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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

ODM, FCDA, OCDM

Effective upon publication in the FEDERAL REGISTER, paragraph (a) of § 6.321 is amended, paragraph (k) of § 6.323 is revoked, and paragraphs (c) and (d) are added to § 6.363, as set out below.

§ 6.321 *Office of Defense Mobilization.* (a) Five Assistant Directors.

§ 6.363 *Office of Civil and Defense Mobilization.* * * *

(c) Deputy Assistant Director for Manpower.

(d) Director of Security and Inspection.

(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. 58-9380; Filed, Nov. 12, 1958; 8:50 a. m.]

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 3]

PART 7—AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

SUBPART—SELECTION AND FUNCTIONS OF AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEES

ELIGIBILITY REQUIREMENTS, POLITICAL ACTIVITY, AND REMOVAL FROM OFFICE OR EMPLOYMENT

By virtue of the authority vested in the Secretary of Agriculture by the Soil Conservation and Domestic Allotment Act of 1936, as amended, the regulations in this subpart published in the FEDERAL REGISTER of November 2, 1956 (21 F. R. 8385), May 8, 1957 (22 F. R. 3222), and November 1, 1957 (22 F. R. 8802) are hereby amended, effective January 1, 1959, as follows:

1. In § 7.15, paragraph (c) is amended by deleting the present provision and substituting therefor the following:

(c) Not be ineligible under § 7.27;

2. In § 7.15, paragraph (d) is amended by deleting the first part of the sentence thus making the paragraph read as follows:

(d) Not have been removed for cause from any public office, or not have been convicted of any fraud, larceny, embezzlement, or felony, unless any such disqualification is waived by the State committee or the Deputy Administrator;

3. In § 7.15, paragraphs (e), (f), (g), (h), (i), (j), and (k) are changed by redesignating such paragraphs as (f), (g), (h), (i), (j), (k), and (l), respectively.

4. Section 7.15 is further amended by inserting between paragraphs (d) and (f) as redesignated the following paragraph (e):

(e) Not have been removed as a county committeeman, community committeeman, delegate, alternate to any such office, community election board member, or as an employee for failure to perform the duties of his office, or committing, or attempting, or conspiring to commit, fraud in the conduct of his office or employment, or incompetency, or seriously impeding the effectiveness of any program administered in the county, unless such disqualification is waived by the State committee or the Deputy Administrator;

5. In § 7.15, paragraph (f) as redesignated is amended by adding the words "community election board member" thus making the paragraph read as follows:

(f) Not have been disqualified for future service because of a determination by a State committee that during previous service as a county committeeman, community committeeman, delegate, alternate to any such office, community election board member, or as an employee, he committed, or attempted, or

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FEDERAL REGISTER

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conspired to commit, fraud in the conduct of his office or employment, unless such disqualification is waived by the State committee or the Deputy Administrator;

6. In § 7.16, paragraph (a) is amended by deleting the present provision and substituting therefor the following:

§ 7.16 *All other personnel.* (a) The county office manager or any other employee must not be ineligible under § 7.27.

7. In § 7.16, paragraph (b) is amended by deleting the present provision and substituting therefor the following:

(b) The county office manager and other employees must not have been removed for cause from any public office, or not have been convicted of any fraud, larceny, embezzlement, or felony, unless any such disqualification is waived by the State committee or the Deputy Administrator.

8. In § 7.16, paragraphs (c) and (d) are changed by redesignating such paragraphs as (d) and (e), respectively.

9. Section 7.16 is further amended by inserting between paragraphs (b) and (d) as redesignated the following:

(c) The county office manager or any other employee must not have been removed as a county committeeman, community committeeman, delegate, alternate to any such office, community election board member, county office manager, or other employee for failure to perform the duties of his office, or committing, or attempting, or conspiring to commit, fraud in the conduct of his office or employment, or incompetency, or seriously impeding the effectiveness of any program administered in the county, unless such disqualification is waived by the State committee or the Deputy Administrator.

10. In § 7.16, paragraph (d) as redesignated is amended by deleting the words "county office" prior to the word "employees" and by inserting "community election board member" in the sentence thus making the paragraph read as follows:

(d) The county office manager and other employees must not have been disqualified for future employment, because of a determination by a State committee that during previous service as a county committeeman, community committeeman, delegate, alternate to any such office, community election board member, or as an employee, he committed, or attempted, or conspired to commit, fraud in the conduct of his office or employment, unless such disqualification is waived by the State committee or the Deputy Administrator.

11. In § 7.16, paragraph (e) as redesignated is amended by deleting the words "county office" prior to the word "employee" thus making the paragraph read as follows:

(e) The tenure of employment of any county office manager or other employee shall be terminated as soon as any such person becomes ineligible for employment under the provisions of this section.

12. In § 7.27, paragraph (a) is amended by deleting the phrases "during any calendar year" and "during such calendar year" and substituting for the latter phrase "for one year following the last day he held any such office" thus making the paragraph read as follows:

(a) No person who has been a member of the county governing body; or has held a Federal, State, or county office filled by an election held pursuant to law shall be eligible for one year following the last day he held any such office to hold office as a county committeeman, community committeeman, delegate, alternate to any such office, or a member of a community election board, or to employment in any capacity, except, that members of school boards, soil conservation district boards, irrigation district boards, drainage district boards, weed control district boards, or of similar boards are not ineligible to hold office or employment under this paragraph solely because of membership on such boards.

13. In § 7.27, paragraph (b) is amended by deleting the phrases "during any calendar year" and "during such calendar year" and substituting for the latter phrase "for one year following the last day of such candidacy" thus making the paragraph read as follows:

(b) No person who has been a candidate for membership on the county governing body; or for any Federal, State, or county office filled by an election held pursuant to law shall be eligible for one year following the last day of such candidacy to hold office as a county committeeman, community committeeman, delegate, alternate to any such office, or a member of a community election board, or to employment in any capacity, except, that candidates for school boards, soil conservation district boards, irrigation district boards, drainage district boards, weed control district boards, or for similar boards are not ineligible to hold office or employment under this paragraph solely because of candidacy for such boards.

14. In § 7.27, paragraph (c) is amended by deleting the phrases "during any calendar year" and "during such calendar year" and substituting for the latter phrase "for one year following the last day of such service" thus making the paragraph read as follows:

(c) No person who has been an officer, employee, or delegate to a convention of any political party or political organization shall be eligible for one year following the last day of such service to hold office as a county committeeman, community committeeman, delegate, alternate to any such office, or a member of a community election board, or to employment in any capacity.

15. In § 7.27, paragraph (d) is amended by inserting the words "paragraph (a), (b), or (c) of" prior to the words "this section" at the end of the sentence thus making the paragraph read as follows:

(d) The tenure of office of any county committeeman, community committeeman, delegate, alternate to any such office, or member of a community election board, or the employment of any employee, shall be automatically terminated as soon as any such person becomes ineligible for office or employment under the provisions of paragraph (a), (b), or (c) of this section.

16. Section 7.27 is further amended by adding three new paragraphs (e), (f), and (g) as follows:

(e) No county committeeman, community committeeman, delegate, or alternate to any such office, or any employee shall at any time engage in the following political activities:

(1) Solicit or receive any contributions (including the sale of tickets) for political party organizations or for a candidate for political office or for any other political purpose in any room or building used for the transaction of any Federal official business, or at any place from any other county committeeman, community committeeman, delegate, or alternate to any such office or employee.

(2) Use official authority or influence to discharge, remove, demote, or promote any employee, or threaten or promise to so do, for withholding or giving contributions (including the buying or the refusal to buy tickets) for political purposes, or for supporting or opposing any candidate or any political organization in

any primary, general, or special election for political office.

(f) No county committeeman, or alternate to such office, or any employee on any day when entitled to pay for services in performance of duties, and no employee who serves during a continuous period of 90 days or more and has a regular tour of duty established in advance at any time, shall solicit, collect, receive, disburse or otherwise handle contributions of money, pledges, gifts, or anything of value (including the sale of tickets) made for:

(1) Political party organizations,

(2) A candidate for political office in any primary, general, or special election, but excluding such activities on behalf of individual candidates in township and municipal elections,

(3) Any other political purpose.

(g) Any person subject to the provisions of paragraph (e) or (f) of this section and who is suspended and removed for activities prohibited thereunder shall be ineligible to hold any office or employment for a period of one year from the date of suspension.

17. In § 7.28, paragraph (a) is amended by inserting ", or who violates the provisions of § 7.27 (e) or (f)," between the words "county" and "shall" near the end of the first sentence thus making the sentence read as follows: "Any county committeeman, community committeeman, delegate to the county convention, any alternate to any such office, or any member of a community election board, who fails to perform the duties of his office, or who commits, or attempts, or conspires to commit, fraud in the conduct of his office, or is incompetent, or who seriously impedes the effectiveness of any program administered in the county, or who violates the provisions of § 7.27 (e) or (f), shall be suspended by the State committee."

18. In § 7.29, paragraph (a) is amended by inserting ", or who violates the provisions of § 7.27 (e) or (f)," between the words "county" and "shall" near the end of the first sentence thus making the sentence read as follows: "Any county office manager who fails to perform the duties of his employment, or who commits, or attempts, or conspires to commit, fraud in the conduct of his employment, or is incompetent, or who seriously impedes the effectiveness of any program administered in the county, or who violates the provisions of § 7.27 (e) or (f), shall be suspended by the county committee or if the county committee fails to act promptly in any such case, the State committee shall suspend the person involved."

19. In § 7.29, paragraph (b) is amended by deleting the first sentence of the paragraph and substituting therefor the following: "Any employee, other than the county office manager, who fails to perform the duties of his employment, or who commits, or attempts, or conspires to commit, fraud in the conduct of his employment, or is incompetent, or who seriously impedes the effectiveness of any program administered in the county, or who violates the provisions of § 7.27 (e) or (f), shall be suspended by the county office manager or if the county office manager fails to act promptly in any such case, the county committee shall suspend the person involved."

20. Section 7.30 is amended by inserting "§ 7.27 (e) and (f)," prior to "§ 7.28" in the first sentence thus making the sentence read as follows: "Any person removed from office or employment or disqualified for future office or employment under the provisions of § 7.27 (e) and (f), § 7.28, or § 7.29 shall have the right of appeal to the State committee for review of the facts, and if dissatisfied with the decision of the State committee, to the Deputy Administrator in accordance with such procedure as he may prescribe."

(Sec. 4, 49 Stat. 164, as amended; 16 U. S. C. 590d)

Done at Washington, D. C., this 6th day of November 1958.

[SEAL] E. L. PETERSON, *Acting Secretary.*

[F. R. Doc. 58-9373; Filed, Nov. 12, 1958; 8:48 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 722—COTTON

SUBPART—REGULATIONS PERTAINING TO ACREAGE ALLOTMENTS FOR THE 1959 CROP OF EXTRA LONG STAPLE COTTON

Basis and purpose. The provisions of §§ 722.261 to 722.282 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U. S. C. 1281 et seq.) including amendments under the Agricultural Act of 1958 (Pub. Law 85-835, approved August 28, 1958, 72 Stat. 988). These provisions govern the establishment of State, county and farm allotments for the 1959 crop of extra long staple cotton and the determination of the acreage planted to extra long staple cotton on individual farms in 1959. The latest available statistics of the Federal Government are used in making the determinations required to be made in connection with §§ 722.261 to 722.282. Notice of proposed formulation of acreage allotment regulations for the 1959 crop of extra long staple cotton was published in the FEDERAL REGISTER on September 10, 1958 (23 F. R. 7004) in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and the data and recommendations received in response to such notice have been duly considered.

In order that the Agricultural Stabilization and Conservation State and county committees may perform their functions in an orderly manner and establish farm allotments as early as possible prior to the holding of the extra long staple cotton referendum, it is essential that §§ 722.261 to 722.282 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date provisions of the Administrative Procedure Act is impracticable and contrary to the public interest and §§ 722.261 to 722.282 shall be effective upon filing this document with the Director, Division of the FEDERAL REGISTER.

AUTHORITY: §§ 722.261 to 722.282 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 361, 362, 365-368, 373, 374, 388; 52 Stat. 38, 62-65, as amended, 68; secs. 343-344, 345-346, 347; 63 Stat. 670, as amended, 674, 675, as amended; sec. 377; 70 Stat. 206, as amended; sec. 378, 72 Stat. 995; 7 U. S. C. 1301, 1361, 1362, 1365-1368, 1373, 1374, 1388.

GENERAL

§ 722.261 *Applicability.* The provisions of §§ 722.261 to 722.282 apply to the 1959 crop of extra long staple cotton.

§ 722.262 *Definitions.* As used in §§ 722.261 to 722.282 and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number.

(a) *Terms relating to administrative organization.* (1) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto, heretofore, or hereafter made.

(2) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(3) "Deputy Administrator" means the Deputy Administrator, or the Acting Deputy Administrator, Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(4) "Director" means the Director, or Acting Director, Cotton Division, Commodity Stabilization Service, United States Department of Agriculture.

(5) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended. In Puerto Rico the Caribbean ASC Area Committee shall, insofar as applicable, perform the functions of the State committee.

(6) "County committee" means the persons elected within a county as the county committee, pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended. In Puerto Rico the Caribbean ASC Area Committee shall, insofar as applicable, perform the functions of the county committee.

(7) "Community Committee" means the persons elected within a community as the community committee, pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended.

(8) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and to be responsible for the day-to-day operations of the Agricultural Stabilization and Conservation State office, or the person acting in such capacity.

(9) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the Agricultural Stabilization and Conservation county office, or the person acting in such capacity.

(10) "Review committee" means the group of persons appointed by the Secretary as a review committee pursuant to section 363 of the act.

(b) *General terms.* (1) "Extra long staple cotton" (herein referred to as "ELS cotton") means American-Egyptian, Sea Island, and Sealand cotton, and all other varieties of the Barbadense species, and any hybrid thereof, and any other cotton in which one or more of these varieties predominates, as provided under section 347 (a) of the act.

(2) "Abnormal weather conditions" means weather conditions (including conditions directly resulting therefrom) adversely affecting the planting of ELS cotton, which conditions must have been of sufficient duration and intensity to prevent the seeding of land to ELS cotton and must have continued until the end of the planting season for the area.

(3) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof, or the Federal Government, or any agency thereof. The term "person" shall include two or more persons having a joint or common interest.

(4) "County" means county or parish of a State. The North Area (ELS cotton producing areas in the northern part of Puerto Rico) and the South Area (ELS cotton producing areas in southern Puerto Rico) are considered as separate counties.

(5) "State and county code" means the applicable number assigned by the Commodity Stabilization Service to each State and county for the purpose of identification.

(c) *Terms relating to farms.* (1) The terms "cropland", "farm", and "farm serial number" as defined in Part 719 of this chapter shall apply to the regulations in §§ 722.261 to 722.282.

