enabled to obtain required assessment funds promptly to defray expenses for the efficient administration of the program; (5) it is imperative that this action be made effective not later than the date on which this order is published in the FEDERAL REGISTER to permit the committee to collect such assessments as soon as possible and thereby assure its maintenance and functioning and the maintenance and

functioning of the Raisin Advisory Board and (6) compliance herewith will not require any advance preparation on the part of handlers which cannot be completed by such effective time.

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

Dated October 28, 1958, to become effective upon publication in the FEDERAL REGISTER.

[SEAL]

S. R. SMITH,
Director,

Fruit and Vegetable Division.

[F. R. Doc. 58-9056; Filed, Oct. 30, 1958;
8:51 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 670—CHEMICAL, PETROLEUM, RUBBER, AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

Pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the Secretary of Labor by Administrative Order No. 512 (23 F. R. 5839) appointed, convened, and gave notice of the hearing of Industry Committee No. 41-A to recommend the minimum wage rate or rates to be paid under section 6 (c) of the act to employees in the chemical, petroleum, rubber, and related products industry in Puerto Rico, who are engaged in commerce or in the production of goods for commerce.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the committee filed with the Administrator a report containing its findings with respect to the matters referred to it. The present wage order for this industry is contained in 29 CFR Part 670. With minor editorial changes, the definition of the industry in the new wage order is the same as the definition contained in the wage order for this industry which became effective on October 13, 1957. No change in the application of the wage order was effected by the editorial changes in this definition. The recommendations of the Industry Committee No. 41-A revised the classifications within the industry and recommended new rates of pay for such classifications. Accordingly, as authorized and required by section 8 of the act, Reorganization Plan No. 6 of 1950 (3 CFR 1950 Supp., p. 165), and General Order No. 45-A (15 F. R. 3290), the recommendations of the committee are hereby published in this amendment to Title 29 of the Code of Federal Regulations, effective November 17, 1958, to read as follows:

Sec.

- 670.1 Definition.
- 670.2 Wage rates.
- 670.3 Notices.

AUTHORITY: §§ 670.1 to 670.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U. S. C. 208. Interpret or apply sec. 5, 53 Stat. 1062, as amended; 29 U. S. C. 205.

§ 670.1 *Definition.* (a) The chemical, petroleum, rubber, and related products industry in Puerto Rico to which this part

shall apply is defined as the manufacture or packaging of chemicals, drugs, medicines, toilet preparations, cosmetics, and related products; the mining or other extraction or processing of any mineral used in the production of the foregoing; the mining or other extraction of petroleum, coal, or natural gases and the manufacture of products therefrom; the manufacture of all products made chiefly of natural, synthetic, or reclaimed rubber or latex; and the manufacture of footwear by vulcanizing the entire article or by vulcanizing the sole to the upper: *Provided, however,* That the industry shall not include any activity included in the men's and boys' clothing and related products industry, the children's dress and related products industry, the corsets, brassieres, and allied garments industry, the needlework and fabricated textile products industry, and the alcoholic beverage and industrial alcohol industry, as defined in the wage orders for those industries, the food and related products industry, as defined in Administrative Order No. 512, and any activity performed in the capacity of a public utility.

(b) The products of this industry, include, among others: Primary plastic materials such as sheets, rods, tubes, filaments, granules, powders, and liquids; soap and glycerin; cleaning and polishing preparations; paints, varnishes, colors, dyes, inks, putty, and fillers; wood distillation and naval stores; fertilizer; vegetable and animal oils and fats; candles; glue and gelatin; compressed and liquified gases; insecticides and fungicides; salt; explosives; fireworks and pyrotechnics; coke and coke-oven byproducts; paving mixtures and blocks containing asphalt, creosote, or tar; fuel briquettes; roofing felts and coatings; asphalt tile, rubber tile, and linoleum; new, rebuilt, and retreaded tires, and inner tubes; reclaimed rubber; industrial and mechanical rubber goods; rubber specialties, and sundries.

§ 670.2 *Wage rates.* (a) Wages at a rate of not less than \$1 an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees engaged in commerce or in the production of goods for commerce in the agricultural chemicals, fertilizer mixing, hormones, antibiotics, and adrenalin, miscellaneous rubber products, petroleum refining, and pipeline coating tapes classification of the chemical, petroleum, rubber, and related products industry in Puerto Rico, and this classification shall be defined as consisting of the following: The manufacture of fertilizer materials of nitrogen, phosphoric acid, and potash, including the manufacture of sulphuric acid primarily as an integrated part of the production of agricultural chemicals; the manufacture or mixing of commercial fertilizers; the manufacture of hormones, antibiotics, and adrenalin; the manufacture of all rubber products (except those included in the rebuilt and vulcanized tire and miscellaneous chemical products classification, the drugs, medicines, bay oil, aromatic alcohol, toilet preparations, and rubber bucket classification, and the rubber footwear

classification); the refining from petroleum of gasoline, fuel, and lubricating oils, and related petroleum refinery products (but excluding products in the miscellaneous petroleum products and industrial inorganic chemicals classification); and pipeline coating tapes made of asphalt, coal tar, and wax.

(b) Wages at a rate of not less than 90 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees engaged in commerce or in the production of goods for commerce in the rebuilt and vulcanized tire and miscellaneous chemical products classification of the chemical, petroleum, rubber, and related products industry in Puerto Rico, and this classification shall be defined as consisting of the retreading, recapping, and vulcanizing of tires and tubes (excluding the building and vulcanizing of new tires and tubes), and the mining, other extraction, or manufacture of all chemical and allied products (except those products included in the agricultural chemicals, fertilizer mixing, hormones, antibiotics, and adrenalin, miscellaneous rubber products, petroleum refining, and pipeline coating tapes classification, the miscellaneous petroleum products and industrial inorganic chemicals classification, and the drugs, medicines, bay oil, aromatic alcohol, toilet preparations, and rubber bucket classification).

(c) Wages at a rate of not less than 85 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees engaged in commerce or in the production of goods for commerce who is engaged in the miscellaneous petroleum products and industrial inorganic chemicals classification of the chemical, petroleum, rubber, and related products industry in Puerto Rico, and this classification shall be defined as the manufacture of all petroleum and coal products (except those included in the agricultural chemicals, fertilizer mixing, hormones, antibiotics, and adrenalin, miscellaneous rubber products, petroleum refining, and pipeline coating tapes classification), including all activities connected with the exploration, drilling, and extraction of crude petroleum, coal, and natural gases; and the manufacture of industrial inorganic chemicals, including hydrochloric acid and sulphate of potash, and other industrial inorganic chemicals, and the production of sulphuric acid when it is not produced as an integral part of the production of agricultural chemicals.

(d) Wages at a rate of not less than 75 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees engaged in commerce or in the production of goods for commerce who is engaged in the drugs, medicines, bay oil, aromatic alcohol, toilet preparations, and rubber bucket classification of the chemical, petroleum, rubber, and related products industry in Puerto Rico, and this classification shall be defined as the manufacture of all drugs, medicines, bay oil, bay rum, aromatic alcohol, perfumes, cosmetics, and other toilet prep-

arations (except those included in the agricultural chemicals, fertilizer mixing, hormones, antibiotics, and adrenalin, miscellaneous rubber products, petroleum refining, and pipeline coating tapes classification), and the manufacture of molded rubber products such as buckets, paper baskets for office and household use, garbage pails and cans, farmers' tubs, and basins and toilet seats from vulcanized reclaimed and virgin rubber and textiles.

(e) Wages at a rate of not less than 80 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees engaged in commerce or in the production of goods for commerce who is engaged in the rubber footwear classification of the chemical, petroleum, rubber, and related products industry in Puerto Rico, and this classification shall be defined as the manufacture of footwear by vulcanizing the entire article or by vulcanizing the sole to the upper.

§ 670.3 *Notices.* Every employer subject to the provisions of § 670.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 670.2 are working, such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D. C., this 27th day of October 1958.

CLARENCE T. LUNDQUIST,
Administrator.

[F. R. Doc. 58-9054; Filed, Oct. 30, 1958;
8:50 a. m.]

PART 673—FOOD AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

PART 675—LUMBER AND WOOD PRODUCTS INDUSTRY IN PUERTO RICO

PART 677—PAPER, PAPER PRODUCTS, PRINTING, AND PUBLISHING INDUSTRY IN PUERTO RICO

Pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the Secretary of Labor by Administrative Orders Nos. 512 and 513 (23 F. R. 5839 and 6723), appointed, convened, and gave notice of the hearings of Industry Committees Nos. 41-B, 41-C, and 41-D to recommend the minimum wage rate or rates to be paid under section 6 (c) of the act to employees in the Food and Related Products Industry in Puerto Rico; the Paper, Paper Products, Printing, and Publishing Industry in Puerto Rico; and the Lumber and Wood Products Industry in Puerto Rico, who are engaged in commerce or in the production of goods for commerce.

Subsequent to investigations and hearings conducted pursuant to the notice, each committee filed with the Administrator a report containing its findings with respect to the matters referred to it. The present wage orders for the food

and related products industry, the paper, paper products, printing, and publishing industry, and the lumber and wood products industry are contained in 29 CFR Parts 673, 675, and 677, respectively. For purposes of clarity, minor editorial changes in the definitions of the industries in the new wage orders have been made. However, no change in the application of the wage orders was effected by the editorial revision of the definitions. The recommendations of the Industry Committee No. 41-B for the food and related products industry of Puerto Rico, of the Industry Committee No. 41-C for the paper, paper products, printing, and publishing industry of Puerto Rico, and of the Industry Committee No. 41-D for the lumber and wood products industry of Puerto Rico revised the classifications within the respective industries and recommended new rates of pay for such classifications.

Accordingly, as authorized and required by section 8 of the act, Reorganization Plan No. 6 of 1950 (3 CFR, 1950 Supp., p. 165), General Order No. 85-A of the Secretary of Labor (22 F. R. 7614), the recommendations of the committees are hereby published in these amendments to Title 29 of the Code of Federal Regulations, effective November 17, 1958, to read as follows:

1. Part 673 is revised to read as follows:

| | |
|-------|-------------|
| Sec. | |
| 673.1 | Definition. |
| 673.2 | Wage rates. |
| 673.3 | Notices. |

Authority: §§ 673.1 to 673.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U. S. C. 208. Interpret or apply sec. 5, 52 Stat. 1062, as amended; 29 U. S. C. 205.

§ 673.1 *Definition.* The food and related products industry in Puerto Rico to which this part shall apply is defined as the canning, preserving (including freezing, drying, dehydrating, curing, pickling, and similar processes), or other manufacturing or processing, and the packaging in conjunction therewith, of foods, ice, and non-alcoholic beverages, including, but without limitation, meat animals and meat animal products, poultry and poultry products, milk and dairy products, fish and seafood products, fruits and vegetables, and fruit or vegetable products, grains and grain products, bakery products, confectionary and related products, and miscellaneous foods and food products; and the handling, grading, packing, or preparing in their raw or natural state of fresh vegetables, fresh fruits, or nuts, and the gathering of wild plant or animal life: *Provided, however,* That the industry shall not include any product or activity included in the sugar manufacturing industry (Part 689 of this chapter), the alcoholic beverage and industrial alcohol industry (Part 619 of this chapter), as defined in the wage orders for those industries in Puerto Rico, or the chemical, petroleum, rubber, and related products industry, as defined in Administrative Order No. 512.

§ 673.2 *Wage rates.* (a) Wages at a rate of not less than 60 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every

employer to each of his employees in the citron brining and fruit, vegetable, nut, and coffee grading and packing classification of the food and related products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the brining or other processing of fruit citron, and the grading and packing of fresh fruits, vegetables, nuts, and green coffee.

(b) Wages at a rate of not less than 85 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the yeast and canned tuna fish classification of the food and related products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture of yeast, and the cooking and canning of tuna fish and of tuna-like fish and the manufacture of by-products therefrom.

(c) Wages at a rate of not less than 70 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the canning and preserving classification of the food and related products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the canning and preserving of fruits, vegetables, and all other food products other than those included in the yeast and canned tuna fish classification.

(d) Wages at a rate of not less than 80 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the biscuit and cracker classification of the food and related products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture of biscuits, crackers, and like products.

(e) Wages at a rate of not less than 75 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the general classification of the food and related products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture and/or processing of all products, and the packaging in conjunction therewith of all products, as well as the gathering of wild plant or animal life, included in the food and related products industry, except those activities and products included in the citron brining and fruit, vegetable, nut, and coffee grading and packing classification, the yeast and canned tuna fish classification, the canning and preserving classification, and the biscuit and cracker classification.

§ 673.3 *Notices.* Every employer subject to the provisions of § 673.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 673.2 are working, such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States

Department of Labor and shall give such other notice as the Administrator may prescribe.

2. Part 675 is revised to read as follows:

Sec.
675.1 Definition.
675.2 Wage rates.
675.3 Notices.

AUTHORITY: §§ 675.1 to 675.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U. S. C. 208. Interpret or apply sec. 5, 52 Stat. 1062, as amended; 29 U. S. C. 205.

§ 675.1 *Definition.* The lumber and wood products industry in Puerto Rico to which this part shall apply is defined as the logging, wood preserving, and the manufacture of all products made from lumber and wood and related materials, including, but without limitation, sawmill products; planing and plywood mill products; furniture; office and store fixtures; boxes and containers; cooperage; window and door screens and blinds; caskets and coffins; matches; trays, bowls, and other woodenware; excelsior, cork, bamboo, rattan, and willow-ware articles such as hampers, baskets, coasters, and table pads; and charcoal: *Provided, however,* That the industry shall not include any product or activity in the construction, business service, motion picture, and miscellaneous industry (Part 672 of this chapter); the metal, machinery, transportation equipment, and allied products industry (Part 604 of this chapter); the button, jewelry, and lapidary work industry (Part 616 of this chapter), or the straw, hair, and related products industry (Part 613 of this chapter), as defined in the wage orders for those industries in Puerto Rico, or in the paper, paper products, printing, and publishing industry as defined in Administrative Order No. 512.

§ 675.2 *Wage rates.* (a) Wages at a rate of not less than \$1.00 an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the carpet grippers classification of the lumber and wood products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture of carpet grippers or tackless carpet strips.

(b) Wages at a rate of not less than 80 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the swimming pool equipment classification of the lumber and wood products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture from wood of diving boards by any firm also engaged in the manufacture of swimming pools or of equipment or component parts for swimming pools.

(c) Wages at a rate of not less than 75 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the lumber and millwork classification of the lumber and wood products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as logging; the manufacture of

sawmill, planing mill, and plywood mill products (except carpet grippers); and the manufacture of millwork, including sashes, doors, moldings, window frames, window and door screens and blinds, and similar building materials.

(d) Wages at a rate of not less than 65 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the furniture, woodenware, and miscellaneous wood products classification of the lumber and wood products industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture of all products, and all activities, included in the lumber and wood products industry in Puerto Rico, except those products and activities included in the carpet grippers classification, the lumber and millwork classification, and the swimming pool equipment classification.

§ 675.3 *Notices.* Every employer subject to the provisions of § 675.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 675.2 are working, such notice of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

3. Part 677 is revised to read as follows:

Sec.
677.1 Definition.
677.2 Wage rates.
677.3 Notices.

AUTHORITY: §§ 677.1 to 677.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U. S. C. 208. Interpret or apply sec. 5, 52 Stat. 1062, as amended; 29 U. S. C. 205.

§ 677.1 *Definition.* The paper, paper products, printing, and publishing industry in Puerto Rico to which this part shall apply is defined as the manufacture of pulp from wood, rags, bagasse, and other fibers; the conversion of such pulp into paper, paperboard, and building board; the manufacture of paper, paperboard, and pulp into bags, boxes, containers, tags, cards, envelopes, pressed and molded pulp goods, and all other converted paper products; the printing performed on the foregoing and on allied products; the printing or publishing of newspapers, books, periodicals, maps, and music; and all manufacturing and service operations performed by typesetters, advertising typographers, electrotypers, stereotypers, photoengravers, steel and copper plate engravers, commercial printers, lithographers, gravure printers, private printing plants of concerns engaged in other business, binderies, and news syndicates: *Provided, however,* That the industry shall not include any product or activity included in the leather, leather goods, and related products industry, as defined in the wage order for that industry (Part 602 of this chapter).

§ 677.2 *Wage rates.* (a) Wages at a rate of not less than \$1.00 an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer

to each of his employees in the pulp, paper, and paperboard, paper bag, daily newspaper and news syndicate, photoengraving, filing cards and indexes, phototype letters, paper for sanitary use, and commercial printing by the silk screen process classification of the paper, paper products, printing, and publishing industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture of pulp, paper, paperboard, and building board from wood, waste paper, rags, bagasse, and other materials and the collection and sorting of waste paper, bagasse, and other materials to be used in the manufacture of the pulp, paperboard, building paper, and/or building board; the manufacture of paper bags; and the printing, publishing, and related activities of daily newspapers, the collection and dissemination of news by news syndicates, the processing and preparing of photoengraved plates (half-tones and line cuts), the manufacture of Kardex pockets, the assembling of phototype letters, the manufacture of sanitary napkins, and commercial printing by the silk screen process.

(b) Wages at a rate of not less than 95 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the paper box classification of the paper, paper products, printing, and publishing industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as the manufacture of corrugated, folding, and set-up paper boxes.

(c) Wages at a rate of not less than 85 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the general classification of the paper, paper products, printing, and publishing industry, who is engaged in commerce or in the production of goods for commerce, and this classification shall be defined as all products and activities included in the paper, paper products, printing, and publishing industry except those included in the pulp, paper, and paperboard, paper bag, daily newspaper and news syndicate, photoengraving, filing cards and indexes, phototype letters, paper for sanitary use, and commercial printing by the silk screen process classification and the paper box classification.

§ 677.3 *Notices.* Every employer subject to the provisions of § 677.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 677.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D. C., this 28th day of October 1958.

CLARENCE T. LUNDQUIST,
Administrator.

[F. R. Doc. 58-9053; Filed, Oct. 30, 1958; 8:50 a. m.]

TITLE 39—POSTAL SERVICE**Chapter I—Post Office Department****PART 31—STAMPS, ENVELOPES, AND POSTAL CARDS****PART 57—SPECIAL HANDLING****PART 58—CERTIFIED MAIL****MISCELLANEOUS AMENDMENTS**

1. In § 31.1 *Postage stamps (adhesive)* amend paragraph (b) (4) to read as follows:

(4) Postal employees (other than rural carriers as prescribed in § 46.4 (a) of this chapter) are not required to fix stamps to mail.

Note: The corresponding Postal Manual section is 141.124.

(R. S. 161, as amended, 396, as amended, 3194; 5 U. S. C. 22, 369; 39 U. S. C. 351)

2. In § 57.2 *Special-handling fees* amend the paragraph appearing immediately below the chart to read as follows:

The special-handling fee is in addition to regular fourth-class postage, and may be prepaid by ordinary postage stamps, or by meter stamps.

Note: The corresponding Postal Manual section is 167.2.

(R. S. 161, as amended, 396, as amended; sec. 204, 62 Stat. 1262, as amended; 5 U. S. C. 22, 369; 39 U. S. C. 292a)

3. In § 58.4 *Mailing* amend paragraph (a) to read as follows:

§ 58.4 *Mailing*—(a) *Payment of fees and postage.* The fee and postage may be paid by ordinary postage stamps, meter stamps, or by permit imprints.

Note: The corresponding Postal Manual section is 168.41.

(R. S. 161, as amended, 396, as amended; sec. 12, 65 Stat. 676; 5 U. S. C. 22, 369; 39 U. S. C. 246f)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F. R. Doc. 58-9027; Filed, Oct. 30, 1958, 8:46 a. m.]

TITLE 47—TELECOMMUNICATION**Chapter I—Federal Communications Commission**

[Rules Amdt. 10-2]

PART 19—CITIZENS RADIO SERVICE**ANSWERS TO NOTICES OF VIOLATIONS**

The Commission having under consideration § 19.81 of its rules governing the Citizens Radio Service; and

It appearing that it is desirable to make certain editorial changes therein to correct inconsistencies contained in that section as well as to make that section consistent with § 1.61 of Part 1, Practice and Procedure, of the Commission's rules; and

It further appearing that the amendments ordered herein are editorial in nature and, therefore, prior publication of notice of proposed rule making under

provisions of section 4 of the Administrative Procedure Act is unnecessary; and

It further appearing that authority for the amendment is contained in sections 4 (1) and 303 of the Communications Act of 1934, as amended, and section 0.341 of the Commission's statement of Organization, Delegation of Authority, and other information.

It is ordered, This 24th day of October that § 19.81 of Part 19 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Amend § 19.81 to read as follows:

§ 19.81 *Answers to notices of violations.* (a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the official notice. If an answer cannot be sent nor an acknowledgment made within such period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such ap-

paratus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge shall be given.