(2) "Owner" or "landlord" means a person who owns farmland and rents such land to another person or who operates such land.

(3) "Cash tenant", "standing-rent tenant", or "fixed-rent tenant" means a person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

(4) "Share tenant" means a person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

(5) "Sharecropper" means a person who works a farm in whole or in part under the the general supervision of the operator and is entitled to receive for his labor a share of the crops produced thereon or the proceeds thereof.

(6) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(7) "Producer" means a person who, as owner or landlord (other than the landlord of a standing-rent tenant, fixed-rent tenant, or cash tenant), cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper on a farm, is entitled to all or a share of the 1959 crop of ELS cotton produced thereon or of the proceeds thereof.

(8) "Farm allotment" means an ELS cotton acreage allotment established for a farm under §§ 722.261 to 722.282. Farm allotments are initially established on the basis of the data for farms as constituted at the time such allotments are established; where a farm is subsequently reconstituted for 1959, the farm allotment will be redetermined in accordance with § 722.267 (g) and (h).

(9) "Old ELS cotton farm" means a farm having an acreage planted to ELS cotton in any one or more of the years 1956, 1957, and 1958. Released allotments shall not be considered as acreage planted to ELS cotton for purposes of determining eligibility of the farm for allotment as an old ELS cotton farm.

(10) "New ELS cotton farm" means a farm on which ELS cotton is to be planted in 1959 but on which no acreage was planted to ELS cotton in any of the years 1956, 1957, and 1958.

(11) "Small farm" means a farm for which an allotment, exclusive of allocations to the farm from State and county reserves, for 1959 is 15 acres or less.

(12) "Normal yield" means the average yield per harvested acre of ELS lint cotton for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year the actual yield data are not available or there was no actual yield, the normal yield for the farm shall be appraised by the county committee taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available. In the case of new ELS cotton farms, the county committee may also take into consideration the normal yields of other farms in the locality which are similar with respect to soil and other physical factors affecting the production of ELS cotton.

(13) "Normal production" of any number of acres means the normal yield per acre of ELS lint cotton for the farm multiplied by such number of acres.

(14) "Actual production" of ELS cotton on the farm means the total number of pounds of ELS lint cotton determined to have been produced on the farm in 1959.

(15) "Actual yield" per acre means the number of pounds of ELS lint cotton determined by dividing the actual production of ELS cotton on the farm by the acreage planted to ELS cotton on the farm in 1959.

(16) "Acreage planted to ELS cotton in the State and county" for use in establishing State and county allotments means:

(i) *For 1953.* The measured acreage of ELS cotton as determined in accordance with instructions issued by the Deputy Administrator.

(ii) *For 1954 and 1955.* The measured acreages of ELS cotton as determined for purposes of the 1954 and 1955 ELS cotton marketing quota programs (as adjusted under section 344 (g) (3), (l), and (m) (2) of the act).

(iii) *For 1956.* The measured acreages of ELS cotton as determined for purposes of the 1956 ELS cotton marketing quota program (as adjusted under section 344 (g) (3), (l) and (m) (2) of the act; and including acreage history credit required under section 377 of the act and sections 106 (a) and 112 (2) of the Agricultural Act of 1956 (70 Stat. 191, 195; 7 U. S. C. 1824 (a), 1836)).

(iv) *For 1957.* The sum of the farm allotments excluding any allotment released from the farm or reapportioned to the farm plus acreage history credit for released allotment pursuant to section 344 (m) (2) of the act.

(17) "Acreage planted to ELS cotton on the farm" for use in establishing farm allotments means:

(i) *For 1956.* The measured acreage of ELS cotton on the farm as determined for purposes of the 1956 ELS cotton marketing quota program (as adjusted under section 344 (g) (3), (l), and (m) (2) of the act; and including acreage history credit required under section 377 of the act and sections 106 (a) and 112 (2) of the Agricultural Act of 1956 (70 Stat. 191, 195; 7 U. S. C. 1824 (a), 1836)).

(ii) *For 1957 and 1958.* The farm allotment for 1957 and 1958, excluding any allotment released from the farm or reapportioned to the farm, plus acreage history credit for released allotment pursuant to section 344 (m) (2) of the act.

(18) "Acreage planted to ELS cotton on the farm in 1959", for purposes of determining compliance with the farm allotment, shall be the acreage seeded to ELS cotton on the farm in 1959, and the acreage devoted to the production of cotton on the farm for 1959 but seeded prior to 1959, excluding any acreage in excess of the farm allotment which (i) is destroyed by causes beyond the producer's control prior to the expiration of the period established under § 722.277 for disposing of excess ELS cotton acreage or (ii) is disposed of in accordance with § 722.277.

§ 722.263 *Issuance of forms and instructions.* The Director shall cause to be prepared such forms and instructions with respect to internal management as are necessary for carrying out §§ 722.261 to 722.282. The forms shall be issued by the Director with the approval of the Deputy Administrator and the instructions shall be issued by the Deputy Administrator. Copies of such forms and instructions shall be furnished free to persons needing them upon request made to the office of the State or county committee or to the Director.

§ 722.264 *Extent of calculations and rule of fractions.* Farm allotments shall be computed to three places beyond the decimal point and rounded to tenths of acres. Fractions of fifty-one thousandths of an acre or more shall be rounded upward, and fractions of less than fifty-one thousandths of an acre shall be dropped. For example, 10.051 would be 10.1 and 10.050 would be 10.0.

STATE AND COUNTY ALLOTMENTS

§ 722.265 *Apportionment of national allotment among States—*(a) *Statutory basis.* The national allotment proclaimed for the 1959 crop of ELS cotton is apportioned among the States (including Puerto Rico) on the basis of the average acreage planted to ELS cotton in each such State for the years 1953, 1954, 1955, 1956, and 1957, with adjustments in such acreages for abnormal weather conditions. Such adjustments for abnormal weather conditions are made in the acreages planted to ELS cotton in the States on the basis of recommendations of the State committees and official statistics and studies of the Department of Agriculture and take into consideration failure to seed ELS cotton because of abnormal weather conditions. Any such adjustment in the acreage planted to ELS cotton in a State is the amount established by reference to available information and data as the net reduction of planted acreage in the State attributed solely to abnormal weather conditions.

(b) *State allotment.* The acreage allotted to a State pursuant to this section is referred to herein as the "State allotment". The State allotment for each State for the 1959 crop of ELS cotton is as follows:

State:	*State allotments*
Arizona	29,908
California	425
Florida	635
Georgia	116
New Mexico	14,003
Puerto Rico	1,539
Texas	24,196
United States total	70,822

§ 722.266 *Apportionment of State allotment among counties—*(a) *State reserve.* The State committee shall determine what portion, if any, of the State allotment is to be reserved for each of the following categories:

(1) Adjusting computed county allotments for trends in acreage.

(2) Adjusting computed county allotments for abnormal conditions affecting plantings.

(3) Establishing allotments for new ELS cotton farms.

(4) Adjusting farm allotments to correct inequities and to prevent hardships.

(5) Adjusting allotments determined for small farms. The State committee may, in its discretion, determine that no acreage shall be established for any one or more of the categories of the State reserve set forth in this paragraph. The total State reserve established for the several categories under this paragraph shall not exceed 10 percent of the State allotment.

(b) *Computed county allotments.* The State allotment for the 1959 crop of ELS cotton, less the State reserve established pursuant to paragraph (a) of this section, shall be apportioned among the following counties designated pursuant to section 347 (a) of the act: Cochise, Graham, Greenlee, Maricopa, Mohave, Pima, Pinal, Santa Cruz, and Yuma counties, Arizona; Imperial and Riverside counties, California; Alachua, Bradford, Columbia, Hamilton, Jefferson, Lake, Levy, Madison, Marion, Orange, Putnam, Seminole, Sumter, Suwannee, Union, and Volusia counties, Florida; Berrien, Cook, and Lanier counties, Georgia; Dona Ana, Eddy, Luna, Otero, and Sierra counties, New Mexico; North Area (ELS cotton producing areas in northern part of Puerto Rico) and South Area (ELS cotton producing areas in southern part of Puerto Rico), Puerto Rico (North Area and South Area shall be considered as counties); and Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, and Ward counties, Texas. Such apportionment is made on the basis of the average acreage planted to ELS cotton in each such county in 1953, 1954, 1955, 1956 and 1957 (herein referred to as the "base years"), with adjustments for abnormal weather conditions during such years. Such adjustments take into consideration failure to seed ELS cotton because of abnormal weather conditions and are made in the acreages planted to ELS cotton in the county on the basis of recommendations of the State committees and official statistics and studies of the Department of Agriculture. Any such adjustment in the acreage planted to ELS cotton in a county is the amount established by reference to available information and data as the net reduction of planted acreage in the county attributed solely to abnormal weather conditions. The acreage allotted to a county pursuant to the provisions of this paragraph is herein referred to as the "computed county allotment".

(c) *Use of State reserve.* The State reserve, if any, established for each designated purpose under paragraph (a) of this section shall be used by the State committee for such purpose as provided in subparagraphs (1) to (5) of this paragraph.

(1) *To adjust computed county allotments for trends in the acreage of ELS cotton.* Any acreage allocated pursuant to paragraph (a) (1) of this section shall be used by the State committee to adjust the computed county allotments for trends in the acreage planted to ELS cotton in the counties during recent years (the period of years may include the year 1958 but shall not include any year prior to 1951). The State committee may determine such adjustments by use of a formula which shall be applied uniformly to each county in the State.

(2) *To adjust computed county allotments for counties adversely affected by abnormal conditions affecting plantings of ELS cotton.* Any acreage allocated pursuant to paragraph (a) (2) of this section shall be used by the State committee to adjust the computed county allotments for abnormal conditions adversely affecting plantings in the counties during the base years. The State committee shall examine the acreage planted to ELS cotton in the county in each of the base years to determine whether the acreage planted may have been adversely affected by abnormal conditions. In determining whether an adjustment should be made for abnormal conditions adversely affecting plantings in a county, the State committee shall take into consideration the following factors: (i) Abnormal weather conditions such as floods and droughts during the planting season which caused plantings during such season to be abnormally low in comparison with normal; (ii) conditions in counties in which a number of farms are being returned to ELS cotton production or are increasing the acreage in ELS cotton after having been out of production or having been on a reduced level of ELS cotton production because such farms were used to a larger extent than normal in connection with air bases, defense plants and other defense activities; (iii) abnormal reduction in planted ELS cotton acreages because of an unusual movement of labor from farms in the county to defense industries or into the armed forces and the return of such labor as compared with such movements in other counties; and (iv) any other abnormal conditions which adversely affected plantings in the county to a greater extent than in other counties. In determining any adjustment under subdivision (i) of this subparagraph for abnormal weather conditions the State committee shall take into consideration any adjustment made for abnormal weather conditions pursuant to paragraph (b) of this section.

(3) *To make adjustments in allotments determined for small farms.* Any acreage allocated pursuant to paragraph (a) (5) of this section shall be allocated by the State committee to counties to supplement that part of the county reserve established as provided in subparagraphs (1) and (2) of § 722.267 (d) for adjusting indicated farm allotments for old ELS cotton farms established at 15 acres or less under paragraph (c) of § 722.267. Such acreage shall be used by the county committee only for adjustments in small farm allotments.

(4) *To establish 1959 allotments for new ELS cotton farms.* Any acreage allocated pursuant to paragraph (a) (3) of this section shall be allocated by the State committee to counties to establish allotments for new ELS cotton farms. Where the State committee determines that the needs for acreage to establish allotments for new ELS cotton farms are generally uniform in counties throughout the State, the State committee shall determine whether all the acreage required to establish allotments for new ELS cotton farms shall be provided from the State reserve or the county reserve, or from both such reserves. In determining the source of acreage, if any, for new ELS cotton farms the State committee shall take into consideration the acreage requirements determined for such farms from the county surveys, if available, as provided for in § 722.267 (d) (3). Where it is determined by the State committee that the entire county reserve for any county is needed for making adjustments pursuant to subparagraphs (1) and (2) of § 722.267 (d), the State committee may consider allocating acreage from the State reserve as provided in paragraph (a) of this section to supplement the acreage, if any set aside by the county committee from the county reserve for establishing allotments for new ELS cotton farms. In determining the estimated acreage to be set aside for establishing allotments for new ELS cotton farms on the basis of the factors set forth in § 722.267 (d) (3), the State committee shall take into consideration the experience of State and county committees in establishing allotments for new ELS cotton farms under previous acreage allotment programs and any other available information. The acreage made available to any county under this subparagraph shall be used by the county committee only for new ELS cotton farms.

(5) *To correct inequities in farm allotments and to prevent hardship.* Any acreage allocated pursuant to paragraph (a) (4) of this section shall be allocated by the State committee to counties to correct inequities in farm allotments and to prevent hardship. Such reserve may also be used for establishing and adjusting farm allotments as provided in § 722.267 (h).

(d) *Availability of data for inspection.* The following shall be on file and shall be available in the office of the State committee for examination by any interested ELS cotton producer: (1) The amount of the State reserve; (2) the formula, if any, and data developed and used under paragraph (c) (1) and (2) of this section; and (3) the total acreage set aside from the State reserve for the purposes set forth in paragraph (c) (3), (4), and (5) of this section.

(e) *County allotment.* The county allotment shall be the sum of (1) the computed county allotment determined under paragraph (b) of this section, and (2) the acreages from the State reserve which are added to the computed county allotment under paragraph (c) (1) and (2) of this section.

(f) *Apportionment of excess released acreage to counties.* The acreage surrendered to the State committee pursuant to § 722.268 shall be apportioned by the State committee to counties on the basis of trends in acreage, abnormal conditions adversely affecting plantings, or for small or new farms or to correct inequities in farm allotments and to prevent hardship.

(g) *County allotment, allocations from State reserve and county reserve.* This paragraph will be amended at a later date to establish county allotments showing components thereof (computed county allotment, adjustments from State reserve for trends, and abnormal conditions); to establish county reserves, and allocations to counties from State reserve for small farms, to correct inequities and prevent hardships.

ESTABLISHMENT OF FARM ALLOTMENTS

§ 722.267 *Apportionment of county allotment among farms*—(a) *Determination of method to be used in apportioning county allotment among farms.* It is hereby determined that it will facilitate effective administration of the act to use in all counties the method for apportioning county allotment among farms under section 344 (f) (8) of the act and not the cropland method under section 344 (f) (2) of the act or the historical method under section 344 (f) (6) of the act.

(b) *Determination of county reserve.* The county committee shall establish a county reserve of not in excess of 15 percent of the sum of (1) the computed county allotment, and (2) the allotment allocated to the county pursuant to paragraph (c) (1) and (2) of § 722.266, which may be used to adjust indicated farm allotments for old ELS cotton farms determined under paragraph (c) of this section and to establish allotments for new ELS cotton farms under paragraph (d) (3) of this section. Such reserves shall be published in an amendment of § 722.266 (g).