[F. R. Doc. 58-9044; Filed, Oct. 30, 1958; 8:49 a. m.]

TITLE 49—TRANSPORTATION**Chapter I—Interstate Commerce Commission****Subchapter B—Carriers by Motor Vehicle**

[No. MC-C-1]

PART 170—COMMERCIAL ZONES**ST. LOUIS, MO.—EAST ST. LOUIS, ILL.
COMMERCIAL ZONE**

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 13th day of October A. D. 1958.

It appearing that by report and order of May 21, 1958, Division 1 redefined, in part, the limits of the zone which is adjacent to and commercially a part of St. Louis, Mo.—East St. Louis, Ill., within the meaning of section 203 (b) (8), and fixed the effective date of the order as July 7, 1958;

It further appearing that a petition for reconsideration was timely filed and pursuant to section 17 (8) of the Interstate Commerce Act, said order was stayed pending disposition of the petition;

It further appearing that the said petition was denied by order of the entire Commission dated August 28, 1958; and good cause appearing therefor:

It is ordered, That the order of May 21, 1958, be, and it is hereby, reinstated, and the effective date thereof is hereby fixed as October 31, 1958.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-9026; Filed, Oct. 30, 1958; 8:45 a. m.]

PROPOSED RULE MAKING**DEPARTMENT OF THE TREASURY****Office of the Secretary****[31 CFR Part 10]****PRACTICE OF ATTORNEYS AND AGENTS BEFORE THE INTERNAL REVENUE SERVICE****NOTICE OF PROPOSED RULE MAKING**

Notice is hereby given, pursuant to section 4 of the Administrative Procedure Act, 60 Stat. 238 (5 U. S. C. 1003), that the regulations set forth in tentative form below are proposed

to be prescribed by the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, attention Director of Practice, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 3 of the act of July 7, 1884, 23 Stat. 258

(5 U. S. C. 261), Reorganization Plan No. 26 of 1950, and section 161 of the Revised Statutes (5 U. S. C. 22).

[SEAL] FRED C. SCRIBNER, JR.,
Acting Secretary of the Treasury.

OCTOBER 29, 1958.

Proposed regulations constituting Part 10 of Title 31 of the Code of Federal Regulations, comprising Treasury Department Circular No. 230, published under notice of proposed rule making in the FEDERAL REGISTER on October 4, 1958, are amended by adding a new subparagraph (7) to § 10.7 (a) of the proposed regulations as follows:

(7) Any person who signs a return as having prepared it for the taxpayer may appear, without enrollment, as the taxpayer's representative, with or without the taxpayer's presence, before revenue agents and examining officers of the field audit or office audit branches in the offices of District Directors, with respect to the tax liability of the taxpayer for the taxable year or period covered by that return. Any person who prepared a return with respect to which the instructions or regulations do not require that it be signed by the person who prepared the return for the taxpayer may likewise appear as the taxpayer's representative. Proper authorization from the taxpayer will be required. Unless the taxpayer is present, such a person must present satisfactory identification. All such persons will be subject to such rules regarding ethical practices, the extent of their authority, and other matters as the Director of Practice, with approval of the Commissioner of Internal Revenue, shall prescribe. Such a person will be permitted to represent taxpayers within those limits without enrollment.

[F. R. Doc. 58-9085; Filed, Oct. 30, 1958; 8:51 a. m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 30]

LICENSING OF BYPRODUCT MATERIAL

NOTICE OF PROPOSED RULE MAKING

The following proposed amendments are designed to exempt from the licensing requirements, the receipt, possession, use, transfer, ownership, or acquisition of byproduct material in specified low concentrations. They are further intended to prohibit the transfer by any licensee of any product or material into which such licensee has introduced byproduct material to persons exempt from the Commission's regulations without prior Commission approval.

The exempted concentrations of byproduct material are derived from the latest values available from the National Committee on Radiation Protection as permissible concentrations in air and water for continuous intake for non-radiological workers. Because the materials to be licensed under these provisions would not generally be inhaled or ingested, it is extremely unlikely that the distribution of any product into which any byproduct material has been

introduced pursuant to the following regulation would result in radiation doses to any individual in excess of a small fraction of the limit recommended for the public by the National Committee on Radiation Protection. It is believed that the exempted concentrations will not constitute an unreasonable risk to the health and safety of the public.

It is not the intention of the Commission to authorize the transfer by its licensees to the public at large of any food, drug, cosmetic or beverage into which byproduct material has been introduced.

It will not be necessary under the proposed amendment to obtain separate approvals for each individual transfer. The Commission's approval, when granted, will permit any number of transfers of the product into which the byproduct material has been introduced.

Notice is hereby given that adoption of the following rules is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed rules should send them to the United States Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing and Regulation, within 30 days after publication of this notice in the FEDERAL REGISTER.

1. Add a new § 30.8 to read as follows and re-number the other sections accordingly:

§ 30.8 *Exempt concentrations.* Any person is exempt from the requirements for a license set forth in section 81 or 82 of the act and from the regulations in this part to the extent that such person receives, possesses, uses, transfers, owns or acquires byproduct material in concentrations not in excess of those listed in § 30.73.

2. Add a new § 30.32 (e) to read as follows:

(e) Notwithstanding the provisions of § 30.8, no person licensed by the Commission pursuant to the regulations in this part shall transfer any product or material into which he has introduced byproduct material to persons exempt from the Commission's regulations under § 30.8 without obtaining prior Commission approval of the transfer of such product or material. In order to obtain the necessary Commission approval, the licensee should submit to the Commission a description of the product or material and its intended use, the method of introduction, the initial concentration of the byproduct material in the product or material, the control methods to assure that no more than the authorized concentration is introduced into the product or material, the estimated time interval between the introduction and transfer of the product or material, and the estimated concentration of the radioisotope in the product or material at the time of transfer by the licensee.

3. Add a new § 30.73 to read as follows:

§ 30.73 *Schedule C.* Byproduct material not in excess of the following concentrations are exempt from licensing requirements pursuant to § 30.8.

| Byproduct material | Column I Gas concentration μc/ml | Column II Solid and liquid concentration μc/ml |
|--|--|---|
| A 37..... | 3.7 x 10 ⁻⁷ | |
| A 41..... | 6.3 x 10 ⁻⁷ | |
| Ag 105..... | | 2.2 x 10 ⁻⁷ |
| Ag 110m + Ag 110..... | | 7.3 x 10 ⁻⁷ |
| Ag 111 + Cd 111m..... | | 2.4 x 10 ⁻⁷ |
| As 73 + Ge 73m..... | | 1.1 x 10 ⁻⁷ |
| As 74..... | | 4.7 x 10 ⁻⁷ |
| As 76..... | | 2.1 x 10 ⁻⁷ |
| As 77..... | | 6.7 x 10 ⁻⁷ |
| Au 196..... | | 3.1 x 10 ⁻⁷ |
| Au 198..... | | 2.3 x 10 ⁻⁷ |
| Au 199 + Hg 199m..... | | 7.0 x 10 ⁻⁷ |
| Ba 131 + Cs 131..... | | 4.7 x 10 ⁻⁷ |
| Ba 140 + La 140..... | | 3.1 x 10 ⁻⁷ |
| Be 7..... | | 2.9 x 10 ⁻⁷ |
| Bi 206 + Pb 206m..... | | 1.5 x 10 ⁻⁷ |
| Br 82..... | 3.7 x 10 ⁻⁷ | 2.5 x 10 ⁻⁷ |
| C 14..... | 1.2 x 10 ⁻⁷ | 3.0 x 10 ⁻⁷ |
| Cs 45..... | | 9.0 x 10 ⁻⁷ |
| Cs 47 + Sr 47..... | | 6.7 x 10 ⁻⁷ |
| Cd 109 + Ag 109m..... | | 1.7 x 10 ⁻⁷ |
| Cd 115m + drs..... | | 1.1 x 10 ⁻⁷ |
| Cd 115 + drs..... | | 1.8 x 10 ⁻⁷ |
| Ce 141..... | | 3.3 x 10 ⁻⁷ |
| Ce 143 + Pr 143..... | | 1.6 |
| Ce 144 + drs..... | | 7.3 x 10 ⁻⁷ |
| Cl 38..... | 1.5 x 10 ⁻⁷ | 9.7 x 10 ⁻⁷ |
| Co 57..... | | 8.3 x 10 ⁻⁷ |
| Co 58m + Co 58..... | | 2.1 x 10 ⁻⁷ |
| Co 58..... | | 2.1 x 10 ⁻⁷ |
| Cr 51..... | | 1.7 x 10 ⁻⁷ |
| Cs 131..... | | 2.9 x 10 ⁻⁷ |
| Cs 134m + Cs 134..... | | 3.2 x 10 ⁻⁷ |
| Cs 134..... | | 1.4 x 10 ⁻⁷ |
| Cs 135..... | | 1.1 x 10 ⁻⁷ |
| Cs 136..... | | 1.6 x 10 ⁻⁷ |
| Cu 64..... | | 2.7 x 10 ⁻⁷ |
| Dy 165..... | | 5.7 x 10 ⁻⁷ |
| Dy 166 + drs..... | | 4.3 x 10 ⁻⁷ |
| Er 166 + Tm 166m..... | | 1.1 |
| Er 171 + drs..... | | 9.0 |
| Eu 152 (T _{1/2} = 9.2 hrs)..... | | 6.7 |
| Eu 155..... | | 7.0 x 10 ⁻⁷ |
| F 18..... | 8.3 x 10 ⁻⁷ | 5.7 x 10 ⁻⁷ |
| Fe 55..... | | 7.7 x 10 ⁻⁷ |
| Fe 59..... | | 1.4 x 10 ⁻⁷ |
| Ga 72..... | | 3.0 x 10 ⁻⁷ |
| Gd 153 + Eu 153m..... | | 2.0 x 10 ⁻⁷ |
| Gd 159..... | | 6.7 |
| Ge 71..... | 5.0 x 10 ⁻⁷ | 4.3 x 10 ⁻⁷ |
| H 3..... | | 3.3 x 10 ⁻⁷ |
| Hf 181 + Ta 181m..... | | 2.9 x 10 ⁻⁷ |
| Hg 197m + drs..... | | 1.8 x 10 ⁻⁷ |
| Hg 197..... | | 2.9 x 10 ⁻⁷ |
| Hg 203..... | | 1.8 x 10 ⁻⁷ |
| I 125..... | 4.0 x 10 ⁻⁷ | 2.6 x 10 ⁻⁷ |
| I 131 + Xe 131m..... | 4.3 x 10 ⁻⁷ | 2.9 x 10 ⁻⁷ |
| I 132..... | 1.2 x 10 ⁻⁷ | 8.3 x 10 ⁻⁷ |
| I 133 + drs..... | 1.7 x 10 ⁻⁷ | 1.1 x 10 ⁻⁷ |
| I 134..... | 2.5 x 10 ⁻⁷ | 1.8 x 10 ⁻⁷ |
| In 113m..... | | 7.0 |
| In 114m + In 114..... | | 4.0 x 10 ⁻⁷ |
| Ir 192..... | | 1.5 x 10 ⁻⁷ |
| Ir 192..... | | 1.2 x 10 ⁻⁷ |
| Ir 194..... | | 2.7 x 10 ⁻⁷ |
| K 42..... | | 1.3 x 10 ⁻⁷ |
| Kr 85m + Kr 85..... | 1.3 x 10 ⁻⁷ | |
| Kr 85..... | 3.6 x 10 ⁻⁷ | |
| La 140..... | | 1.6 |
| Lu 177..... | | 9.7 x 10 ⁻⁷ |
| Mn 52..... | | 4.0 x 10 ⁻⁷ |
| Mn 54..... | | 3.7 x 10 ⁻⁷ |
| Mn 56..... | | 5.0 x 10 ⁻⁷ |
| Mo 99 + drs..... | | 1.8 x 10 ⁻⁷ |
| Na 22..... | | 3.7 x 10 ⁻⁷ |
| Na 24..... | | 5.7 x 10 ⁻⁷ |
| Nb 95..... | | 7.3 x 10 ⁻⁷ |
| Nb 97..... | | 2.6 x 10 ⁻⁷ |
| Nd 147 + drs..... | | 1.1 x 10 ⁻⁷ |
| Nd 149 + Pm 149..... | | 4.0 x 10 ⁻⁷ |
| Ni 65..... | | 1.3 x 10 ⁻⁷ |
| Os 185..... | | 9.7 x 10 ⁻⁷ |
| Os 191m + drs..... | | 5.3 x 10 ⁻⁷ |
| Os 191 + Ir 191m..... | | 1.1 x 10 ⁻⁷ |
| Os 193..... | | 4.0 x 10 ⁻⁷ |
| P 32..... | 1.5 x 10 ⁻⁷ | 1.5 x 10 ⁻⁷ |
| Pb 203..... | | 4.7 x 10 ⁻⁷ |
| Pb 203 + Rh 203m..... | | 7.3 x 10 ⁻⁷ |
| Pd 109 + Ag 109m..... | | 2.0 x 10 ⁻⁷ |
| Pm 147 + Sm 147..... | | 4.7 x 10 ⁻⁷ |
| Pm 149..... | | 2.3 |
| Pr 132..... | | 2.7 |
| Pr 143..... | | 3.7 x 10 ⁻⁷ |
| Pt 191..... | | 1.3 x 10 ⁻⁷ |
| Pt 193m + Pt 193..... | | 9.7 x 10 ⁻⁷ |
| Pt 197m + Pt 197..... | | 2.7 x 10 ⁻⁷ |
| Pt 197..... | | 4.7 x 10 ⁻⁷ |
| Rb 86..... | | 6.7 x 10 ⁻⁷ |
| Re 183..... | | 7.3 x 10 ⁻⁷ |
| Re 186 + Os 186m..... | | 4.0 x 10 ⁻⁷ |
| Re 188 + Os 188m..... | | 6.3 x 10 ⁻⁷ |
| Rh 103m..... | | 8.7 x 10 ⁻⁷ |
| Rh 103..... | | 4.7 x 10 ⁻⁷ |

See footnotes at end of table.

| Byproduct material | Column I Gas concentration ¹ μc/ml | Column II Solid and liquid concentration ² μc/ml |
|--------------------|---|---|
| Rn 192 + drs. | | 1.3 x 10 ⁻⁴ |
| Rn 193 + drs. | | 2.5 x 10 ⁻⁴ |
| Rn 195 + drs. | | 8.7 x 10 ⁻⁴ |
| Rn 190 + Rn 190m | | 4.0 x 10 ⁻⁴ |
| Rn 222 | 9.0 x 10 ⁻⁴ | 6.0 x 10 ⁻⁴ |
| Rn 220 | | 1.3 x 10 ⁻⁴ |
| Rn 224 | | 4.7 x 10 ⁻⁴ |
| Rn 225 + Te 123m | | 9.0 x 10 ⁻⁴ |
| Rn 226 | | 1.8 x 10 ⁻⁴ |
| Rn 228 | | 4.3 |
| Rn 232 | | 1.6 |
| Rn 235 | | 2.9 x 10 ⁻⁴ |
| Rn 238 | | 4.7 x 10 ⁻⁴ |
| Rm 153 | | 2.4 |
| Rn 113 + In 113m | | 6.0 x 10 ⁻⁴ |
| Rn 125 + drs. | | 5.3 x 10 ⁻⁴ |
| Rn 89 | | 1.2 x 10 ⁻⁴ |
| Rn 91 + drs. | | 6.3 x 10 ⁻⁴ |
| Rn 92 + Y 92 | | 1.5 x 10 ⁻⁴ |
| Ta 182 + W 182m | | 2.9 x 10 ⁻⁴ |
| Tb 190 + Dy 190m | | 7.3 x 10 ⁻⁴ |
| Tb 92m + Te 96 | | 1.1 x 10 ⁻⁴ |
| Tb 96 | | 9.3 x 10 ⁻⁴ |
| Tb 125m | | 1.6 x 10 ⁻⁴ |
| Tb 127m + Te 127 | | 6.0 x 10 ⁻⁴ |
| Tb 127 | | 4.7 x 10 ⁻⁴ |
| Tb 129m + drs. | | 3.7 x 10 ⁻⁴ |
| Tb 131m + drs. | | 4.7 x 10 ⁻⁴ |
| Tb 133 + I 132 | | 1.6 x 10 ⁻⁴ |
| Tl 200 | | 2.7 x 10 ⁻⁴ |
| Tl 201 | | 1.5 x 10 ⁻⁴ |
| Tl 202 | | 3.2 x 10 ⁻⁴ |
| Tl 204 | | 1.9 x 10 ⁻⁴ |
| Tm 170 + Yb 170m | | 2.6 x 10 ⁻⁴ |
| Tm 171 | | 8.3 x 10 ⁻⁴ |
| V 48 | | 1.1 x 10 ⁻⁴ |
| W 181 | | 2.1 x 10 ⁻⁴ |
| W 187 + drs. | | 2.0 x 10 ⁻⁴ |
| Xe 131m | 3.7 x 10 ⁻⁴ | |
| Xe 133 | 5.0 x 10 ⁻⁴ | |
| Xe 135 + Cs 135m | 1.4 x 10 ⁻⁴ | |
| Y 90 | 3.7 x 10 ⁻⁴ | |
| Y 91m + Y 91 | 4.3 x 10 ⁻⁴ | |
| Y 91 | 2.6 x 10 ⁻⁴ | |

See footnotes at end of table.

| Byproduct material | Column I Gas concentration ¹ μc/ml | Column II Solid and liquid concentration ² μc/ml |
|---|---|---|
| Y 92 | | 4.3 |
| Y 93 + drs. | | 1.7 |
| Yb 175 | | 1.9 |
| Zn 65 | | 1.2 x 10 ⁻⁴ |
| Zn 69m + Zn 69 | | 1.7 x 10 ⁻⁴ |
| Zn 69 | | 6.3 x 10 ⁻⁴ |
| Zr 95 + drs. | | 1.5 x 10 ⁻⁴ |
| Zr 97 + drs. | | 2.1 |
| Beta and/or Gamma emitting byproduct material with half-life less than 3 years. | 1.0 x 10 ⁻¹² | 1.0 x 10 ⁻⁴ |

NOTE: For purposes of § 30.8 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule O for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i. e., unity).

Example:
Concentration of Isotope A in Product
Exempt concentration of Isotope A +
Concentration of Isotope B in Product
Exempt concentration of Isotope B ≤ 1

¹ Values are given only for those materials normally used as gases.
² μc/gm for solids.

Dated at Germantown, Md., this 22d day of October 1958.

For the Atomic Energy Commission,

PAUL F. FOSTER,
General Manager.

[F. R. Doc. 58-8964; Filed, Oct. 30, 1958; 8:45 a. m.]

with the left bank of the Arkansas River at ordinary highwater mark; thence easterly to the E 1/4 corner of said Sec. 13; thence approximately S. 41° E., 31.00 chains to a point in the east boundary of said Sec. 13, approximately 15.56 chains north from the southeast corner thereof; thence in T. 6 N., R. 19 W., east within Sec. 18 approximately 26.70 chains to a point in the east line of the fractional SW 1/4 SW 1/4; thence south 5.56 chains to the northwest corner of S 1/2 SE 1/4 SW 1/4; thence east approximately 120.00 chains with the north lines of S 1/2 SE 1/4 SW 1/4 and S 1/2 S 1/2 SE 1/4 of Sec. 18, and S 1/2 S 1/2 SW 1/4 and S 1/2 SW 1/4 SE 1/4 of Sec. 17, to the northeast corner of said S 1/2 SW 1/4 SE 1/4 of Sec. 17; thence approximately N. 77° E. in Secs. 17 and 16, 42.00 chains to the northeast corner of the SW 1/4 SW 1/4 of Sec. 16; thence south with the east line of said SW 1/4 SW 1/4 approximately 3.00 chains to the intersection of said east line with the left bank of the Arkansas River; thence up the river with the ordinary highwater mark, approximately 33.00 chains to its intersection with the eastern end of the Structure Azimuth Line of the Holla Bend Channel Cutoff; thence with the said Structure Azimuth Line westerly approximately 200.00 chains to the left bank of the Arkansas River; thence up said river with the ordinary highwater mark, approximately 43.00 chains to the point of beginning.

The above-described two parcels contain an aggregate of 2,732 acres, more or less.

In accordance with section 4 of the Administrative Procedure Act (5 U. S. C. 1003), notice of intention to adopt this regulation dated August 11, 1958, was published August 15, 1958, in the FEDERAL REGISTER (23 F. R. 6309) and no protests or suggested changes having been received, this regulation is effective immediately upon publication in the FEDERAL REGISTER.

Issued at Washington, D. C., this 24th day of October 1958.

FRED G. AANDAHL,
Acting Secretary of the Interior.