(c) *Indicated allotments for old ELS cotton farms in all counties designated in § 722.266* (b). The county allotment, less the acreage reserved pursuant to paragraph (b) of this section, shall be apportioned among farms on which ELS cotton has been planted in any one of the 3 years 1956, 1957, or 1958, in accordance with subparagraph (1) of this paragraph. For purposes of this paragraph, 1958 farm allotment means the allotment established for the farm without regard to release of allotment for 1958 only and reapportionment under section 344 (m) (2) of the act. It is hereby determined that for 1959 it will not be necessary under section 344 (f) (8) of the act to adjust 1958 farm allotments for any change in the acreage of cropland available for the production of ELS cotton since section 377 of the act is applicable for 1959.

(1) *Indicated allotments for old ELS cotton farms.* Indicated allotments for old ELS cotton farms shall be determined by multiplying the 1958 allotment for the farm by a county allotment factor determined by dividing the total of the 1958 allotments for all such farms (referred to in this paragraph as "allotment bases") into the county allotment less the acreage reserved pursuant to paragraph (b) of this section.

(d) *Use of county reserve.* The county reserve shall be used by the county committee as follows:

(1) *Adjustments in indicated farm allotments of 15 acres or less.* Not less than 20 percent of the county reserve shall, to the extent required, be used by the county committee to adjust indicated farm allotments determined under paragraph (c) of this section to be 15 acres or less. Such adjustments shall be made so as to establish allotments which are fair and reasonable in relation to the allotments established for similar farms in the community, taking into consideration for the farm the acreages planted to ELS cotton in 1956, 1957, and 1958; the land, labor, and equipment available for the production of ELS cotton; crop-rotation practices; the soil and other physical facilities affecting the production of ELS cotton; and abnormal conditions of production.

(2) *Adjustments in indicated allotments for other farms.* The remainder of the acreage in the county reserve, after meeting or determining the requirements under subparagraphs (1), (3), and (4) of this paragraph, shall be used by the county committee to adjust indicated farm allotments which are more than 15 acres. Such adjustments shall be made so as to establish allotments which are fair and reasonable in relation to the allotments established for similar farms in the community, taking into consideration for the farm, the land, labor, and equipment available for the production of ELS cotton; crop-rotation practices; the soil and other physical facilities affecting the production of ELS cotton; and abnormal conditions of production. In the absence of specific data relating to the labor and equipment available for the production of ELS cotton and to the crop-rotation practices followed on a farm, the county committee may consider the acreage planted to ELS cotton on the farm in 1956, 1957, or 1958, as reflecting such factors and use such acreage as the basis for adjusting the indicated farm allotment under this subparagraph.

(3) *Allotments for new ELS cotton farms*—(i) *Determination of acreage needed for establishing allotments for new ELS cotton farms.* If any part of the State reserve or the county reserve is to be used for establishing allotments for new cotton farms, the county committee with the assistance of the community committees, may estimate from county office records and other available sources of information the number of

new ELS cotton farms in the county and an estimate may be made of the cropland on new cotton farms. Such estimates may be used by the State and county committees as a basis for determining the acreage, if any, that will be allocated for establishing allotments for new ELS cotton farms. In determining the acreage, if any, from the county reserve which is to be used for establishing allotments for new ELS cotton farms, the county committee shall take into consideration the acreage, if any, to be made available from the State reserve pursuant to § 722.266 (c) (4) for establishing allotments for new ELS cotton farms. The total acreage reserved for establishing allotments for new ELS cotton farms in the county, including any acreage allocated to the county for new ELS cotton farms from the State reserve, shall not exceed 75 percent of the total of the farm allotments which the county committee estimates will be determined for the same number of old ELS cotton farms in the county which are similar except for the acreages planted to ELS cotton during the years 1956, 1957, and 1958.

(ii) *Eligibility of a new ELS cotton farm for an ELS cotton allotment.* An ELS cotton allotment for a new ELS cotton farm may be established by the county committee if each of the following conditions is met:

(*a*) An application for an ELS cotton allotment is filed by the farm operator with the county committee by the closing date established by the State committee. In no event is the closing date to be earlier than February 15, 1959. (January 15, 1959, in Puerto Rico.)

(*b*) The farm operator is largely dependent on income from the farm for his livelihood. Where the farm operator is a partnership, each partner must be largely dependent on income from the farm for his livelihood; where the farm operator is a corporation, it must have no major corporate purpose other than operation, and ownership where applicable, of such farm, and the officers and general manager of the corporation must be largely dependent on income, whether dividends or salary, from the corporation for their livelihood.

(*c*) The farm is the only farm in the county which is owned or operated by the farm operator or farm owner for which an ELS cotton allotment is established for 1959.

(iii) *Establishment of allotments for new ELS cotton farms.* If the applicant's farm is eligible for an ELS cotton allotment, such allotment shall be established by the county committee on the basis of land, labor, and equipment available for the production of ELS cotton; crop-rotation practices; and the soil and other physical facilities affecting the production of ELS cotton. The allotment so determined for any such farm shall not exceed the smallest of (*a*) the allotment established for old ELS cotton farms in the county which are similar with respect to the foregoing factors, (*b*) the allotment requested by the applicant, and (*c*) the indicated allotments established pursuant to paragraph (c) of this section for old ELS cotton farms in the county which are similar except for the acreages planted to ELS cotton during the years 1956, 1957, and 1958. The sum of the allotments determined by the county committee for new ELS cotton farms shall not exceed the reserves available for such farms in the county under this subparagraph. The allotments for new ELS cotton farms shall be subject to review and approval by the State committee or an employee of the State office, as provided in § 722.280. If the acreage planted to ELS cotton on a new ELS cotton farm is less than the ELS cotton allotment established for the farm pursuant to this subparagraph, such allotment shall be automatically reduced to the acreage planted to ELS cotton on the farm.

(4) *Adjustments in farm allotments to correct inequities and to prevent hardship.* The county committee shall determine the acreage required from the county reserve to supplement any acreage allocated to the county from the State reserve to correct inequities in farm allotments and to prevent hardship. Such reserves may also be used for establishing and adjusting farm allotments as provided in paragraph (h) of this section and to provide fair and reasonable allotments where the county committee had insufficient information to make proper adjustments at the time the original allotment for the farm was established. Any acreage from the county reserve and any allocation to the county from the State reserve which is made pursuant to § 722.266 (c) (5) may be used by the county committee for making adjustments in farm allotments to correct inequities and to prevent hardship, taking into consideration for the farm the acreages planted to ELS cotton in 1956, 1957, and 1958; the land, labor, and equipment available for the production of ELS cotton; crop-rotation practices; the soil and other physical facilities affecting the production of ELS cotton and abnormal conditions of production and any other factors for correcting inequities and preventing hardship.

(e) *Use of acreage allocated to county from State reserve for adjusting allotments for small farms.* The acreage allocated to a county from the State reserve for small farms shall be used by the county committee to adjust indicated farm allotments of 15 acres and less for old ELS cotton farms on the basis of the factors set forth in paragraph (d) (1) and (2) of this section for adjusting small farm allotments.

(f) *Allocation of reserve acreage by use of mathematical formula or rule.* Any mathematical formula or rule adopted by the county committee for use in calculating the amount of acreage to be allocated to an individual farm from the reserves provided for in paragraphs (d) (1), (2), and (4) and (e) of this section shall be subject to approval by the State committee or an employee of the State office.

(g) *Reconstitution of farms.* The reconstitution of farms under §§ 722.261 to 722.282 shall be governed by the regulations pertaining to reconstitution of farms in Part 719 of this chapter.

(h) *Allotments for late and reconstituted farms and correction of errors.* The reserves provided for in paragraph (d) (4) of this section and in § 722.266 (c) (5) shall be used by the county committee for the purposes specified therein and also (i) for establishing allotments for old ELS cotton farms for which allotments were not established at the time allotments were originally established for old ELS cotton farms in the county because of oversight on the part of the county committee, (ii) for correcting errors in farm allotments, and (iii) for use in establishing allotments for farms which are divided or combined for 1959 under paragraph (g) of this section.

§ 722.268 *Release and reapportionment of ELS cotton allotments*—(a) *Conditions under which farm allotments cannot be released.* The following farm allotments shall not be released in whole or in part:

(1) Allotments for new ELS cotton farms.

(2) The allotment for an old ELS cotton farm which is owned by the Federal Government and which was leased by an agency of the Federal Government, as lessor on condition that no land on the farm shall be planted to ELS cotton.

(3) The allotment for any farm where such release is opposed by the owner or operator or the holder of a real estate lien on the farm.

(4) The allotment for any farm where the county committee, prior to approval of the particular release and prior to the final date for reapportionment of released allotments established for the county, determines that the farm is being acquired for governmental or other public purpose.

(b) *Allotments which may be released.* Except as provided otherwise in paragraph (a) of this section, any part of any 1959 farm allotment for an old ELS cotton farm which will not be used in 1959 and which is voluntarily released to the county committee by the farm owner or operator by the applicable closing date shall be deducted from the farm allotment and may be reapportioned by the county committee not later than the applicable closing date to other farms receiving farm allotments in the same county in amounts determined by the county committee to be fair and reasonable on the basis of past acreages of ELS cotton; land, labor, and equipment available for the production of ELS cotton; crop-rotation practices; and soil and other physical facilities affecting the production of ELS cotton: *Provided, however,* That any allotment released from a farm which on the date of the release is covered by a Soil Bank Conservation Reserve Contract, shall not be reapportioned by the county committee or released to the State committee for reapportionment to other counties. The State committee shall establish closing dates for purposes of the foregoing provisions for the entire State or for areas in the State if there is a substantial difference in planting dates for different areas in the State. The closing date so established for releasing farm allotments shall be the date on which the planting of ELS cotton normally becomes general on farms in the State or area, and the closing date so established for reapportionment of such released acreage to other farms in the same county shall be the latest date on which ELS cotton can normally be planted on farms in the State or area with reasonable expectation of producing an average crop. If all of the allotted acreage voluntarily released is not needed in the county, the county committee may surrender the excess acreage to the State committee for reapportionment to counties as provided in § 722.266 (f): *Provided, however,* That no such acreage shall be surrendered to the State committee so long as any farmer receiving a cotton allotment in such county desires additional cotton acreage. Any farm allotment released for 1959 only shall, in determining future farm ELS cotton allotments, be regarded as having been planted on the farm from which such allotment was released if ELS cotton was seeded on such farm (or acreage history credit is provided for the farm under section 377 of the act or section 106 (a) or section 112 (2) of the Agricultural Act of 1956) in at least one of the years in the three-year farm base period. Except as provided otherwise in paragraph (a) of this section, all or any part of any farm allotment for an old ELS cotton farm may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided in this paragraph. In determining future farm ELS cotton allotments, the planting in 1959 of reapportioned allotments shall not be considered. For the purpose of determining future State and county allotments, reapportioned acreage to the extent planted will be credited to the State and to the county in which such acreage was planted.

(c) *Apportionment of surrendered acreage allocated to county by State committee.* The acreage apportioned to the county under § 722.266 (f) may be used by the county committee for establishing and adjusting farm allotments for new ELS cotton farms or small farms or to correct inequities and to prevent hardship in accordance with the provisions of paragraphs (d) and (e) of § 722.267.

§ 722.269 *Preservation of acreage history.* The farm allotment for 1959 excluding any allotment released from the farm or reapportioned to the farm shall be considered for purposes of future State, county and farm allotments to have been planted, as provided by section 377 of the act as amended.

§ 722.270 *Allotments for special farms*—(a) *Where the farm owner is displaced by a Federal, State, or other agency having the right of eminent domain.* Where the farm owner is displaced by a Federal, State, or other agency having the right of eminent domain, farm allotments for such acquired land and determination of other farm allotments for such owner shall be governed by section 378 of the act and the regulations pertaining to reconstitution of farms in Part 719 of this chapter.

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(b) *Publicly owned agricultural experiment stations*—(1) *Allotments for farms operated by publicly owned agricultural experiment station.* A farm allotment shall be established pursuant to the provisions of § 722.267 for a farm operated by a publicly owned agricultural experiment station.

(2) *Conditions under which production is exempted from penalty.* The marketing penalty shall not apply to the marketing of any ELS cotton of the 1959 crop which is grown, for experimental purposes only, on a farm operated by a publicly owned agricultural experiment station and produced at public expense by employees of the experiment station. Where the acreage planted to ELS cotton on a farm operated by a publicly owned agricultural experiment station is in excess of the farm allotment, the acreage used for determining the marketing excess, if any, for the farm shall be the smaller of (i) the acreage planted to ELS cotton on the farm in excess of the farm allotment, or (ii) the acreage planted to ELS cotton on the farm which is not for experimental purposes. Also, the marketing penalty shall not apply to ELS cotton produced for experimental purposes on other land by a person pursuant to a written agreement with a publicly owned agricultural experiment station whereby the experiment station bears the costs and risks incident to the production of the ELS cotton and the proceeds from the crop inure to the benefit of the experiment station and such agreement is approved by the State committee. Such approval will be given if the State committee finds that the agreement conforms to the requirements of this subparagraph.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.271 *Notice of farm allotment and marketing quota.* Immediately after farm allotments in a county are established and approved by the State committee or an employee of the State office pursuant to § 722.280 (b), the county committee shall mail to the operator of each such farm a written notice of the farm allotment and marketing quota for the farm. The county committee shall also mail to the operator of each new ELS cotton farm for which application for an allotment is made but for which it is determined that no farm allotment and marketing quota will be established, a similar written notice showing "None" as the allotment and marketing quota established for the farm. The notice shall contain at or near the top thereof substantially the following statement: "To all persons who as operator, landlord, tenant, or sharecropper will for the crop year shown above be interested in the commodity designated above produced on the farm for which this acreage allotment and marketing quota are established." Notice so given shall constitute notice to all such persons. Such notice shall also contain a brief statement of the procedure whereby application for review of the marketing quota may be made under section 363 of the act. Such notice shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeeman or an employee of the county office. A copy of each notice, containing a notation thereon of the date of mailing the notice to the operator of the farm, shall be kept among the permanent records of the county committee, and upon request a copy thereof, duly certified as a true and correct copy shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper, is interested in the ELS cotton produced in 1959 on the farm for which the notice is given. Insofar as practicable, the notice for each old ELS cotton farm shall be prepared and mailed to the operator so as to be received prior to the referendum to determine whether ELS cotton farmers favor or oppose marketing quotas for the 1959 crop. Where it is impractical or impossible to use the United States mail to serve the producer in Puerto Rico with the notice provided for in this section, use shall be made of such other method of service as is available; however, when such other method is used the county committee shall make provision for keeping an accurate record of the date and method of delivery to the producer of any such notice. Farm allotments shall not become effective unless (a) proper approval is obtained as provided under § 722.280 and (b) written notice of farm allotment is issued as provided under §§ 722.261 to 722.282. The farm operator shall immediately notify the county committee of any change in the ownership, operation, or control of the farm, or any part thereof, for which a notice of farm allotment is issued for 1959 and, where required, the county committee shall issue a revised notice of farm allotment.