[F. R. Doc. 58-9023; Filed, Oct. 30, 1958; 8:45 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR Office of the Secretary

CERTAIN LANDS AND WATERS ADJACENT TO HOLLA BEND NATIONAL WILDLIFE REFUGE, ARKANSAS

DESIGNATION AS CLOSED AREA UNDER MIGRATORY BIRD TREATY ACT

By virtue of and pursuant to the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended by the act of June 20, 1936 (49 Stat. 1555), and by virtue of the Reorganization Plan II (53 Stat. 1431), and in accordance with the provisions of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238), I, Fred G. Aandahl, Acting Secretary of the Interior, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and some mammals, concluded February 7, 1936, do hereby designate as a closed area in or on which pursuing, hunting, taking, capturing, or killing of migratory

birds, or attempting to take, capture, or kill migratory birds is not permitted, all the area of the bed of the Arkansas River, submerged or exposed, including the waters thereof, in Pope and Yell Counties, Arkansas, immediately contiguous to and abutting upon lands of the United States (Holla Bend National Wildlife Refuge), the Holla Bend Cutoff Channel including the bed of the cutoff channel and the waters thereof, and those lands acquired by the Corps of Engineers lying to the north of the channel and immediately contiguous thereto, in Pope County, Arkansas, and more particularly described as follows:

PARCEL I

Beginning at the intersection of the north boundary of the S 1/2, Sec. 13, T. 6 N., R. 20 W., with the left bank of the Arkansas River; thence downstream with the ordinary highwater mark of said left bank, approximately eight miles to its intersection with the east boundary of the W 1/2 SW 1/4, Sec. 16, T. 6 N., R. 19 W.; thence S. 45° E., crossing the river to a point on the right bank; thence with the ordinary highwater mark of said right bank, up the river approximately nine miles to a point, being the intersection of the westerly projection of the north boundary of the S 1/2, Sec. 13, T. 6 N., R. 20 W.; thence easterly across the river to the point of beginning.

PARCEL II

Beginning at the intersection of the north boundary of the S 1/2, Sec. 13, T. 6 N., R. 20 W.,

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12441, 12442; FCC 58M-1202]

PAN AMERICAN RADIO CORP. AND VERNON
G. LUDWIG

ORDER CONTINUING HEARING

In re applications of Pan American Radio Corporation, Tucson, Arizona, Docket No. 12441, File No. BP-11280; Vernon G. Ludwig, Benson, Arizona, Docket No. 12442, File No. BP-11784; for construction permits.

On October 24, 1958, a petition to change hearing date from October 27, 1958, to November 17, 1958, was filed by Vernon G. Ludwig; and

It appearing that on October 22, 1958, the Commission announced that an additional issue would be heard in this proceeding; and

It further appearing that unless a continuance is granted, the hearing might well have to be tried in two parts, thus requiring the parties to make two trips to Washington; and

It further appearing that both Pan American and the Broadcast Bureau

have consented to the requested continuance;

It is ordered, This 27th day of October 1958, that hearing in the above-entitled matter now scheduled for October 27, 1958, is continued to November 17, 1958.

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9045; Filed, Oct. 30, 1958;
8:49 a. m.]

[Docket Nos. 12512, 12513; FCC 58M-1203]

BALTIMORE BROADCASTING CORP. AND
COMMERCIAL RADIO INSTITUTE, INC.

ORDER SCHEDULING HEARING

In re applications of Baltimore Broadcasting Corporation, Baltimore, Maryland, Docket No. 12512, File No. BPH-2384; Commercial Radio Institute, Inc., Baltimore, Maryland, Docket No. 12513, File No. BPH-2415; for construction permits.

Pursuant to prehearing conference held on October 23, 1958, and with the consent of counsel to this proceeding: *It is ordered*, This 27th day of October 1958, that a further prehearing conference in this proceeding will be held on December 9, 1958, and hearing herein will commence on December 10, 1958, at 10:00 o'clock a. m., in the offices of the Commission, Washington, D. C.

Released: October 28, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9046; Filed, Oct. 30, 1958;
8:49 a. m.]

[Docket No. 12519; FCC 58M-1204]

COUNTY BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of W. E. Sheridan, Thomas Culbertson, Harriet Hearst, W. C. Hearst, W. J. McKnight III and Punxsutawney Broadcasting Company, d/b as County Broadcasting Company, Clarion, Pennsylvania, Docket No. 12519, File No. BP-11843; for construction permit.

The Hearing Examiner having under consideration a motion for continuance filed by County Broadcasting Company on October 27, 1958;

It appearing that all parties have agreed to immediate consideration of the motion and to the requested continuance;

It is ordered, This 27th day of October 1958, that the above motion is granted; and the hearing, presently scheduled for

October 28, 1958, is continued until November 6, 1958, at 10:00 a. m.

Released: October 28, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9047; Filed, Oct. 30, 1958;
8:49 a. m.]

[Docket No. 12558; FCC 58M-1201]

NORMAN O. PROTSMAN

ORDER CONTINUING HEARING

In re application of Norman O. Protsman, Valdosta, Georgia, Docket No. 12558, File No. BP-11395; for construction permit.

The Hearing Examiner having under consideration a request for hearing postponement filed by Norman O. Protsman on October 20, 1958;

It appearing that the hearing is currently scheduled to commence on October 29, 1958, and that the applicant desires additional time to complete an engineering study in order to obviate certain problems raised by the issues; and

It further appearing that the "instant request" is in effect a petition for continuance and that no opposition has been expressed thereto;

It is ordered, This 27th day of October 1958, that the request for hearing postponement is granted and that the date for commencement of hearing is continued from October 29 to December 15, 1958.

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9048; Filed, Oct. 30, 1958;
8:49 a. m.]

[Docket No. 12604; FCC 58M-1197]

BLUE ISLAND COMMUNITY BROADCASTING
Co., Inc.

ORDER FOLLOWING PREHEARING CONFERENCE
(CONTINUING HEARING)

In the matter of Blue Island Community Broadcasting Co., Inc., Blue Island, Illinois, Docket No. 12604, File No. BPH-2458; for construction permit.

A prehearing conference in the above-entitled matter having been held on October 23, 1958, and it appearing that certain agreements, inter alia, among counsel made therein and approved by the Hearing Examiner should be formalized in an order: *Accordingly, it is ordered*, This 24th day of October, 1958, that:

(1) Preliminary drafts of the applicant's technical engineering exhibits shall be supplied to the other parties by November 17, 1958.

(2) The direct case of the applicant shall be in writing, and the applicant will

supply copies (in duplicate) of the exhibits comprising its entire direct case to the other parties and the Hearing Examiner by December 8, 1958.

(3) The other parties (i. e., exclusive of applicant) will exchange copies (in duplicate) of their rebuttal exhibits pertaining to Issues 1 and 2 among all parties, and also supply such copies to the Hearing Examiner by December 8, 1958.

It is further ordered, That the hearing in this matter initially scheduled to commence on November 17, 1958, is hereby continued, pursuant to agreement of the parties, to Tuesday, December 16, 1958, at 10:00 a. m., in the offices of the Commission, Washington, D. C.

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9049; Filed, Oct. 30, 1958;
8:49 a. m.]

[Docket No. 12634; FCC 58M-1198]

YELLOW CAB

ORDER SCHEDULING HEARING

In the matter of Ed Arch, d/b as Yellow Cab, 103 East Dakota Avenue, Pierre, South Dakota, Docket No. 12634; order to show cause why there should not be revoked the license for Radio Station KAB-741.

It is ordered, This 24th day of October 1958, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on December 18, 1958, in Washington, D. C.

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9050; Filed, Oct. 30, 1958;
8:50 a. m.]

[Docket No. 12635; FCC 58M-1199]

RALPH LUKE WALTON

ORDER SCHEDULING HEARING

In re application of Ralph Luke Walton, Indianapolis, Indiana, Docket No. 12635, File No. BP-11574; for construction permit.

It is ordered, This 24th day of October 1958, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on December 17, 1958, in Washington, D. C.

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-9051; Filed, Oct. 30, 1958;
8:50 a. m.]

[Docket Nos. 12636, 12637; FCC 58M-1200]

FRANK JAMES AND SAN MATEO
BROADCASTING CO.

ORDER SCHEDULING HEARING

In re applications of Frank James, Redwood City, California, Docket No. 12636, File No. BPH-2344; Grant R. Wrathall, tr/as San Mateo Broadcasting Company, San Mateo, California, Docket No. 12637, File No. BPH-2431; for construction permits.

It is ordered, This 24th day of October 1958, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on December 17, 1958, in Washington, D. C.

Released: October 27, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] MARY JANE MORRIS,
Secretary.[F. R. Doc. 58-9052; Filed, Oct. 30, 1958;
8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-16604]

LAMAR HUNT TRUST ESTATE

ORDER FOR HEARING AND SUSPENDING
PROPOSED CHANGES IN RATES

OCTOBER 24, 1958.

Lamar Hunt Trust Estate (Hunt), on September 24, 1958, tendered for filing two proposed changes in its presently filed rate schedules¹ for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Changes, dated September 22, 1958.

Purchaser: H. L. Hunt.

Rate schedule designation: Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 5. Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 6.

Effective date: October 25, 1958 (proposed effective date is the first day after expiration of the required thirty days' notice).

The increased rates and charges so proposed are intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The present filings are intended to reflect a tax reimbursement of 100 percent in lieu of 87.5 percent for which Hunt had previously filed, and an examination of the subject rate schedules discloses that full reimbursement for the tax appears proper. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and

¹ Supplement No. 6 to Hunt's FPC Gas Rate Schedule No. 5 and Supplement No. 6 to Hunt's FPC Gas Rate Schedule No. 6 are presently under suspension in Docket No. G-15783.

in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rates and charges.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes and that Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 5 and Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 6 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 5 and Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 6.

(B) Pending such hearing and decision thereon, said supplements be and they are hereby suspended and the use thereof deferred until October 26, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.[F. R. Doc. 58-9030; Filed, Oct. 30, 1958;
8:46 a. m.]

[Docket No. G-16605]

WILLIAM HERBERT HUNT TRUST ESTATE

ORDER FOR HEARING AND SUSPENDING
PROPOSED CHANGES IN RATES

OCTOBER 24, 1958.

William Herbert Hunt Trust Estate (Hunt), on September 24, 1958, tendered for filing two proposed changes in its presently filed rate schedules¹ for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

¹ Supplement No. 6 to Hunt's FPC Gas Rate Schedule No. 8 and Supplement No. 6 to Hunt's FPC Gas Rate Schedule No. 9 are presently under suspension in Docket No. G-15784.

Description: Notices of Changes, dated September 22, 1958.

Purchaser: H. L. Hunt.

Rate schedule designation: Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 8. Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 9.

Effective date: October 25, 1958 (proposed effective date is the first day after expiration of the required thirty days' notice).

The increased rates and charges so proposed are intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The present filings are intended to reflect a tax reimbursement of 100 percent in lieu of 87.5 percent for which Hunt had previously filed, and an examination of the subject rate schedules discloses that full reimbursement for the tax appears proper. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rates and charges.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 8 and Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 9 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 8 and Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 9.

(B) Pending such hearing and decision thereon, said supplements be and they are hereby suspended and the use thereof deferred until October 26, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of

practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9031; Filed, Oct. 30, 1958;
8:47 a. m.]

[Docket No. G-16606]

**NELSON BUNKER HUNT TRUST ESTATE
ORDER FOR HEARING AND SUSPENDING
PROPOSED CHANGE IN RATE**

OCTOBER 24, 1958.

Nelson Bunker Hunt Trust Estate (Hunt) on September 24, 1958, tendered for filing a proposed change in his presently filed rate schedule¹ for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated September 22, 1958.
Purchaser: H. L. Hunt.
Rate schedule designation: Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 5.
Effective date: October 25, 1958 (effective date is the first day after expiration of the required 30 days' notice).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The present filing is intended to reflect a tax reimbursement of 100 percent in lieu of 87.5 percent for which Hunt had previously filed and an examination of the subject rate schedule discloses that full reimbursement for the tax appears proper. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 5 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18

CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 5.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 26, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9032; Filed, Oct. 30, 1958;
8:47 a. m.]

[Docket No. G-16607]

LAMAR HUNT

**ORDER FOR HEARING AND SUSPENDING
PROPOSED CHANGE IN RATE**

OCTOBER 24, 1958.

Lamar Hunt (Hunt) on September 24, 1958, tendered for filing a proposed change in its presently filed rate schedule¹ for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated September 22, 1958.
Purchaser: H. L. Hunt.
Rate schedule designation: Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 6.
Effective date: October 25, 1958 (effective date is the first day after expiration of the required thirty days' notice).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The present filing is intended to reflect a tax reimbursement of 100 percent in lieu of 87.5 percent for which Hunt had previously filed, and an examination of the subject rate schedule discloses that full reimbursement for the tax appears proper. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act

No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 6 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Hunt's FPC Gas Rate Schedule No. 6.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 26, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9033; Filed, Oct. 30, 1958;
8:47 a. m.]

[Docket No. G-16609]

MIDWEST OIL CORP.

**ORDER FOR HEARING, SUSPENDING PROPOSED
CHANGE IN RATE, AND ALLOWING IN-
CREASED RATE TO BECOME EFFECTIVE**

OCTOBER 24, 1958.

Midwest Oil Corporation (Respondent) on September 25, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change dated September 24, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 9 to Respondent's FPC Gas Rate Schedule No. 9.

Effective date: October 26, 1958 (effective date is the first day after expiration of the required thirty days' notice).

¹ Supplement No. 6 to Hunt's FPC Gas Rate Schedule No. 5 is presently under suspension in Docket No. G-15785.

¹ Supplement No. 6 to Hunt's FPC Gas Rate Schedule No. 6 is presently under suspension in Docket No. G-15658.

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge until October 27, 1958, and thereafter to permit it to become effective as of that date: *Provided*, That within 20 days from the date of this order Respondent shall file with the Secretary of the Commission an appropriate undertaking to assure such refund as may be ordered.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Respondent's proposed increased rate be made effective as hereinafter provided and that Respondent be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. D), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 9 to Respondent's FPC Gas Rate Schedule No. 9.

(B) Pending such hearing and decision thereon, Supplement No. 9 to Respondent's FPC Gas Rate Schedule No. 9 be and it hereby is suspended and the use thereof deferred until October 27, 1958, and until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in Supplement No. 9 to Respondent's FPC Gas Rate Schedule No. 9 shall be effective as of October 27, 1958; *Provided, however*, That within 20 days from the date of this order, Respondent shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Respondent shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the difference between the presently effective rate and charge and

the proposed increased rate and charge hereby allowed to become effective in the event the additional tax of one cent per Mcf levied by the State of Louisiana is for any reason held to be invalid. Should such additional tax eventually be held invalid and the State of Louisiana makes refund, with interest, of the tax monies collected pursuant to the said Act No. 8 of 1958, then, and in that event, a proportionate part of the interest so received by the Respondent herein shall be passed on and paid to the persons entitled thereto at such times and in such amounts, and in such manner as may be required by final order of the Commission. Respondent shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and four copies), in writing and under oath, to the Commission quarterly, or monthly if Respondent so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Respondent shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the board of directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved, as follows:

Agreement and Undertaking of _____
To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued _____, in Docket No. G-_____, _____ hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this _____ day of _____

Attest:

By _____

(Secretary)

Unless Respondent is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Respondent shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be

discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedules sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[P. R. Doc. 58-9034; Filed, Oct. 30, 1958;
8:47 a. m.]

[Docket No. G-16681]

NELSON BUNKER HUNT TRUST ESTATE

ORDER FOR HEARING, SUSPENDING PROPOSED CHANGE IN RATE, AND ALLOWING INCREASED RATE TO BECOME EFFECTIVE

OCTOBER 24, 1958.

Nelson Bunker Hunt Trust Estate (Respondent) on September 24, 1958, tendered for filing a proposed change in its presently effective rate schedule¹ for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated September 22, 1958.

Purchaser: H. L. Hunt.

Rate schedule designation: Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 6.

Effective date: October 25, 1958 (effective date is the first day after expiration of the required thirty days' notice).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The present filing is intended to reflect a tax reimbursement of 100 percent in lieu of 87.5 percent for which Respondent had previously filed, and an examination of the subject rate schedule discloses that full reimbursement for the tax appears proper. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge until October 26, 1958, and thereafter to permit it to become effective as of that date; provided, that within 20 days from the date of this order Respondent shall file with the Sec-

¹ Supplement No. 6 to Respondent's FPC Gas Rate Schedule No. 6 is in effect subject to refund in Docket No. G-15628.

retary of the Commission an appropriate undertaking to assure such refund as may be ordered.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Respondent's proposed increased rate be made effective as hereinafter provided and that Respondent be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 6.

(B) Pending such hearing and decision thereon, Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 6 be and it hereby is suspended and the use thereof deferred until October 26, 1958, and until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 6 shall be effective as of October 26, 1958; *Provided, however*, That within 20 days from the date of this order, Respondent shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Respondent shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the difference between the presently effective rate and charge and the proposed increased rate and charge hereby allowed to become effective in the event the additional tax of one cent per Mcf levied by the State of Louisiana is for any reason held to be invalid. Should such additional tax eventually be held invalid and the State of Louisiana makes refund, with interest, of the tax monies collected pursuant to the said Act No. 8 of 1958, then, and in that event, a proportionate part of the interest so received by the Respondent herein shall be passed on and paid to the persons entitled thereto at such times and in such amounts, and in such manner as may be required by final order of the Commission. Respondent shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge allowed by this order to become effective, for each billing

period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and four copies), in writing and under oath, to the Commission quarterly, or monthly if Respondent so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 15 days from the date of issuance hereof, Respondent shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (B) hereof, signed by Respondent, or, if Respondent is a corporation, signed by a responsible officer thereof and evidenced by proper authority from the board of directors. As a further condition of this order, Respondent shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved, as follows:

Agreement and Undertaking of

(Name of respondent)

To Comply With the Terms and Conditions of Paragraph (B) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued _____ in Docket No. _____

(date)

hereby

(Name of respondent)

agrees and undertakes to comply with the terms and conditions of paragraph (B) of said order (and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto) this _____ day of _____.

By _____

Attest:

(F) If Respondent shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9035; Filed, Oct. 30, 1958;
8:47 a. m.]

¹ If a corporation.

[Docket Nos. G-16380, G-16387]

SUPERIOR OIL CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF APPLICATIONS AND DATE OF HEARING

OCTOBER 27, 1958

In the matters of the Superior Oil Company, Docket No. G-16380; and Transcontinental Gas Pipe Line Corporation, Docket No. G-16387.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) a Delaware corporation, with its principal place of business at 3100 Travis Street, Houston, Texas, filed in Docket No. G-16387 on September 23, 1958, an application for a certificate of public convenience and necessity to construct and operate facilities to connect to its system natural gas to be produced from leases holds of The Superior Oil Company (Superior) located in the Block 71 and Block 76 fields lying offshore to Vermilion Parish, Louisiana. Transco proposes to construct three laterals, the first one which will extend from a point of connection from Transco's system located at a production platform of the Pure Oil Company in Block 76 field, southward to a production platform of Superior in the same field. The second will extend from a point of connection with Transco's system located at a platform of Union Oil Company in Block 76 field southward to a second production platform of Superior in said field. The third lateral will extend from the aforementioned point of connection with Transco's system of the Union Oil Company of California platform eastward to a production platform of Superior in the Block 71 field. Each of the three laterals will have a maximum capacity of 30,000 Mcf/day. Meter stations are to be constructed at each of the Superior platforms.

The proposed facilities together with their estimated costs are shown in the following table.

| Laterals | Block 71 | Block 76 |
|---|-------------|-----------|
| 13 miles 16-inch pipeline, Union Oil platform to Superior Bk. 71 platform | \$1,580,350 | |
| 1 meter station | 23,100 | |
| 1.83 miles 16-inch pipeline, Union Oil Platform to Superior A-1 Platform | | \$280,500 |
| 0.71 mile 12-inch pipeline Pure Oil Platform to Superior B-1 Platform | | 81,900 |
| 2 meter stations | | 45,200 |
| Total Direct Costs | 1,603,650 | 308,775 |
| Franchises, overheads, interest and contingencies | 184,900 | 42,500 |
| Total estimated costs | 1,788,650 | 411,275 |
| Total estimated costs Blocks 71 and 76 | \$2,200,000 | |

The cost of the project is to be financed by temporary bank loans.

On September 22, 1958, The Superior Oil Company, a California corporation, with its principal place of business at 400 Oil & Gas Building, Houston, Texas, filed in Docket No. G-16380 an application, supplemented by filings of September 23 and 24, 1958, for a certificate of public convenience and necessity authorizing the sale to Transco of gas from

its offshore leases in the Block 71 and Block 76 fields in the area offshore to Vermilion Parish, Louisiana.