§ 722.272 *Amount of farm marketing quota.* The farm marketing quota for any farm for the 1959 crop of ELS cotton shall be the actual production of ELS lint cotton on the farm less the farm marketing excess.

§ 722.273 *Amount of farm marketing excess.* The farm marketing excess for the 1959 crop of ELS cotton shall be the normal production of the acreage of ELS cotton on the farm in excess of the farm allotment: *Provided,* That such farm marketing excess shall not be larger than the amount by which the actual production of ELS cotton on the farm exceeds the normal production of the farm allotment if the producer establishes such actual production in accordance with the regulations pertaining to marketing quotas for ELS cotton of the 1958 and succeeding crops (§§ 722.101 to 722.152).

§ 722.274 *Publication of farm allotments and marketing quotas.* One copy of each notice of the farm allotment and marketing quota for farms in a county shall be placed in binders or folders, or in lieu thereof a listing of such allotments and quotas shall be prepared, and such notices or listing shall be kept freely available in the office of the county committee for public inspection for a period of not less than thirty calendar days. At the end of such period, the copies of the notices or the listing shall be filed in the office of the county committee and remain readily available for further public inspection. Either the copies of notices or the listing referred to in this section shall be maintained in the county office by the county office manager for the use of the chairmen of the community committees.

§ 722.275 *Successors-in-interest.* Any person who succeeds to the interest of a producer in a farm, or in an ELS cotton crop, or in ELS cotton for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the restrictions on the marketing of ELS cotton.

§ 722.276 *Marketing quotas not transferable.* A farm marketing quota is established for a farm and except as specifically provided for in §§ 722.268 and 722.270 (a) may not be assigned or otherwise transferred in whole or in part to any other farm.

MISCELLANEOUS PROVISIONS

§ 722.277 *Measurement of farms to determine compliance with allotments*—(a) *Premeasurement.* The county committee shall provide for the measurement prior to planting of an acreage on the farm equal to the farm allotment if the farm operator requests such measurement and pays the cost thereof, as determined by the county committee, and any farm on which such measured acreage is the only acreage planted to ELS cotton shall be deemed to have an acreage not in excess of the farm allotment. The acreage of fields premeasured in accordance with this paragraph will not be redetermined for 1959 unless it is found that all of the premeasured area was not planted to ELS cotton or that ELS cotton was planted outside the premeasured area.

(b) *Measurement after planting.* Determination of the acreage planted to ELS cotton on each farm in the county shall be made under the general supervision of the county committee in accordance with the regulations pertaining to determination of acreage and performance in Part 718 of this chapter.

(c) *Notice of measured acreage and disposition of excess acreage.* The county committee or the county office manager shall mail to the farm operator a notice of the 1959 measured ELS cotton acreage on the farm. If such acreage is in excess of the farm allotment, the notice mailed to the farm operator shall include (1) a statement of the basis for determining the farm marketing excess, and (2) authorization to dispose of the excess acreage within 15 days after the date of such notice. Notice so given shall constitute notice to each producer having an interest in the 1959 crop of ELS cotton produced on the farm. If producers on the farm are unable because of conditions beyond their control to dispose of the excess ELS cotton acreage within 15 days after notice of the measured ELS cotton acreage is mailed to the farm operator as provided in this paragraph, a request in writing for additional time may be filed at the county office by any producer on the farm within the 15-day period. Such request shall set forth the reasons why producers on the farm were unable to destroy the excess acreage within the 15-day period. If the county committee or the county office manager is satisfied that the producers on the farm were unable to dispose of the excess ELS cotton acreage within the 15-day period because of conditions beyond their control, the date for disposing of the excess ELS cotton acreage may be extended to 30 days after the date the original notice of measured ELS cotton acreage is mailed to the farm operator. The county office shall notify the farm operator in writing of the final date so established for disposing of the excess acreage.

(d) *Remeasurement.* The county committee or the county office manager shall provide for the remeasurement of the acreage planted to ELS cotton on the farm upon request thereof by any producer on the farm and deposit with the treasurer of the county committee of an amount equal to the estimated cost of such remeasurement within 15 days after the date the original notice of measured ELS cotton acreage is mailed to the farm operator pursuant to paragraph (c) of this section. Such deposit shall be returned to the producer only when the remeasurement reduces the acreage sufficiently to bring the acreage within the farm allotment or when the original measurement is claimed to be too small and the remeasurement reveals that an error of at least three percent or five-tenths (0.5) of an acre, whichever is larger, was made in the original determination and the redetermined acreage is within the farm allotment. The State committee may, upon approval of the Deputy Administrator, decrease the five-tenths (0.5) acre minimum error provided in this section. If within a reasonable time after the end of the 15-day period provided in this paragraph any producer on the farm applies for a remeasurement of the acreage planted to ELS cotton and deposits the estimated cost of such remeasurement and establishes to the satisfaction of the county committee or county office manager that failure to request remeasurement within such 15-day period was due to conditions beyond the control of producers on the farm, the county committee or county office manager shall grant the request for remeasurement and shall so notify the farm operator in writing. The county committee or the county office manager shall notify the farm operator by mail of the 1959 remeasured ELS cotton acreage on the farm. If such remeasured acreage is in excess of the farm allotment, the notice mailed to the farm operator shall include (1) a statement of the basis for determining the farm marketing excess, and (2) authorization to dispose of the excess acreage within 7 days after the date of such notice.

(e) *Insufficient ELS cotton acreage disposed of initially.* If measurement of the acreage initially disposed of is made as provided in paragraph (f) of this section and such measurement shows that excess acreage still remains on the farm, the notice mailed to the farm operator shall include (1) a statement of the basis for determining the farm marketing excess, and (2) authorization to dispose of the excess acreage within 7 days after the date of such notice.

(f) *Measurement of acreage disposed of.* If, within the time allowed pursuant to this section, the excess ELS cotton acreage on any farm is disposed of, and a producer on the farm requests that the acreage disposed of be measured and pays the estimated cost of measuring such acreage, the county committee shall provide for such measurement. Excess ELS cotton acreage shall not be deemed to have been disposed of unless disposition thereof is determined as provided under this paragraph.

(g) *Extension of time for disposing of excess acreage because of conditions beyond the control of producers on the farm.* If due to circumstances beyond their control producers on the farm were unable to dispose of the excess ELS cotton acreage within the time established under paragraph (c), (d), or (e) of this section, any producer on the farm may file written application containing proper justification with the county office after expiration of the time established under the applicable paragraph requesting the State committee or an employee of the State office to authorize the county office to grant an extension of time for disposing of the excess ELS cotton acreage. If the county committee or the county office manager determines that producers on a farm were unable because of conditions beyond their control to dispose of the excess acreage by the dates applicable under paragraphs (c), (d), and (e) of this section, the county committee or the county office manager, with the approval of the State committee or an employee of the State office, may extend such date in order to provide the producers a reasonable opportunity to dispose of the excess ELS cotton acreage and shall notify the farm operator in writing of the final date so established for disposing of the excess ELS cotton acreage. In any case where the excess ELS cotton acreage on a farm was disposed of within the time allowed pursuant to this section, but payment of the estimated cost of measuring the excess acreage disposed of was not made, the county committee or the county office manager, with the approval of the State committee or an employee of the State office, may extend the date for payment of such costs and, upon payment thereof, the county committee shall provide for such measurement.

(h) *No adjustment of ELS cotton acreage to allotment after harvest.* No ELS cotton acreage shall be disposed of under this section for purposes of adjusting the planted acreage of ELS cotton to the farm allotment after any ELS cotton has been harvested from such planted acreage.

§ 722.278 *No credit for overplanting the farm allotment.* Any acreage planted to ELS cotton in 1959 in excess of the farm allotment for the 1959 crop of ELS cotton shall not be taken into account in establishing State, county, and farm allotments for the 1960 and subsequent crops of ELS cotton.

§ 722.279 *Availability of records.* The State and county committees shall make available for inspection by owners or operators of farms receiving ELS cotton allotments, all records pertaining to ELS cotton allotments and marketing quotas, including the allocations to the county from the State reserve and the total amount and the distribution of the county reserve.

§ 722.280 *Approval of determinations and additional authority for determination of farm allotments and farm marketing quotas*—(a) *Approval of State reserves, county allotments, and county reserves.* Determinations of State reserves and county allotments as provided for in § 722.266 (a) and (e) and of county reserves, as provided in § 722.267 (b), shall be subject to review and approval by the Secretary and such allotments and reserves as approved by the Secretary shall be published at a later date in an amendment to § 722.266 (g).

(b) *Approval of county committee determinations.* The State committee or employees of the State office shall review all farm allotments and may revise or require revision of any determinations made under §§ 722.267 to 722.277. ELS cotton allotments for both old and new ELS cotton farms shall be approved by the State committee or employees of the State office. No official notice of farm allotment and marketing quota shall be mailed to a farm operator until such approval has been obtained.

(c) *Additional authority for determination of farm allotments and farm marketing quotas.* In addition to the authority established in §§ 722.261 to 722.280 (b) for determination of farm allotments and farm marketing quotas for both old and new ELS cotton farms, including revised allotments to correct errors, such determinations may be made by the Secretary, an Assistant Secretary of Agriculture, or the Administrator of Commodity Stabiliziation Service. A notice conforming to the requirements of § 722.271 executed by any of the foregoing officials and mailed to the operator of the farm shall be deemed to meet the requirements of § 722.271. A copy of each notice shall be kept among the permanent records of the appropriate county committee and copies thereof shall be made available in accordance with the provisions of § 722.271 to any person who as operator, landlord, tenant, or sharecropper, is interested in the ELS cotton produced in 1959 on the farm for which the notice is given.

§ 722.281 *Review of farm allotment*—(a) *Review committees.* Any producer who is dissatisfied with the farm allotment established for his farm, or in the case of a new ELS cotton farm with the action of the county committee in refusing to establish a farm allotment for such farm, may, by making application in writing within 15 days after the mailing to him of the notice provided for in § 722.271, have such allotment reviewed by a review committee composed of three farmers appointed by the Secretary pursuant to section 363 of the act. The review committee shall, upon proper application, review the action of the county committee. In all cases, the review committee shall consider only such matters as under the applicable provisions of the act and the regulations in this part, are required or permitted to be considered by the county committee in establishing the allotment. Unless such application is made within 15 days, the original determination of the farm allotment shall be final. All applications for review shall be made in accordance with the marketing quota review regulations issued by the Secretary, a copy of which may be obtained from the county committee.

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the act.

§ 722.282 *Erroneous notices*—(a) *Erroneous notice of ELS cotton allotment.* In any case where through error the producer is officially notified in writing of a farm allotment larger than the final approved farm allotment and it is found by the county committee that such producer, acting solely on the information contained in the erroneous notice, planted an acreage to ELS cotton in excess of the final approved farm allotment, the producer will not be considered to have exceeded the farm allotment unless he planted an acreage in excess of the allotment shown on the erroneous notice. Before a producer can be said to have relied upon the erroneous notice the circumstances must have been such that the producer had no cause to believe that the allotment notice was in error. To determine this fact, the date of any corrected notice in relation to the time of planting; the size of the farm; the amount of ELS cotton customarily planted; and all other pertinent facts should be taken into consideration. The determination by the county committee under this section shall be subject to the approval of the State committee. The acreage planted to ELS cotton on the farm in excess of the final approved allotment shall be considered as excess acreage for purposes of § 722.278.

(b) *Erroneous notice of planted acreage.* In any case where it is discovered after all the ELS cotton acreage on the farm has been picked one or more times that the farm operator was officially notified in writing through error of an acreage planted to ELS cotton which is less than the acreage actually planted but the acreage actually planted is in excess of the farm allotment, the county committee shall determine whether or not the following conditions are met:

(1) The lack of compliance was caused by reliance in good faith by the farm operator on an erroneous official notice of measured acreage.

(2) Neither the farm operator nor any producer on the farm had actual knowledge of the error in time to adjust the excess acreage in accordance with § 722.277.

(3) The incorrect notice was the result of an error made by an employee of the county or State office in reporting, computing, or recording the ELS cotton acreage for the farm.

(4) Neither the farm operator nor any producer on the farm was in any way responsible for the error.

(5) The extent of the error in the erroneous notice was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

If the county committee determines that all five of the conditions are met, and the State administrative officer concurs upon review of the county committee determination, the acreage planted to ELS cotton on the farm will be considered as an acreage equal to the farm allotment.

NOTE: The reporting and record keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 6th day of November. Witness my hand and the seal of the Department of Agriculture.

[SEAL] E. L. PETERSON,
Acting Secretary.

[F. R. Doc. 58-9372; Filed, Nov. 12, 1958; 8:48 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter I—Determination of Prices

[Sugar Determination 871.11, Amdt. 2]

PART 871—SUGAR BEETS

1958 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1958, as amended (herein referred to as "act"), the determination of fair and reasonable prices for the 1958 crop of sugar beets (23 F. R. 5895, 7287) is hereby amended in the following respects:

1. Section 871.11 (a) (2) is amended by adding at the end thereof the following new subdivision (iii):

(iii) Notwithstanding the foregoing provisions of this paragraph, the price for sugar beets produced in the Imperial Valley, California and purchased from producers by Spreckels Sugar Company shall be not less than that determined pursuant to the 1958 crop sugar beet purchase contract between such processor and producers.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* An amendment to the fair price determination for the 1958 crop of sugar beets was issued on September 15, 1958, providing for fair and reasonable prices for 1958 crop sugar beets produced in the Imperial Valley, California. Prior to the issuance of the amended determination representatives of the California Beet Growers Association informed the Department that processors purchasing sugar beets in the Imperial Valley had proposed certain changes in purchase contracts for the 1958 crop, including a proposal for an increase in the charges to producers for transporting sugar beets grown in the Imperial Valley to processing factories located outside the Imperial Valley. The Association requested a public hearing to consider the effects of the proposed contract changes.

At the public hearing in El Centro, California in August 1958, processor representatives testified that freight rates on sugar beets to their plants located in central and southern California had increased and that they proposed to pass on to producers such increases in freight. Holly Sugar Corporation proposed to charge producers 60 cents per ton of beets shipped to its Dyer factory, or 18 cents per ton on all beets purchased by the Company in the Imperial Valley since only 30 percent of the Company's total production is shipped out of the Valley to the Dyer factory while the major portion of the crop is processed at the Carlton factory located in the Valley. This Company had not previously charged producers for transportation on beets to its Dyer factory. Union Sugar Division, Consolidated Foods Corporation, proposed to charge producers 72 cents per ton of beets. This Company processes all of the beets it purchases in the Imperial Valley at its plant located in central California and had charged producers 52 cents per ton of beets since the 1954 crop. American Crystal Sugar Company proposed to charge producers 60 cents per ton of beets. This Company also processes all beets purchased in the Imperial Valley at its factory located in central California and had charged producers 40 cents per ton of beets for the 1954 through 1956 crops and 60 cents per ton for the 1957 crop. Representatives of producers strongly objected to the increase in the freight charges proposed by these processors.

After consideration of the evidence presented at the hearing and analysis of the economic position of producers and processors, the Department issued an amended determination which includes specific amounts processors may charge producers for transporting 1958 crop sugar beets. For Holly Sugar Corporation the maximum charge is 12 cents per ton of beets shipped to its Dyer plant, or 4 cents per ton of all beets which the Company purchases in the Imperial Valley; for Union Sugar Division, Consolidated Foods Corporation, the maximum charge is 61 cents per ton of beets shipped to its factory at Betteravia; and for American Crystal Sugar Company the maximum charge is 51 cents per ton of beets shipped to its factory at Oxnard. The current total net freight costs on sugar beets for the 1958 crop, after allowances for rebates for shipments of refined sugar and elimination of the 3 percent Federal transportation tax, are estimated to be $2.80 per ton of sugar beets for Holly, $3.80 for Union, and $3.20 for American Crystal.

Recently District 9 (Imperial Valley) of the California Sugar Beet Growers Association and the Spreckels Sugar Company formally requested the Department to approve a 1958 crop sugar beet purchase contract under which the Company proposes to purchase beets from Imperial Valley producers and process such beets at either of the Company's two factories located in northern California.

The producers' Association in its letter to the Department stated (1) that the American Crystal Sugar Company announced, subsequent to the issuance of the determination, that it would not contract for sugar beets in the Imperial Valley for the 1958 crop after indicating a desire for 8,000 acres and having signed contracts covering a sizable portion of this acreage; (2) that a number of producers had prepared land for beets, applied fertilizer, and planted and irrigated the seed; (3) that the Association had sought a plan to salvage the crop of these producers who were already committed to grow sugar beets; (4) that the other two processors in the Valley had contracted to near capacity and that Spreckels Sugar Company agreed to study the possibility of an Imperial Valley campaign as a salvage operation; (5) that Spreckels offered producers its northern California 1958 crop contract, except that producers would pay $1.15 per ton of the freight costs of shipping beets to the processing factory and that the Company would not pay allowances for hauling beets from the farm to the railroad receiving station; (6) that District 9 had not changed its position that producers cannot participate in freight costs on sugar beets and make a reasonable profit on an average crop; (7) that notwithstanding its position on freight absorptions, District 9 fostered the contracting of beets with Spreckels Sugar Company even with high freight participation for the reasons that the Company had offered a favorable harvest schedule (May 15–June 25) which would in part offset the freight participation, that producers who had already spent considerable sums in land preparation, fertilizing and planting faced the prospect of a smaller loss by completing their sugar beet crop than by shifting to another crop at this late date, that the Company would be paying a much larger freight cost than other processors in the Valley, and that this Company presented the only practical plan to salvage the crop after the American Crystal Sugar Company announced its withdrawal from the Valley, and (8) that the proposed contract offered by Spreckels should be approved as fair and reasonable since it is one that may be mutually advantageous for the 1958 crop to certain producers and the company as an emergency arrangement only to avoid serious losses in the Imperial Valley.

The Spreckels Sugar Company in its letter stated that (1) certain producers in the Imperial Valley had asked the Company to contract for sugar beet acreage formerly contracted by American Crystal Sugar Company; (2) the Company was seriously disadvantaged because of the high freight rates which would be from $6.00 to $6.70 per ton for shipping beets from the Valley to factories of the Company located in northern California; (3) as it became clear that the 1958 crop of sugar beets in the Company's northern region would not meet expected volume levels the Company became interested in supplementing its regular supply with beets produced in the Imperial Valley; (4) the Company offered to contract with producers in the Valley for the production of sugar beets on about 4,500 acres; (5) the Company proposes to use its 1958 northern California contract, except that producers would be charged $1.15 per ton of sugar beets for transporting beets to the processing factories and producers would not be paid any allowance for hauling beets from the farm to the receiving station; (6) even with the $1.15 charge to producers the Company would absorb a much larger freight cost than other processors in the Valley; (7) the company believed the situation in the Imperial Valley is an emergency one this year; and (8) the Company recommended approval of the proposed contract as soon as practicable.

(b) *The amended 1958 price determination.* This amendment provides that the price for 1958 crop sugar beets purchased from producers in the Imperial Valley by the Spreckels Sugar Company is to be not less than that determined in accordance with the 1958 crop purchase contract between the Company and such producers.

Many producers in the Imperial Valley entered into cash rental leases for sugar beet acreage, prepared such land and planted sugar beets on the assumption that they would be able to continue to contract for the processing of their beets as in past years. After the American Crystal Sugar Company announced its withdrawal from the Valley producers were faced with an emergency which they had not anticipated. Since the other two processors who normally purchase sugar beets in the Valley had contracted to near capacity these producers would be unable to complete the production of their crops, thereby suffering substantial losses unless another processor became interested in contracting for beets in the Valley.

An examination of the contract proposed by Spreckels Sugar Company indicates that the scale of payments per ton of sugar beets is the same at the several levels of net returns from the sale of sugar and the various intervals of sucrose content of sugar beets as the payments provided in the contracts between producers and other processors in the Imperial Valley and that the period to be used for calculating net returns from the sale of sugar also is the same as that to be used by the other processors. The harvesting period specified in the Spreckels contract is favorable to producers as the sugar content of the beets tends to be highest during such period. The proposed contract does not include the payment of allowances to producers for hauling beets from the farm to the railroad receiving station. It has been customary for one of the other processors in the Valley to make such allowances while the other one has not.

Examination of factors which affect the economic position of producers and the processor indicates that favorable operations could not be anticipated by either party on the production and processing of sugar beets where the cost of transporting beets to the processing factory is from $6.00 to $6.70 per ton of beets with the producer absorbing $1.15 per ton of such cost. However, under the circumstances producers may have the opportunity to complete the 1958 crop of sugar beets on hand on which cost commitments already have been made and the processor may realize anticipated volume levels. Accordingly, the contract proposed by the processor and agreed to by producers to meet the emergency situation this year is deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing amendment to the determination will effectuate the price provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 301, 61 Stat. 929, as amended; 7 U. S. C. 1131)

Issued this 6th day of November 1958.

[SEAL] E. L. PETERSON, *Acting Secretary of Agriculture.*

[F. R. Doc. 58-9371; Filed, Nov. 12, 1958; 8:47 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter B—Economic Regulations

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

TEMPORARY AUTHORIZATION FOR NATIONAL DEFENSE TRANSPORTATION

By order of the Board, No. E-13137, dated November 5, 1958, the effectiveness of the provisions of § 207.11 was further extended to September 30, 1959.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425)

By the Civil Aeronautics Board.

Dated: November 7, 1958.

[SEAL] MABEL MCCART, *Acting Secretary.*

Order extending exemptions. The Board by Order No. E-10788, November 27, 1956, extended until December 1, 1957, previous authorizations which permitted Certificated Air Carriers (other than Alaskan), Certificated Cargo Carriers, Certificated Alaskan Air Carriers, and Large Irregular and Irregular Transport Carriers to engage in certain military charter operations not otherwise permitted by the Civil Aeronautics Act of 1938, as amended, the Board's Economic Regulations or individual exemption authorizations. The authority provided by the aforesaid order was extended until December 1, 1958, by Order No. E-11972.

Applications for further extension of their exemption authority have been filed by The Flying Tiger Line, Inc., Slick Airways, Inc., Seaboard & Western Airlines, Inc., and Alaska Airlines, Inc.

In support of these applications, the carriers generally allege substantial current participation in operations under Order No. E-10788, as extended; a continuing demand by the military departments for these services; existing contractual arrangements with the Department of Defense which extend beyond December 1, 1958; economic hardship if the authority is discontinued; assistance to the national defense, and a continuation of the circumstances which warranted earlier grants of this exemption authority.

There have been no objections to the extension of this exemption authority.

The Board has given careful consideration to all filings in this matter and to all other pertinent circumstances and finds that the circumstances which warranted grant of the military exemptions authorized by Order No. E-10788 continue to exist, and that, therefore, these exemptions should be extended beyond the termination date of December 1, 1958. The Board notes that by Order No. E-13040 dated September 30, 1958, the Board granted exemptions from sections 403 and 404 of the act for certain military contract operations until September 30, 1959. It appears administratively desirable to make the authority granted herein coterminus with the exemption authority provided by Order No. E-13040. Accordingly, we find that the enforcement of the provisions of section 401 of the Act, applicable Economic Regulation and orders to the extent that they would otherwise prevent the air transportation authorized herein, would be an undue burden upon the affected carriers by reason of the unusual circumstances affecting such operations and is not in the public interest.

It is ordered:

1. That the exemption authority granted by Board Order No. E-10788, subject to the terms and conditions therein contained, be and it hereby is extended to September 30, 1959;

2. That this order may be amended or revoked at any time in the discretion of the Board without hearing.

By the Civil Aeronautics Board.

[F. R. Doc. 58-9417; Filed, Nov. 12, 1958; 8:56 a. m.]

[Reg. ER-238]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND OF FOREIGN AIR CARRIERS

LETTER OF TARIFF TRANSMITTAL

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of November 1958.

Currently effective § 221.163 of Part 221 of the Board's economic regulations requires that all tariff publications filed with the Board be accompanied by a letter of tariff transmittal reciting specified information. By virtue of this filing requirement, such letter of transmittal becomes a public record, within the meaning of Public Notice PN 3, effective July 1, 1950, and is made available for inspection in the Board's public tariff room. Under these circumstances, the letter of tariff transmittal now filed without a copy does not meet the Board's need for a working copy as well as a public record of such document.

Accordingly, § 221.163 is being amended to require that all tariff publications be accompanied by an original and one copy of a letter of tariff transmittal. Heretofore, carriers desiring receipted copies of such a filing were required to file the letter of tariff transmittal in duplicate. As a result of this amendment, such carriers will be required to file the letter of tariff transmittal in triplicate.

Since this amendment is minor in nature and imposes no substantial burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the economic regulations (14 CFR Part 221) effective November 7, 1958, as follows:

1. By amending § 221.163 to read as follows:

§ 221.163 *Letter of tariff transmittal.* All tariff publications (including indexes of tariffs and adoption notices) filed with the Board shall be accompanied by a letter of tariff transmittal in duplicate in the form prescribed in § 221.240. Each letter of transmittal may include one or more tariff publications but passenger tariff publications shall not be included in the same letter of tariff transmittal with property tariff publications. If the filing carrier or agent desires a receipt for the filing, the letter of tariff transmittal shall be sent in triplicate and one copy thereof showing the date of receipt by the Board will be returned to the sender.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 403, 52 Stat. 992, as amended; 49 U. S. C. 483)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F. R. Doc. 58-9416; Filed, Nov. 12, 1958; 8:55 a. m.]

[Reg. ER-239]

PART 228—EMBARGOES ON PROPERTY

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of November 1958.

A notice of proposed rule-making was published in the FEDERAL REGISTER on March 8, 1958 (23 F. R. 1661) and circulated to the industry as Economic Regulations Draft Release No. 91, dated March 5, 1958, which proposed adoption by the Board of a new Part 228 to establish requirements for the content, public posting and distribution of embargo notices.

Under section 404 (a) of the Civil Aeronautics Act it is the duty of air carriers certificated to transport property to transport all property duly tendered, except to the extent of restrictions and limitations in tariffs, and except as otherwise provided in their certificates or by an order of the Board. However, from time to time the Board has received informal complaints from shippers regarding the refusal of air carriers certificated to transport property to accept property for transportation. While such embargoes may be imposed for valid reasons and may be of a temporary nature, they are often established without advance notice to shippers. The purpose of this regulation is to provide for the public posting and distribution by certificated air carriers of notices of embargoes as far in advance of the effective date of such embargoes as circumstances within the control of the air carrier will permit. The Board believes that this regulation will go far toward relieving persons seeking to avail themselves of the inherent advantages of air transportation of the penalty of added expense and loss of time which has frequently resulted from lack of reasonably adequate notice.

Upon consideration of the comments received, the term "embargo" has been defined as a refusal by a certificated air carrier, for a limited period, to accept for transportation any property (other than passenger baggage) duly tendered.

Whenever a certificated air carrier finds that it will be necessary to impose such an embargo, it is required by the regulation to give immediate public notice thereof by posting a notice in its offices where property of the kind affected by the embargo can reasonably be expected to be received, and by sending copies thereof to those connecting carriers which may be affected by the embargo.

A refusal of a shipment based upon a tariff or certificate provision is not deemed an embargo and an exception to the notice requirement is provided for when an embargo is authorized by Board order.

In view of the fact that the purpose of this regulation is to provide the shipping public with as much advance notice of an embargo as circumstances will permit, provision is made for the immediate posting of an embargo notice and, unless circumstances beyond the control of the air carrier necessitate a later posting of the notice, in no event less than 24 hours before the embargo becomes effective. When a notice is not posted 24 hours or more before an embargo takes effect, the air carrier is required to attach to the copies of the notice mailed to the Board a brief explanation of the circumstances which necessitated the late posting of the notice.

Interested persons have been afforded opportunity to participate in the formulation of the part of the economic regulations, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends the economic regulations (14 CFR Ch. I) effective by adding thereto a new Part 228, to read as follows:

AUTHORITY: §§ 228.1 to 228.6 issued under sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies secs. 404, 407, 52 Stat. 993, as amended, 1000, as amended; 49 U. S. C. 484, 487.

§ 228.1 *Definitions.* "Embargo" means the refusal by an air carrier for a limited period, to accept for transportation over any route or segment thereof, and to or from any area, or point or connecting carrier, any commodity, type or class of property (other than passenger baggage) duly tendered. Refusal to accept property for transportation in accordance with restrictions and limitations in the tariff or the certificate of an air carrier shall not be deemed an embargo.

§ 228.2 *Notice of embargo.* Whenever any certificated air carrier finds that it will be necessary for it to impose an embargo on the acceptance of any shipment, said air carrier shall give public notice thereof immediately, except when such embargo is authorized by order of the Board.

§ 228.3 *Contents of embargo notice.* The contents of the notice of embargo required by § 228.2 shall be legible and describe with particularity the property to be embargoed, specify the commodity or commodities, types or classes of property to which the embargo is applicable, and set forth the area, routes, or points affected, the date of its application and the duration if known, together with the reasons for the application of said embargo. If the embargo is applicable only to property transported on certain types of equipment, the equipment types and flights subject to such embargo shall be specified. In addition, the notice shall specify the date and hour that it was posted in accordance with § 228.4.