These related matters should be heard on a consolidated basis and 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 November 26, 1958, at 9:30 a. m., e. 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 applications: *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 Applicants 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 November 13, 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. 58-9036; Filed, Oct. 30, 1958;
8:48 a. m.]

[Project No. 2251]

SAN JUAN FISHING AND PACKING CO.

NOTICE OF APPLICATION FOR LICENSE

OCTOBER 27, 1958.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by San Juan Fishing and Packing Company, of Seattle, Washington, for license for constructed water-power Project No. 2251 situated on San Juan Lake and Stream on Evans Island, approximately 50 miles east of Seward, Third Judicial Division, Alaska, affecting lands of the United States within Chugach National Forest. The project, known as San Juan Lake and Creek Project, consists of three concrete and timber dams; dam "A" 31 feet wide, 13.75 feet high; dam "B" 19 feet wide, 16 feet high, wood plank spillway; and dam "C" 8 feet wide, 12 feet high, creating a storage reservoir of about 135 acre-feet; two 12 inch penstocks which extend from dam "C" approximately 2,395 feet downstream to one Risdon and six Pelton waterwheels with a total capacity of 351 HP; five Pelton waterwheels are coupled to a-c and d-c generators with total capacity of 100 KW.

Project No. 2251 is an enlargement of Project No. 1211, the license for which expired October 7, 1957.

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 December 8, 1958. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9037; Filed, Oct. 30, 1958;
8:48 a. m.]

SMALL BUSINESS ADMINISTRATION

[Delegation 1 (Rev. 4), Amdt. 2]

DEPUTY ADMINISTRATOR FOR
ADMINISTRATION

AMENDMENT TO DELEGATION OF AUTHORITY

Delegation of Authority No. 1 (Revision 4), as amended (22 F. R. 6540, 23 F. R. 2801), is hereby further amended by deleting the first paragraph of Part I in its entirety and substituting in lieu thereof:

I. Pursuant to the authority vested in the Administrator by the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699); the Small Business Investment Act of 1958 (Pub. Law 85-699); Reorganization Plan No. 2 of 1954, dated April 29, 1954 (83d Cong., 2d Sess.); Reorganization Plan No. 1 of 1957, dated April 29, 1957 (85th Cong., 1st Sess.); and the Memorandum of Understanding, dated October 19, 1956, as amended, between the Secretary of the Interior and the Administrator of the Small Business Administration (pursuant to section 4 of the Fish and Wildlife Act of 1956, 70 Stat. 1119, 1121), relating to the Fisheries Loan Fund, there is hereby delegated to the Deputy Administrator for Administration the authority.

Dated: August 21, 1958.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 58-9038; Filed, Oct. 30, 1958;
8:48 a. m.]

[Delegation of Authority 10 (Rev. 3),
Amdt. 1]

DEPUTY ADMINISTRATOR FOR FINANCIAL
ASSISTANCE

DELEGATION OF AUTHORITY RELATING TO
FINANCIAL ASSISTANCE

Delegation of Authority No. 10 (Revision 3) (23 F. R. 2627) is hereby amended by deleting the first paragraph of Part I in its entirety and substituting in lieu thereof:

I. Pursuant to the authority vested in the Administrator by the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699); Reorganization Plan No. 2 of 1954, dated April 29, 1954 (83d Cong., 2d Sess.); Reorganization Plan No. 1 of 1957, dated April 29, 1957 (85th Cong., 1st Sess.); and the Memorandum of Understanding, dated October 19, 1956, as amended, between the Secretary of the

1st Sess.); and the Memorandum of Understanding, dated October 19, 1956, as amended, between the Secretary of the Interior and the Administrator of the Small Business Administration (pursuant to section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1119, 1121)), relating to the Fisheries Loan Fund, there is hereby delegated to the Deputy Administrator for Financial Assistance the authority:

Dated: August 21, 1958.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 58-9039; Filed, Oct. 30, 1958;
8:48 a. m.]

[Delegation of Authority 20 (Rev. 3),
Amdt. 1]

DEPUTY ADMINISTRATOR FOR PROCUREMENT
AND TECHNICAL ASSISTANCE

DELEGATION OF AUTHORITY RELATING TO
PROCUREMENT AND TECHNICAL ASSISTANCE

Delegation of Authority No. 20 (Revision 3), (23 F. R. 1819) is hereby amended by:

1. Deleting the first paragraph of Part I in its entirety and substituting in lieu thereof:

I. Pursuant to the authority vested in the administrator by the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699); Reorganization Plan No. 2 of 1954, dated April 29, 1954 (83d Cong., 2d Sess.), and Reorganization Plan No. 1 of 1957, dated April 29, 1957 (85th Cong., 1st Sess.), there is hereby delegated to the Deputy Administrator for Procurement and Technical Assistance the authority:

2. Deleting subparagraph I. A. 2. in its entirety.

Dated: September 3, 1958.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 58-9040; Filed, Oct. 30, 1958;
8:48 a. m.]

[Delegation of Authority 30 (Rev. 4),
Amdt. 4]

REGIONAL DIRECTORS

DELEGATION OF AUTHORITY RELATING TO
FINANCIAL ASSISTANCE, PROCUREMENT AND
TECHNICAL ASSISTANCE AND ADMINISTRATION

Delegation of Authority No. 30 (Revision 4), as amended (22 F. R. 5811, 8197, 23 F. R. 557, 1768), is hereby further amended by deleting the first paragraph of Part I in its entirety and substituting in lieu thereof:

I. Pursuant to the authority vested in the Administrator by the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699); Reorganization Plan No. 2 of 1954, dated April 29, 1954 (83d Cong., 2d Sess.); Reorganization Plan No. 1 of 1957, dated April 29, 1957 (85th Cong., 1st Sess.); and the Memorandum of Understanding, dated October 19, 1956, as amended, between the Secretary of the

Interior and the Administrator of the Small Business Administration (pursuant to section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1119, 1121), relating to the Fisheries Loan Fund, there is hereby delegated to each Regional Director, the authority:

Dated: August 21, 1958.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 58-9041; Filed, Oct. 30, 1958;
8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1181]

FUNDAMENTAL INVESTORS, INC.

NOTICE OF FILING OF APPLICATION

OCTOBER 24, 1958.

Notice is hereby given that Fundamental Investors, Inc. ("Fundamental"), a registered open-end investment company has filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 22 (d) of the act the proposed issuance of its shares at net asset value for substantially all of the cash and securities of the D. N. Barney Company, Inc. ("Barney").

The application contains the following representations:

Fundamental, a Delaware corporation, is an open-end investment company, whose shares are offered to the public on a continuous basis at net asset value plus varying sales charges dependent on the amount purchased. As of September 15, 1958 the net assets of Fundamental amounted to \$448,812,922, and there were outstanding 26,774,264 shares of stock.

Barney is an investment company having 33 stockholders and is exempt from registration under the act by reason of the provisions of section 3 (c) (1) thereof. Pursuant to an agreement between Fundamental and Barney substantially all of the cash and securities owned by Barney, with a total value of \$11,779,384 as of September 15, 1958, will be transferred to Fundamental in exchange for its shares. The number of shares is to be determined by dividing the aggregate net asset value of the assets of Barney to be transferred to Fundamental by the net asset value per share of Fundamental, both to be determined as of the close of business on the business day preceding the closing date which is fixed in the agreement as November 14, 1958. The shares of Fundamental will be distributed to Barney shareholders who will represent in writing that they are acquiring such shares for investment. If the closing under the agreement had taken place on September 15, 1958, Barney would have received 709,174 shares of Fundamental.

As of September 15, 1958, the net realized and unrealized appreciation of Barney's net assets amounted to approximately \$8,250,000, or approximately 70 percent of the value of the entire portfolio as compared with the net realized and unrealized appreciation of \$168,-

497,018 on that date on the securities held by Fundamental, or approximately 38 percent of its portfolio.

Since the exchange will be tax-free for Barney and its shareholders, Fundamental's cost-basis for tax purposes for the assets acquired from Barney will be the same as for Barney, rather than the price actually paid by Fundamental for the assets. Thus, as a result of the exchange, Fundamental's present stockholders may be required to pay capital gain taxes if and when any of the acquired assets are sold on an artificial tax-cost basis. The Board of Directors of Fundamental approved the agreement as being in the best interests of its shareholders, taking all relevant considerations into account including the difference in percentage of appreciation between the two portfolios and the following, among others, offsetting factors:

(a) Approximately 85 percent of the securities held by Barney are securities consistent with the investment objectives and portfolio considerations of Fundamental and are securities that Fundamental would have no intention of disposing within the foreseeable future. The remaining 15 percent are securities which Fundamental would not desire to hold for a long term, because of such considerations as character of the enterprises, and limited marketability. Of such remaining 15 percent, which was valued at \$1,766,025 as of September 15, 1958, securities valued at \$366,225 have been sold by Barney. The balance to be sold by Fundamental were valued at \$1,399,800 as of September 15, 1958. The realized appreciation for tax purposes on the securities to be sold by Fundamental would have been \$740,500 on the September 15, 1958, valuation. At that date, Fundamental's realized appreciation was 34.7 cents per share and, if the aforesaid \$740,500 were included and if effect were given to the issuance of an additional 709,154 shares, Fundamental's realized appreciation would have been 36.5 cents per share.

(b) Under the Agreement the Applicant pays no brokerage on the securities to be acquired from Barney which, if purchased in the ordinary course of business through brokers, would result in brokerage charges of approximately \$61,000 at current rates of commissions on the New York Stock Exchange.

(c) The value of Barney's assets will be determined in the same manner as is used for determining the net asset value for the purposes of the issuance of Fundamental's shares as provided in Fundamental's Certificate of Incorporation. The method of determination therein provided requires that the market value of securities shall be determined by the last sale or bid prices. A number of the securities held by Barney are not listed on any stock exchange and are traded in on over-the-counter markets only, and securities traded in on over-the-counter markets are valued at the last bid price. These include blocks of stock of Aetna Casualty & Surety Co., Aetna Insurance Co., Aetna Life Insurance Co., Connecticut General Life Insurance Co., Federal Insurance Co., Hartford Fire Insurance Co., The Travelers Insurance

Co., and Hartford Electric Light Co. Many of these securities have a wide spread between the bid and the asked prices. If Fundamental were to endeavor to acquire the unlisted securities in the Barney portfolio in blocks of the size held therein, it is estimated that, based on its recent experience in acquiring shares of Connecticut General Life Insurance Co. for its portfolio, the added cost to Fundamental of acquiring such securities in blocks of such size would be in excess of \$400,000 by reason both of the wide spread between the bid and the asked prices and of the limited supply of such securities, with Fundamental's buying activities necessarily resulting in higher asked prices.