§ 228.4 *Nature of public notice.* The embargo notice required by this part shall be posted in a conspicuous and public place at each of the carrier's offices where property of the kind affected by the embargo can reasonably be expected to be received. Such notice shall be posted immediately and, unless circumstances beyond the control of the air carrier necessitate a later posting thereof, in no event less than 24 hours before the embargo becomes effective. Upon posting of said notice, one copy thereof shall be sent to each connecting carrier which may be affected by the embargo and two copies shall be mailed to the Tariffs Section of the Civil Aeronautics Board at Washington, D. C. When a notice is not posted 24 hours or more before an embargo takes effect, the air carrier shall attach to the copies mailed to the Board a brief explanation of the circumstances which necessitated the late posting of the notice.

§ 228.5 *Notice of termination or modification of embargo.* Except when the notice of embargo sets forth the specific date upon which the embargo will be lifted, a notice of the termination or modification of the embargo shall be posted, and copies thereof shall be sent to each connecting carrier and shall be filed with the Board in the same manner and to the same extent as the original notice of embargo.

§ 228.6 *Rule of construction.* This part shall not be construed as relieving any air carrier of its duty to furnish authorized transportation service or to observe all requirements of the Civil Aeronautics Act of 1938, as amended, and the rules and regulations promulgated thereunder.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F. R. Doc. 58-9418; Filed, Nov. 12, 1958; 8:56 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

Subchapter A—Test Fee Schedules

PART 200—GENERAL

PART 203—HEAT

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedules of fees are unnecessary for the reason that such procedures, because of the nature of these rules, serve no useful purpose. This revision is effective from November 3, 1958.

1. Part 200 is revised to read as follows:

AUTHORITY: §§ 200.1 and 200.2 issued under sec. 9, 31 Stat. 1450, as amended; 15 U. S. C. 277. Interpret or apply sec. 7, 70 Stat. 959; 15 U. S. C. 275a.

§ 200.1 *Tests performed by the National Bureau of Standards*—(a) *Statutory functions.* The National Bureau of Standards has been assigned in Public Law 619 of the 81st Congress (64 Stat. 371, 5 U. S. C. 271–286) the following functions:

(1) The custody, maintenance, and development of the national standards of measurements together with the provision of calibration services related to these standards.

(2) The determination of physical constants and properties of materials.

(3) The development of methods for testing materials, mechanisms and structures and the testing of materials, supplies and equipment.

(4) Cooperation in the establishment of standard practices, incorporated in codes and specifications.

(5) Advisory services to government agencies on scientific and technical problems.

(6) Invention and development of devices to serve special needs of the government.

The testing activities stem from the functions in subparagraphs (1), (3) and (4) of this paragraph.

(b) *Testing policy.* (1) Tests that the National Bureau of Standards undertakes are restricted to the following types:

(i) Tests involving comparison of standards or instruments with the national standards are made for both governmental agencies and private organizations or individuals.

(ii) Tests of devices or materials to determine compliance with specifications or claims are made for government agencies within the limits of available facilities and personnel. Such tests are made for private organizations or individuals only if the device or material is critical in scientific or industrial operations, and if suitable testing facilities are not available elsewhere.

(iii) Referee tests where private laboratories are unable to agree on the method of measurement, the results of tests, or the interpretation of these results, provided that the importance of the case justifies the test and that all parties agree in writing to accept and abide by the findings of the National Bureau of Standards.

(iv) Cooperative tests with national or international standardizing organizations are made to develop standards or specifications of mutual interest.

(2) Tests of the following types are not made for private organizations or individuals:

(i) Tests of devices and materials regularly made by commercial laboratories. (A Directory of Commercial and College Testing Laboratories is available from the American Society for Testing Materials, 1916 Race Street, Philadelphia 3, Pennsylvania.)

(ii) Tests of secret processes, or of inadequately described materials, devices, or processes.

(iii) Tests whose objective is public relations, advertising, or sales promotion.

(3) The National Bureau of Standards reserves the right to decline any request for testing, or calibration, temporarily or permanently, if the tests would interfere with other activities deemed by the Director to be of greater importance.

(c) *Request for tests.* (1) Except for tests included in the fee schedule a preliminary letter, stating clearly the tests desired, should be sent to the Bureau prior to any shipment to determine if and when and at which laboratory the Bureau can undertake the test. In general, the purpose of the test and the manner in which the results are to be used should be stated. A formal purchase order for the test should be sent prior to or at the time of shipment, to insure correct procedure in reporting, shipping, and billing.

(2) A test number will be assigned by the Bureau to each item or group of items accepted, and this test number should be referred to in all subsequent communications. If the apparatus submitted has been previously calibrated by the Bureau, reference should be made in the letter or order to the former test number.

(d) *Shipping and packing.* (1) Shipping charges, both to and from the Bureau, must be assumed by the applicant. Return shipments are made by the Bureau in accordance with its judgment of the best method of shipping unless specific instructions are received. Such instructions should be supplied at the time that arrangements are being made for the test. If a test number has been assigned prior to the shipment, this number should appear on the shipping container. If a test number has not been assigned at this time, an invoice, purchase order or letter should be enclosed in the shipment to insure adequate identification and a statement of the value of the equipment should be given.

(2) Care will be taken in handling apparatus at the Bureau, but Federal regulations require that the risk of damage either in shipment or in testing must be assumed by the applicant. Proper packaging is a responsibility of the applicant. In some sections of the fee schedule, suggestions are made on packing and shipping. In any case, the applicant should consider the nature of the equipment and pack it accordingly. Shipments containing fragile instruments or materials, glass, etc. should be clearly labeled. Attention is called to the availability of security express in shipping delicate instruments.

(e) *Identification.* The data certified or reported in the Bureau's tests pertain only to the individual item or piece of apparatus tested. It is therefore essential that this piece be identified uniquely by an appropriate number or symbol. In most cases, the manufacturer's name and serial numbers are used. When such a number is lacking, the applicant should provide an alternative identifying mark. If none is found, the Bureau will, in general, apply an appropriate one, usually the Bureau's test number for which an additional charge may be made.

(f) *Condition of apparatus.* All apparatus submitted for test must be in good operating condition. Repairs and adjustments should be attended to by the applicant prior to shipment. Apparatus not in good condition cannot be tested, nor can the Bureau undertake the repair or adjustment of any equipment, except by special arrangement. If it is evident that equipment has been abused or has not received proper care, a test will not ordinarily be conducted. If defects are found at the Bureau after the test has begun, this fact will be reported, the test will be terminated, a report issued summarizing such information as has been found, and a fee charged in accordance with the amount of work done.

(g) *Priority and time of test.* (1) In general, tests are undertaken in the order in which the requests are received, provided that the proper arrangements have been made and provided that the information necessary for test performance has been received by the time the test is scheduled to start. When it is desired that apparatus be out of normal service for a minimum time, arrangements should be made in advance for the setting of a specific date for the test; shipment can then be made in accordance with this date.

(2) Deviations from this procedure may be necessary if there is urgent need for particular tests by the Government itself. In those cases—for example, in the field of metrology (fee schedule 202), where a large number of tests are continually underway—certain priorities are necessary. The fee schedule provides this information.

(3) The time for the completion of tests depends on a number of factors. Some tests require considerable time in themselves, as is indicated in the fee schedules. The condition of submitted equipment, the test load in the Bureau's laboratories, and emergency work for the Government are other factors that enter into consideration. Time estimates made by the Bureau are therefore tentative.

(h) *Witnessing of tests.* The Bureau welcomes scientists and engineers who may wish to visit its laboratories and discuss test methods. However, visitors will not ordinarily be permitted to witness the actual carrying out of highly precise measurements because their presence introduces distraction that may lead to errors or delays. This policy may be waived in those cases where the visitor can be of service in setting up apparatus of a new or unusual nature, in the case of referee tests, or in other cases which the legal validity of the result may require the presence of duly authorized witnesses.

(i) *Reports of test.* Results of tests are issued in one of three forms: "Certificates," "Test Reports," and "Statements of Test by Sampling."

(1) NBS Certificates are official documents used to certify instruments, devices, mechanisms, and standards that comply with identified specifications recognized by the Bureau. (Certificates may be issued if required by State law whether or not the item complies in all respects with such specifications, if it is apparent that the item will perform its designed function.) Certificates are issued only for items that are uniquely identified.

(2) NBS Test Reports are used to report calibration or test results for instruments, devices, mechanisms, and standards for which there are no recognized specifications; calibration or test results for instruments, devices, mechanisms, and standards that do not comply in all respects with recognized specifications or the higher standards required for certificates; and test results for individual commodities.

(3) NBS Statement of Test by Sampling are used to identify individual lots, deliveries, etc. that have been tested and found acceptable by sampling procedures under NBS control.

(j) *Use of test results.* (1) The results of tests are pertinent only to the particular device or specimen tested and their application to other items of the same lot or type may not be warranted and therefore is not authorized by the National Bureau of Standards. However, the Bureau may declare an entire lot of nominally identical items does or does not meet stated requirements for acceptance on the basis of tests on a sample of instruments or objects drawn from the lot in accordance with an approved sampling procedure.

(2) The National Bureau of Standards does not "approve," "recommend," or "endorse" any proprietary product, or material as a class or group, and results in NBS certificates or reports shall not be used in advertising or sales promotion to indicate either explicitly or implicitly endorsement of the product or material by the National Bureau of Standards.

(k) *Fees for tests.* (1) The basic act of March 3, 1901 (31 Stat. 1449) establishing the Bureau provides that for all comparisons, calibrations, tests, or investigations except for the Federal Government or State Governments a fee shall be charged sufficient to compensate the National Bureau of Standards for the entire cost of the services. This provision was subsequently modified by the Economy Act of 1932 (47 Stat. 410–417) which authorizes other Federal agencies to reimburse the Bureau for services rendered. Accordingly, charges are made for all tests except (i) those performed for State Governments, and (ii) those performed for other Federal agencies when the Director has specifically authorized them to be made without charge.

(2) This fee schedule is published subject to the above-mentioned basic act which authorizes the Secretary of Commerce, from time to time, to make regulations regarding the payment of fees, the limits of tolerance to be obtained in standards submitted for verification and related matters.

(l) *Billing charges.* The minimum billing charge for any test request accepted by the Bureau is $3.00, unless otherwise indicated in a particular fee schedule. Fees for tests include the cost of preparation of an original certificate or report. Copies of certificates and reports are not ordinarily issued unless the applicant has shown a technical need for them. The charge for carbon copies is $0.25 for each of the first three copies and $1.00 for each additional set of one to five carbon copies. Copies of certificates or reports requested subsequent to the date of test will be supplied at a minimum cost of $1.00. All checks should be made payable to NBS, Department of Commerce.

§ 200.2 *Location of laboratories.* The tests listed in Schedules 201 to 210, inclusive (Parts 201, 202, 203, 204, 205, 206 and 210 of this subchapter), are performed in the laboratories of the National Bureau of Standards at Washington (25), D. C. Tests and calibrations of High Frequency and Microwave Standards or other radio or microwave equipment are performed by the Radio Standards Laboratory of the National Bureau of Standards at Boulder, Colorado and cost estimates of proposed tests or calibrations will be made. Many of the tests listed in Schedule 201 can also be performed at the Electronic Calibration Center of the Boulder laboratories, although in some cases only over limited ranges. In general, electrical tests at frequencies higher than 30 kc/s are made at Boulder and tests at lower frequencies are made either at Washington or at Boulder. (Exceptions: measurements of the direct capacitance of small range capacitors (§ 201.105 of this subchapter) at 465 kc/s are currently made only at Washington.) Inquiries concerning tests (giving full details of ranges, frequencies, burdens, etc.) and shipment of apparatus should be directed in accordance with the foregoing. If apparatus is to be tested at both high and low frequencies, arrangements may be initiated with either laboratory. The cost of shipping the apparatus between laboratories will be billed to the applicant.

2. Part 203 is revised to read as follows:

TEMPERATURE MEASUREMENTS

Sec.
203.101 Laboratory thermometers.
203.102 Thermocouples, thermocouple materials, and pyrometer indicators.
203.103 Resistance thermometers.
203.104 Clinical thermometers.
203.105 Optical pyrometers and ribbon filament lamps.

THERMODYNAMICS

203.201 Gas calorimeter.

AUTOMOTIVE

203.501 Internal combustion engine fuels.

AUTHORITY: §§ 203.101 to 203.501 issued under sec. 9, 31 Stat. 1450, as amended; 15 U. S. C. 277. Interpret or apply sec. 7, 70 Stat. 959; 15 U. S. C. 275a.

TEMPERATURE MEASUREMENTS

§ 203.101 *Laboratory thermometers.* Only thermometers identified uniquely by serial number will be accepted for test.

Item	Description	Fee
203.101a	Thermometers, testing at points from 0 to 100° C inclusive, or from 32 to 212° F inclusive, for each point tested	$5.50
203.101b	Thermometers, testing at points from 101 to 300° C inclusive, or from 213 to 600° F inclusive, for each point tested	11.00
203.101c	Thermometers, testing at points from 301 to 500° C inclusive, or from 601 to 950° F inclusive, for each point tested	19.00
203.101d	Thermometers, testing at points from −1 to −110° C inclusive, or from 31 to −166° F inclusive, for each point tested	22.00
203.101e	Thermometers, testing in liquid air, oxygen, or liquid nitrogen (−183 to −196° C) for each point tested	34.00
203.101f	Calorimeter thermometers	45.00
203.101g	Beckmann thermometers, with 5° or 6° scale, testing at 1° intervals by comparison with precision standards	55.00
203.101h	When instruments submitted are found to be unsuitable for test or unreliable a charge will be made to cover the cost of the work done. Minimum fee $1.00.	
203.101i	Preliminary examination for foreign material in the mercury column and bulb and for a separated mercury column will be made as required. Separated mercury column will be reunited provided this can be accomplished readily. Maximum fee $2.50.	
203.101z	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 203.102 *Thermocouples, thermocouple materials and pyrometer indicators.* (a) Only the bare wires are required in order to perform the thermocouple calibrations in this schedule. It is preferable not to send insulating and protecting tubes, as the rate of breakage of these in shipment is high. If the thermocouple is furnished mounted (as in a protection-tube assembly) a charge of $5.00 will be made for dismantling the mounting, and the various parts will be returned to the sender without reassembling them.

(b) Thermocouple length requirements listed below are exclusive of lead wire. Lead wire need not be sent with thermocouples.

(c) All thermocouple calibration data furnished in certificates and reports will be on the basis of a reference function temperature of 0° C. or 32° F.

(d) The calibration or test of an article will not be undertaken if, in our opinion, the article will not yield the specified accuracy, or if it possesses such unusual characteristics as to prevent the carrying out of the calibration or test at a reasonable cost.