Section 22 (d) of the act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the agreement, however, the shares of Fundamental are to be issued to Barney at a price other than the public offering price stated in the prospectus, which includes a sales charge in excess of net asset value.

Section 6 (c) of the act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Notice is further given that any interested person may, not later than November 12, 1958 at 1:00 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 58-9028; Filed, Oct. 30, 1958;
8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 43]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 28, 1958.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Com-

merce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61136. By order of October 23, 1958, the Transfer Board approved the transfer to Nelson Bros. Trucking Co., a Corporation, Campbell, Calif., of Permit No. MC 38104, issued April 27, 1938, to Rudy Nelson and Everett Nelson doing business as Nelson Bros. Trucking Co., Campbell, Calif., authorizing the transportation of: Dried and canned fruit and preserved fruit products, from San Jose, Campbell and Berkeley, Calif., to all points, at which recognized water terminals are located, on San Francisco Bay south of and including Richmond, Calif.; and Packing house supplies, from the above-specified destination points to San Jose, Campbell and Berkeley. Nelson Bros. Trucking Co., a corporation, was also substituted as applicant in proceedings pending in docket No. MC 38104 Sub 2. S. Stephen Nakashima, 626 North First Street, San Jose 12, Calif., for applicants.

No. MC-FC 61328. By order of October 23, 1958, the Transfer Board approved the transfer to Levi Riley Reed, Levi Reed, Jr., and Derl W. Reed, a partnership, doing business as L. R. Reed and Sons Truck Line, Manila, Utah; of certificate in No. MC 59743 Sub 2, issued August 21, 1958, to Levi Riley Reed, Manila, Utah; authorizing the transportation of: *General commodities*, including household goods, with the other usual exceptions, between Linwood, Utah and Rock Springs, Wyo.; between Linwood, Utah and Salt Lake City, Utah; and between Green River, Wyo., and Urie, Wyo. Lawrence A. Marty, P. O. Box 231, Green River, Wyo., for applicants.

No. MC-FC 61502. By order of October 23, 1958, the Transfer Board approved the transfer to Andy Jones, Butler, Pa., of certificate in No. MC 64312, issued February 13, 1952, to R. Thomas McGregor, John C. Casey and Elsie H. Fields, doing business as Shamrock Transfer, Butler, Pa., authorizing the transportation of: Household goods, as defined in 17 M. C. C. 467, between points in Butler County, Pa., on the one hand, and, on the other, points in New York, Ohio, Maryland, West Virginia, New Jersey, Michigan, and the District of Columbia. Samuel W. Greer, 301 Mellon National Bank Building, Butler, Pa., for applicants.

No. MC-FC 61505. By order of October 24, 1958, the Transfer Board approved the transfer to Cooney Transfer Company, a Corporation, Tacoma, Washington, of Certificates Nos. MC 59002 and MC 59002 Sub 1, issued October 7, 1943,

and November 1, 1946, respectively, in the name of H. T. Nixon, doing business as City Transfer Company, Winlock, Washington, authorizing the transportation of general commodities, excluding household goods and other specified commodities, over regular routes, between Winlock, Wash., and Portland, Oreg., and household goods, over irregular routes, between Winlock, Wash., and points within 10 miles of Winlock, on the one hand, and, on the other, points in Oregon. Joseph O. Earp, 1912 Smith Tower, Seattle 4, Washington, for applicants.

No. MC-FC 61522. By order of October 24, 1958, the Transfer Board approved the transfer to Harold Goetz, doing business as Goetz Moving & Storage Co., 1229 39th Street, Brooklyn, N. Y., of certificate in No. MC 78332, issued October 19, 1949, to Solomon Goetz and Harold Goetz, doing business as Goetz Moving and Storage Co., 1229 39th Street, Brooklyn, N. Y., authorizing the transportation of: Household goods, as defined, between New York, N. Y., on the one hand, and, on the other, points in Connecticut and New Jersey.

No. MC-FC 61532. By order of October 24, 1958, the Transfer Board approved the transfer to Thomas B. Ferguson, doing business as Ferguson Trucking, Darlington, Pa., of certificate in No. MC 94341, issued May 8, 1952, to R. C. Burton and Roland J. Malmesberry, a partnership, doing business as Columbian Cartage Co., Limited, P. O. Box 70, Sebring, Ohio, authorizing the transportation of: *Industrial Coal*, in bulk, *Clay and coal*, and *Construction materials*, in bulk, between numerous specified points in Ohio and Pennsylvania.

No. MC-FC 61559. By order of October 23, 1958, the Transfer Board approved the transfer to Stefanile Transportation Company, Inc., Fairview, N. J., of certificate No. MC 25894, issued by the Commission, October 5, 1943, to Nick Stefanile, doing business as Stefanile Transportation Company, Fairview, N. J., authorizing the transportation of paper, paper products, waste paper, empty skids, chemicals, empty carboys and cylinders, and machinery, machine parts, and equipment used in the manufacture and distribution of paper and paper products, over irregular routes, between New York, N. Y., and points in five New Jersey counties, on the one hand, and, on the other, Lee, Mass., Cohoes, N. Y., points in Connecticut, those in a specified portion of Massachusetts, a specified portion of New York, and a specified portion of Pennsylvania, and between New York, N. Y., on the one hand, and, on the other, points in five New Jersey counties, and the transportation of scrap tin cans, from New York, N. Y., to Edge Moor, Del. A. David Millner, 1060 Broad Street, Newark 2, New Jersey, for applicants.

No. MC-FC 61570. By order of October 23, 1958, the Transfer Board approved the transfer to John A. Rivers Service, Inc., dba Park Road Moving and Transfer Co., Washington, D. C., of Certificate No. MC 95378, issued January 4, 1944, to Leroy Pitts, dba P & G Express Co., Washington, D. C., author-

izing the transportation of household goods as defined by the Commission, over irregular routes, between points in the District of Columbia, on the one hand, and, on the other, Philadelphia, Pa., Richmond Va., and points in Maryland and Virginia within 50 miles of the District of Columbia. John A. Rivers, Pres., John A. Rivers Service, Inc., 1036 Park Road NW., Washington, D. C., for applicants.

No. MC-FC 61579. By order of October 23, 1958, the Transfer Board approved the transfer to Collins Brothers Moving Corp., Larchmont, New York, of Certificate No. MC 51369, issued by the Commission, January 31, 1950, to J. T. Goodliffe, Inc., Mamaroneck, N. Y., authorizing the transportation of household goods, between Mamaroneck, N. Y., and points within five miles of Mamaroneck, N. Y., on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Massachusetts, Pennsylvania, and Maryland, canned goods, bouillon cubes, extracts, empty containers, and poultry, between Mamaroneck, N. Y., on the one hand, and, on the other, points in New Jersey within 20 miles of City Hall, New York, N. Y., and tomato juice, in cans, from Farmingdale, N. J., to Mamaroneck, N. Y. David Brodsky, 1776 Broadway, New York 19, N. Y., for applicants.

No. MC-FC 61586. By order of October 23, 1958, the Transfer Board approved the transfer to Willis Shaw Frozen Express, Inc., Elm Springs, Ark., of certificate in No. MC 117119, issued June 2, 1958, to Willis Shaw and Ellis Bogan, a partnership, doing business as Willis Shaw Produce Co., Elm Springs, Ark., authorizing the transportation of: *Frozen poultry and frozen foods* from points in a specified territory in Arkansas to points in California, Colorado, Arizona, Nevada, New Mexico, Oregon, Washington, and Idaho and *empty containers* on the return. A. Alvis Layne, Jr., Pennsylvania Building, Washington 4, D. C., for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 58-9025; Filed, Oct. 30, 1958;
8:45 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 28, 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. 35051: *Gravel from Montezuma, Ind., to Burrowsville, Ill.* Filed by Illinois Freight Association, Agent (No. 30), for The Baltimore and Ohio Railroad Company. Rates on Gravel, traffic bound, road surfacing, carloads from Montezuma, Ind., to Burrowsville, Ill.

Grounds for relief: Wayside pit and motor truck competition.

Tariff: Supplement 84 to Baltimore and Ohio Railroad tariff I. C. C. 24048.

FSA No. 35052: *Cement from Mobile, Ala., to Panama City, Fla.* Filed by O. W. South, Jr., Agent (SFA-A3741), for interested rail carriers. Rates on cement, hydraulic, natural, or Portland, carloads from Mobile, Ala., to Panama City, Fla.

Grounds for relief: Barge competition. Tariff: Supplement 131 to Southern Freight Association tariff I. C. C. 1447.

FSA No. 35053: *Scrap iron or steel from Chicago, Ill., to Calvert, Ky.* Filed by Illinois Freight Association, Agent (No. 29), for interested rail carriers. Rates on scrap iron or steel, carloads from Chicago, Ill., to Calvert, Ky.

Grounds for relief: Barge competition. Tariff: Supplement 83 to Illinois Freight Association tariff I. C. C. 855.

FSA No. 35054: *Iron or steel pipe from Houston, Tex., to Louisiana.* Filed by Iron or steel pipe or tubing, over 16 inches in diameter, outside dimension,

carloads from Houston, Tex., to points in Louisiana.

Grounds for relief: Water competition. Tariff: Supplement 3 to Southwestern Lines tariff I. C. C. 4308.

FSA No. 35055: *Substituted service, rail for motor, Pennsylvania R. R. Co.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 95), for The Pennsylvania Railroad Company and interested motor carriers.

Grounds for relief: Motor truck competition.

Tariff: Supplement 5 to Eastern Central Motor Carriers Assn., Inc., tariff MF-I. C. C. A-148.

AGGREGATE-OF-INTERMEDIATES

FSA No. 35050: *Passenger fares of the Grand Trunk Western R. R. Co.* Filed by The Grand Trunk Western Railroad Company, for itself (No. 1), and other

interested rail carriers. Involving basic one-way first-class and one-way coach fares for the transportation of passengers between stations on the Grand Trunk Western Railroad, and between stations on that carrier, on the one hand, and stations on other participating intermediate or terminal carriers, on the other.

Grounds for relief: Maintenance of through one-factor fares which exceed the aggregate of the intermediate fares.

Tariffs: Grand Trunk Western Railroad tariffs I. C. C. Nos. C-2265, C-2266, and C-2267.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-9024; Filed, Oct. 30, 1938; 8:45 a. m.]