Item	Description	Fee
203.102a	High temperature thermocouples and thermocouple materials. Minimum length 24 inches. Certification of corresponding values of temperature and emf of a thermocouple material against the platinum standards of the NBS or of temperature and emf of a thermocouple at any 4 to 15 points within the range 0° to 1450° C (32° to 2650° F)	$75.00
	The certified accuracy of calibration of platinum vs. platinum-rhodium thermocouples is 0.5 degrees from 0° to 1100° C and ranges from 0.5 degree at 1100° to 2 degrees at 1450° C. Results above 1100° are obtained by extrapolation.	
	The certified accuracy of calibration of base-metal thermocouples is 1 degree in the range 0° to 1100° C (32 to 2000° F). Base-metal thermocouples are not calibrated above 1100° C (2000° F).	
203.102b	High temperature thermocouples and thermocouple materials. Certification as per item 203.102a at less than 4 points, per point	25.00
	Minimum charge per thermocouple	50.00
203.102c	Standard platinum vs. platinum-rhodium thermocouples. The thermocouple shall be at least 30 inches long and made of wire not less than 0.014 inch in diameter. Certification of the emf of a thermocouple at any of the following thermometric fixed points, per point	57.00
	Freezing points of zinc, antimony, silver, and gold. Accuracy of certification 2 microvolts (about 0.2° C).	
203.102d	Standard platinum vs. platinum-rhodium thermocouples. The thermocouple shall be at least 30 inches long and made of wire not less then 0.014 inch in diameter. Primary calibration at all of the fixed points listed in item 203.102c plus certification of not more than 15 corresponding values of emf and temperature in the range, 0° to 1450° C. The certified accuracy of calibration is 0.3° from 0° to 1100° C and ranges from 0.3° at 1100° to 2° at 1450° C. Accuracy of certification at the fixed points is 2 microvolts. If the submitted thermocouple meets the International Temperature Scale requirements for standard thermocouples (see the International Temperature Scale of 1948 by H. F. Stimson, J. Research NBS, 42, 209, 1949), a quadratic equation fitted at the freezing points of antimony, silver, and gold will also be furnished	200.00
203.102e	High temperature thermocouples and thermocouple materials. Certification of interpolated corresponding values of emf and temperature as per item 203.102a or 203.102d, per point	2.00

Item	Description	Fee
203.102f	Base-metal thermocouples. Minimum length 36 inches. Certification of corresponding values of emf, and temperature to an accuracy of about 0.1° in the range 0° to −120° C., per point	$18.25
	Minimum charge per thermocouple	36.50
203.102g	Base-metal thermocouples. Minimum length 36 inches. Certification of corresponding values of emf, and temperature to an accuracy of about 0.1° in the range 0° to 500° C., per point	17.00
	Minimum charge per thermocouple	34.00
203.102h	Base-metal thermocouples. Minimum length 36 inches. Certification of corresponding values of emf and temperature to an accuracy of about 0.1° in the range −183° to −196° C., per point	23.00
	Minimum charge per thermocouple	46.00
203.102i	Pyrometer indicators. Calibration of single scale of meter of single dial of potentiometer (reference junction compensator counting as a dial)	23.00
203.102j	Pyrometer indicators. Calibration of each additional dial of a multi-dial instrument (reference junction compensator counting as a dial) or of each additional range of each dial or scale of a multi-range instrument	8.00
	Calibration of a thermocouple and pyrometer indicator as a unit will be charged for as if the thermocouple and indicator were separately calibrated.	
203.102z	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 203.103 *Resistance thermometers.* Resistance thermometers will normally be tested only if they may reasonably be expected to meet the requirements for certification as a standard on the International Temperature Scale. In general, this requires a 4-lead resistor of very pure platinum hermetically sealed in a protecting tube.

Item	Description	Fee
203.103a	Standard platinum resistance thermometers—calibration at the ice, steam, and sulfur points. Table will be furnished with entries at 1-degree intervals	$105.00
203.103b	Standard platinum resistance thermometers—calibration under 203.103a and at the oxygen point. Table will be furnished with entries at 1-degree intervals	150.00
203.103c	Calorimetric type platinum resistance thermometers—calibration at the ice and steam points and at one intermediate point. Table will be furnished with entries at 1-degree intervals	105.00
203.103d	Capsule-type platinum resistance thermometers—comparison calibration over the range from 12° to 90° K. Results will be in the form of a table with entries at 0.1-degree intervals	330.00
203.103e	Determination of the average temperature coefficient of electrical resistance over the interval 0° to 100° C. Minimum length, 16 inches. Samples must have a resistance of at least 0.1 ohms per foot at the ice point	60.00
203.103f	Each additional table expressing the results of test under items 203.103a, b, or c	30.00
	Additional tables under item 203.103d are not available unless requested at the time of test.	
203.103g	Item 203.103f if requested at the same time as the test of the thermometer under items 203.103a, b, c, or d	25.00
203.103y	When instruments submitted are found to be unsuitable for test or unreliable, a charge will be made to cover the cost of the work done.	

Item	Description	Fee
203.103z	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 203.104 *Clinical thermometers.* Clinical thermometers marked "Government Tested" or its equivalent will not be accepted for test. Only thermometers identified by serial numbers will be accepted for test.

Item	Description	Fee
203.104a	For any number of thermometers (greater than 79); tested for compliance with the current edition of the Commercial Standard for Clinical Thermometers, for each thermometer tested	$1.00
203.104b	For any number of thermometers (20 to 79 inclusive) tested for compliance with the current edition of the Commercial Standard for Clinical Thermometers, for each thermometer tested	3.00
203.104c	For any number of thermometers (less than 20) tested for compliance with the current edition of the Commercial Standard for Clinical Thermometers, for each thermometer tested	5.00

§ 203.105 *Optical pyrometers and ribbon filament lamps.* (a) Optical pyrometers and ribbon filament lamps submitted for calibration and test should be accompanied by an order requesting the test and specifying the Fee Schedule Item Number. If desired, the calibration points may be specified. A bill will be rendered at the completion of the work.

(b) The calibration or test of an article will not be undertaken if it possesses such unusual characteristics as to prevent the carrying out of the calibration or test at a reasonable cost. If, in the course of a calibration or test, it is found that the article is inferior to its general class, a report will be issued giving the results obtained. In such cases, a fee covering the cost of the work performed will be charged.

Item	Description	Fee
203.105a	Optical pyrometers: Calibration of low range; 4 to 12 certified values above 800° C	$150.00
203.105b	Optical pyrometers: Additional ranges; 4 to 12 certified values in each range, per range	98.00
203.105c	Optical pyrometers: 3 or fewer certified values, 800° C to 2400° C	90.00
203.105d	Ribbon filament lamps: Certified values of brightness temperature (at wavelength of 0.65 microns) versus direct current at 6 to 16 points on the range, 800° to 2300° C	125.00
203.105e	Ribbon filament lamps: Certified values of brightness temperature (at wavelength of 0.65 microns) versus direct current at 5 or fewer points in the range, 800° to 2300° C	71.00
203.105f	Additional interpolated values as per items 203.105a, 203.105b, 203.105d, per point	1.75
203.105z	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

THERMODYNAMICS

§ 203.201 *Gas calorimeters.*

Item	Description	Fee
203.201z	Test of gas calorimeter, water flow type, calorimeter only. Fees will be charged dependent upon the nature of the test.	

AUTOMOTIVE

§ 203.501 *Internal combustion engine fuels.* The purpose of detonation tests is to determine a fuel's resistance to combustion knock. These tests are made according to latest revisions of Standard ASTM test methods.

(a) *Item a.* Includes two types of tests, (1) Knock Characteristics of Motor Gasoline (Motor Method), ASTM D-357, (2) Knock Characteristics of Motor Gasoline (Research Method), ASTM D-908. The minimum amount of sample required for either subparagraph (1) or (2) of this paragraph is one quart.

(b) *Item b.* Cetane (Ignition Quality) of Diesel Fuels, ASTM D-613. The minimum sample required is two quarts.

NOTE: For these tests to be of maximum significance, samples should be obtained in accordance with ASTM Procedure D-270 insofar as practicable.

Item	Description	Fee
[1] 203.501a	Knock rating of motor fuels	$50.00
[1] 203.501b	Cetane rating of diesel fuels	50.00
203.501c	Measurement of physical properties of primary reference fuels for octane number determination	$41.00
203.501z	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

[1] The fee for each of two or more tests submitted at the same time may be reduced by $6.00, giving a fee of $44.00.

[SEAL] A. V. ASTIN,
Director,
National Bureau of Standards.

Approved: November 4, 1958.

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 58-9346; Filed, Nov. 12, 1958; 8:45 a. m.]

TITLE 21—FOOD AND DRUGS

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

Subchapter B—Food and Food Products

PART 29—FRUIT BUTTERS, FRUIT JELLIES, FRUIT PRESERVES, AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

STANDARD OF IDENTITY FOR FRUIT JELLY

In the matter of amending the standard of identity for fruit jelly:

A notice of proposed rule making was published in the FEDERAL REGISTER of September 5, 1958 (23 F. R. 6836), setting forth the proposal of the National Preserver's Association, 1346 Connecticut Avenue NW., Washington, D. C., to amend the standard of identity for fruit jelly. The notice invited all interested persons to submit views and comments on the proposal.

Upon consideration of the views and comments submitted, the information furnished by the petitioner, and other relevant information, it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal of the petitioner.

Now, therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U. S. C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045): *It is ordered*, That § 29.2 ***Fruit jelly; identity; label statement of optional ingredients*** (21 CFR 29.2) be amended in the following respects:

1. Paragraph (a) is amended by adding thereto, immediately preceding the concluding sentence of the section beginning "Such mixture is concentrated * * *", a new subparagraph reading as follows:

(7) Cinnamon flavoring, other than artificial flavoring, and harmless artificial red coloring in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple or crabapple, or both such fruits.

2. Paragraph (g) is amended by adding thereto the following new subparagraph:

(7) When optional ingredient (a) (7) is used, the label shall bear the statement "flavoring and artificial coloring added" or "with added flavoring and artificial coloring." The word "flavoring" in such statement may be preceded by the word "cinnamon."

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of publication of this order in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provision that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U. S. C. 341)

Dated: November 5, 1958.

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

[F. R. Doc. 58-9377; Filed, Nov. 12, 1958; 8:49 a. m.]

Subchapter C—Drugs

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

EXEMPTION FROM CERTIFICATION REQUIREMENTS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 507, 701, 59 Stat. 463, as amended; 52 Stat. 1055; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), and pursuant to the Administrative Procedure Act (sec. 3 (a) (3), 60 Stat. 237; 5 U. S. C. 1002), the following statement is issued:

§ 146.12 *Antibiotic drugs exempted from certification requirements under section 507 (c) of the Federal Food, Drug, and Cosmetic Act.* (a) Section 507 (a) of the Federal Food, Drug, and Cosmetic Act directs the Secretary of Health, Education, and Welfare to promulgate regulations that shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof. Subsection (c) of that section of the act requires the Secretary to exempt any drug or class of drugs from the certification requirements when in his judgment such requirements are not necessary to insure their safety and efficacy of use. Under the provisions of that subsection, a variety of antibiotic drugs have been exempted from predistribution testing and certification requirements, including those intended for human, veterinary, and miscellaneous uses.

(b) From time to time the Food and Drug Administration has received requests from interested persons for information concerning the kinds of antibiotic preparations that have been exempted from certification. Since there may be others who are interested in having this information, the names of the exempt drugs are listed in subparagraphs (1), (2), and (3) of this paragraph. All the preparations listed, with the exception of crystalline penicillin G sodium and crystalline penicillin G potassium, are exempt only if they comply with certain requirements prescribed for them by the exempting regulations; furthermore, if crystalline penicillin G sodium or crystalline penicillin G potassium is used in the manufacture of another drug, it must comply with the standards of identity, strength, quality, and purity specified for its use in the manufacture of such drug.

(1) The following antibiotic drugs intended for human use have been exempted from certification:

Crystalline penicillin G sodium.
Crystalline penicillin G potassium.
Buffered crystalline penicillin G (sodium) for parenteral use.
Buffered crystalline penicillin G (potassium) for parenteral use.
Penicillin troches.

(2) The following antibiotic drugs intended for veterinary use have been exempted from certification:

Buffered crystalline penicillin G (sodium) for parenteral use.
Buffered crystalline penicillin G (potassium) for parenteral use.
Penicillin tablets.
Buffered penicillin powder.
Benzathine penicillin G oral suspension.
Penicillin-streptomycin tablets.
Penicillin-dihydrostreptomycin tablets.
Penicillin-streptomycin powder with or without added vitamin substances, intended for oral use.
Penicillin-dihydrostreptomycin powder with or without added vitamin substances, intended for oral use.
Streptomycin for inhalation therapy.
Dihydrostreptomycin for inhalation therapy.
Streptomycin sulfate powder oral veterinary.
Dihydrostreptomycin powder oral veterinary.
Streptomycin hydrochloride (or sulfate) solution oral veterinary.
Streptomycin-dihydrostreptomycin for inhalation therapy.
Streptomycin sulfate-dihydrostreptomycin sulfate powder oral veterinary.
Chlortetracycline powder, tetracycline powder, and tetracycline hydrochloride powder for oral use.
Chlortetracycline hydrochloride tablets.
Crude chlortetracycline oral veterinary.
Chlortetracycline hydrochloride powder topical and tetracycline hydrochloride powder topical.
Soluble bacitracin methylene disalicylate.
Bacitracin powder for oral use.
Feed grade bacitracin and feed grade zinc bacitracin oral veterinary.
Antibiotic-medicated animal feeds that are intended for use in promoting the growth rate of certain animals.
Antibiotic-medicated animal feeds that also contain prescribed amounts of one or more active drug ingredients and are intended for use in promoting the growth rate of certain animals.
Antibiotic-medicated animal feeds that contain prescribed amounts of specific antibiotics and are intended for use in the prevention or treatment of specific diseases of certain animals.
Antibiotic-medicated animal feeds that also contain prescribed amounts of one or more other active drug ingredients and are intended for use in promoting the growth rate (because of the antibiotics) and for the prevention or treatment of specific diseases (because of the other active drug ingredients) of certain animals.
Antibiotic-medicated animal feeds that contain prescribed amounts of antibiotics and also prescribed amounts of one or more other active drug ingredients and are intended for use in the prevention or treatment of specific diseases of animals which are amenable to the combination drug.

(3) The following antibiotic drugs for miscellaneous uses have been exempted from certification:

Antibiotics for agricultural use.
Antibiotics for diagnostic use.

Antibiotics for fish diseases.
Antibiotics for use as preservatives of bull semen.
Antibiotics for use as preservatives of biological drugs.
Antibiotics for use in teaching, law enforcement, research, and analysis.

(c) It is reasonable to assume that other antibiotic preparations will be exempted from the certification requirements. However, because of their unique importance in the treatment of serious infections suffered by large segments of the population, it would not be in the best interests of the public health to exempt any antibiotic drug from certification until experience has proved, that all manufacturers can consistently produce batches of the drug that are safe and efficacious for use. Exceptions to this policy will be considered when it has been determined that a preparation is no longer of sufficient importance to the public health to require the certification type of control, or when the preparation is intended for use solely in a manner that will not affect the public health.

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

Dated: November 5, 1958.

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

[F. R. Doc. 58-9375; Filed, Nov. 12, 1958; 8:48 a. m.]

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

ANIMAL FEED CONTAINING ANTIBIOTIC DRUGS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), the general regulations for the certification of antibiotic and antibiotic-containing drugs (23 F. R. 6421) are amended as indicated below:

Section 146.26 (b) is amended by adding thereto the following new subparagraph:

§ 146.26 *Animal feed containing penicillin.* * * *

(b) * * *

(41) It is intended for use solely as an aid in reducing the shedding of leptospirae in swine and as an aid in reducing abortion rate and mortality of new-born pigs in the presence of leptospirosis; it contains, per ton of feed, 400 grams of chlortetracycline; its labeling bears information that it is to be administered to the animals for 14 days and a warning that its use must be discontinued 10 days before the treated animals are slaughtered for human consumption.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, since it relaxes existing requirements, and since it would be contrary to public interest to delay providing for the aforesaid amendments.

I further find that animal feed containing antibiotic drugs and conforming with the conditions prescribed in this order need not comply with the requirements of sections 502 (*l*) and 507 of the Federal Food, Drug, and Cosmetic Act in order to ensure their safety and efficacy.

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

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies secs. 502, 52 Stat. 105, as amended, sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 352, 357)

Dated: November 5, 1958.

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

[F. R. Doc. 58-9376; Filed, Nov. 12, 1958; 8:49 a. m.]

TITLE 23—HIGHWAYS

Chapter I—Bureau of Public Roads, Department of Commerce

PART 20—NATIONAL STANDARDS FOR REGULATION BY STATES OF OUTDOOR ADVERTISING SIGNS, DISPLAYS AND DEVICES ADJACENT TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

AUTHORITY: §§ 20.1 to 20.10 issued under sec. 131, 72 Stat. 904; 23 U. S. C. 131.

§ 20.1 *Purpose.* (a) In Title 23, United States Code, section 131, hereinafter called the "act", the Congress has declared that:

(1) To promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the National System of Interstate and Defense Highways, hereinafter called the "Interstate System", it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to such system by controlling the erection and maintenance of outdoor advertising signs, displays and devices adjacent to that system.

(2) It is a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within six hundred and sixty feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System constructed upon any part of right-of-way, the entire width of which is acquired subsequent to July 1, 1956, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary of Commerce.

(b) The standards in this part are hereby promulgated as provided in the act.

§ 20.2 *Definitions.* The following terms when used in the standards in this part have the following meanings:

(a) "Acquired for right-of-way" means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) "Centerline of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate highway, or the centerline of the main-traveled way of a non-divided Interstate highway.

(c) "Controlled portion of the Interstate System" means any portion which

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into an agreement with the Secretary of Commerce as provided in the act; and

(3) Is not excluded under the provisions of the act which state that upon application of a State, any such agreement may, within the discretion of the Secretary of Commerce, consistent with the national policy, provide for excluding from application of the national standards segments of the Interstate System which traverse incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use is clearly established by State law as industrial or commercial.

(d) "Entrance roadway" means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an Interstate highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(e) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) "Exit roadway" means any public road or turning roadway, including deceleration lanes, by which traffic may leave the main-traveled way of an Interstate highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(g) "Informational site" means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.

(h) "Legible" means capable of being read without visual aid by a person of normal visual acuity.

(i) "Maintain" means to allow to exist.

(j) "Main-traveled way" means the traveled way of an Interstate highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(k) "Protected areas" means all areas inside the boundaries of a State which are adjacent to and within six hundred and sixty feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal to the centerline of the highway, "protected areas" also means all areas inside the boundary of such State which are within six hundred and sixty feet of the edge of the right-of-way of the Interstate highway in the adjoining State.

(l) "Scenic area" means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.

(m) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.

(n) "State" means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.

(o) "State law" means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.

(p) "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(q) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(r) "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of an interchange.

(s) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 20.3 *Measurements of distance.* (a) Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

(b) All distances under § 20.7 (a) (2) and (b) shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

§ 20.4 *Signs that may not be permitted in protected areas.* Erection or maintenance of the following signs may not be permitted in protected areas:

(a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities,

(b) Obsolete signs,

(c) Signs that are not clean and in good repair,

(d) Signs that are not securely affixed to a substantial structure, and

(e) Signs that are not consistent with the standards in this part.

§ 20.5 *Signs that may be permitted in protected areas.* (a) Erection or maintenance of the following signs may be permitted in protected areas:

Class 1—Official signs. Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in State or Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2—On premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and § 20.8 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this Class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate highway.

Not more than one such sign, visible to traffic proceeding in any one direction on any one Interstate highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this Class more than 50 feet from the advertised activity.

Class 3—Signs within 12 miles of advertised activities. Signs not prohibited by State law which are consistent with the applicable provisions of this section and §§ 20.6, 20.7 and 20.8 and which advertise activities being conducted within 12 air miles of such signs.

Class 4—Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by State law which are consistent with the applicable provisions of this section and §§ 20.6, 20.7 and 20.8 and which are designed to give information in the specific interest of the traveling public.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, used or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation, and places for camping, lodging eating and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils or lubricants being offered for sale at such a place. Signs displaying any other trade name may not be permitted under Class 4.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

§ 20.6 *Class 3 and 4 signs within informational sites.* (a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with the Regulations for the Administration of Federal-Aid for Highways. The location and frequency of such sites shall be as determined by agreements between the Secretary of Commerce and the State highway departments.

(b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:

(1) No sign may be permitted which is not placed upon a panel.

(2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.

(3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main-traveled way or a turning roadway.

(4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.

(5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.

(6) No sign may be permitted which moves or has any animated or moving parts.

(7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.

(8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion

of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

§ 20.7 *Class 3 and 4 signs outside informational sites.* (a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:

(1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;

(2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.

(3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either subparagraph (1) or (2) of this paragraph.

(b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:

(1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

Distance from intersection:	*Number of signs*
0-2 miles	0.
2-5 miles	6.
More than 5 miles	Average of one sign per mile.

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the Interstate highway.

(2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.

(3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.

(4) Such signs visible to Interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the Interstate highway.

(5) No such signs may be permitted in scenic areas.

(6) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one Interstate highway.

(c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

§ 20.8 *General provisions.* No Class 3 or 4 sign may be permitted to be erected or maintained pursuant to § 20.7, and no Class 2 sign may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

(b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(e) No sign may be permitted which moves or has any animated or moving parts.

(f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

§ 20.9 *Exclusions.* (a) The standards in this part shall not apply to markers, signs and plaques in appreciation of sites of historical significance for the erection of which provisions are made in an agreement between a State and the Secretary of Commerce, as provided in the Act, unless such agreement expressly makes all or any part of the standards applicable.

(b) Whenever a State applies pursuant to the Act for the exclusion from application of the standards in this part to segments of the Interstate System which traverse incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control or which traverse other areas where the land use is clearly established by State law as industrial or commercial, and the Secretary of Commerce in the exercise of his sound discretion believes that the exclusion of such segments will be consistent with the national policy declared in the act, the agreement between him and the State highway department will provide for such exclusion.

§ 20.10 *State regulations.* A State may elect to prohibit signs permissable under the standards in this part without forfeiting its rights to any benefits provided for in the act.

Dated: November 10, 1958.

Recommended:

B. D. TALLAMY,
Federal Highway Administrator.

Issued:

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 58-9440; Filed, Nov. 10, 1958; 12:43 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—VETERANS CLAIMS

INCREASE IN DISABILITY COMPENSATION RATE

A new § 3.1527 is added to read as follows:

§ 3.1527 *Increase in disability compensation rate for certain blind veterans of World War I, World War II, Korean conflict, and peacetime service*—(a) *Scope.* Section 1, Public Law 85-652, amends section 315 (m) of the Veterans' Benefits Act of 1957 by inserting immediately before, "or has suffered blindness in both eyes" the following: "or has suffered blindness in both eyes having only light perception."

(b) *Effective date.* Section 2, Public Law 85-652, makes the increased rate effective September 1, 1958.

(c) *Adjudication procedures.* Increase is payable from September 1, 1958, without necessity for claim for increase by or on behalf of the veteran. (Instruction 1, Public Law 85-652.)

(Sec. 210, 71 Stat. 91; 38 U. S. C. 2210)

This regulation is effective November 13, 1958.

[SEAL] ROBERT J. LAMPHERE,
Acting Deputy Administrator.

[F. R. Doc. 58-9366; Filed, Nov. 12, 1958; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 1-8; FCC 58-1048]

PART 1—PRACTICE AND PROCEDURE

PROCESSING OF STANDARD BROADCAST APPLICATIONS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of November 1958;

The Commission having under consideration an amendment of § 1.354 (h) of its rules, which concerns the assignment of file numbers to applications for standard broadcast facilities;

It appearing that § 1.354 (h) should be amended to make more definite the criteria for assigning new file numbers to applications for new standard broadcast facilities which are amended to specify changes in station location and in ownership, and to provide that an application for changes in facilities of an existing station filed by the licensee thereof will not be given a new file number even after the license (construction permit) of the existing station is assigned or transferred to new parties; and

It further appearing that these proposed changes would be equitable and fair to all applicants; and

It further appearing that the amendment herein is procedural in nature and is a relaxation of existing requirements; and that, therefore, compliance with the requirements of sections 4 (a), (b), and (c) of the Administrative Procedure Act is not required;

It is ordered, That, pursuant to sections 4 (i), 5 (e) and 303 (r) of the Communications Act of 1934, as amended, effective November 7, 1958, paragraph (h) of § 1.354 is amended by deleting it in its entirety and substituting therefore the following:

(h) A new file number will be assigned to an application when it is amended to specify a change of station location as a result of which the proposal would no longer provide primary service to the city previously specified. A new file number will also be assigned to an application for a new station when it is amended to specify a change in ownership as a result of which one or more parties with an ownership interest in the original application do not have, on a collective basis, a 50 percent or more ownership interest in the amended application. An application for changes in the facility of an existing station will continue to carry the same file number although an assignment of license or transfer of control of said licensee (permittee)-applicant has been consented to by the Commission, provided the application for changes in facility (FCC Form 301) is amended jointly by the assignor and assignee or transferor and transferee, upon consummation of the assignment or transfer, to reflect the ownership changes and to include the financial and programing proposals of the new licensee (permittee)-applicant.

It is further ordered, That applications, which have been assigned new file numbers pursuant to the present provisions of § 1.354 (h) but would have retained their original file numbers under the provisions of § 1.354 (h) adopted herein, upon appropriate request, will be reassigned their original file numbers.

(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: November 7, 1958.

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

[F. R. Doc. 58-9404; Filed, Nov. 12, 1958; 8:53 a. m.]

[Rules Amdt. 3-126; FCC 58-1049]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of November 1958.

Whereas, the Governments of the United States and Mexico have recently concluded an agreement concerning the use of television broadcast channels (UHF) in the band 470–890 Mc within 200 miles of the border between the two countries; and

Whereas, a public notice announcing the conclusion of this agreement was issued by the Commission on September 9, 1958 (Mimeo 63212); and

Whereas, the agreement requires changes in the channel assignments to some of the communities listed in the Table of Assignments for Television Broadcast Stations, appearing in § 3.606 of the Commission's rules; and

Whereas, the changes to be made in the said table of assignments conform with an executive agreement with a foreign nation and none of the channels required to be changed are assigned to any permittee or licensee in the affected communities, and, therefore, notice of proposed rule making, pursuant to section 4 of the Administrative Procedure Act, is unnecessary and contrary to the public interest, and the amendment should, for the same reasons, be made effective immediately;

It is ordered, That, pursuant to the authority contained in sections 4 (i) and 303 (r) of the Communications Act of 1934, as amended, and section 4 of the Administrative Procedure Act, the table of assignments appearing in § 3.606 of the Commission's rules and regulations is amended, insofar as the communities named are concerned, as set forth below, effective November 17, 1958.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended; 47 U. S. C. 303, 307)

Released: November 7, 1958.

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

Section 3.606 (b) of the rules, Table of Assignments, Television Broadcast Stations, insofar as the communities named are concerned, is amended, as follows:

1. Amend the following entries to read:

	Channel No.
Arizona:	
Ajo	19−
Bisbee	54
Coolidge	36+
Douglas	3−, 35
Nogales	16, 32, 44+
Yuma	11−, 13+, 22+, 60
California:	
Brawley	16
El Centro	26−, 48
Palm Springs	19+
San Diego	8, 10, *15+, 27, 39, 51
Texas:	
Brownsville	26, 44
Crystal City	44+
Del Rio	16−, 52+
Eagle Pass	22−, 64
Edinburg	60
El Paso	4, *7, 9, 13, 26+, 38, 50, 62
Laredo	8, 13, *15+, 27−, 39
Mercedes	66
Mission	70+
Raymondville	64−

2. Add the following entries:

	Channel No.
New Mexico:	
Columbus	16−
Texas:	
Presidio	21
Zapata	49

[F. R. Doc. 58-9405; Filed, Nov. 12, 1958; 8:53 a. m.]

[Docket No. 12385; FCC 58-1050]

[Rules Amdt. 3-127]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS (PITTSBURGH, PA. ET AL.); TABLE OF ASSIGNMENTS

1. The Commission has before it for consideration a "Petition for Immediate Reconsideration" and a "Petition for Reconsideration" filed, respectively, on July 22 and August 18, 1958, by WKST, Inc., licensee of Station WKST-TV on Channel 45 at New Castle, Pennsylvania, directed to the Report and Order (FCC 58-683), adopted July 16, 1958, and released July 18, 1958, by the Commission in the above-entitled proceeding. Sanford A. Schafitz and Guy W. Gully, d/b as Community Telecasting Company, permittee of Station WXTV on Channel 73 at Youngstown, Ohio, filed oppositions on August 1 and September 3, 1958, to the WKST petitions for reconsideration. On September 10, 1958, WKST filed a reply to Community's September 3rd opposition pleading.

2. In its July 16, 1958, Report and Order, the Commission shifted UHF Channel 22 from Clarksburg, West Virginia, to Pittsburgh, Pennsylvania, and reserved it for noncommercial educational use; substituted Channel 33 for Channel 73 at Youngstown, Ohio; assigned Channel 73 to Pittsburgh as a replacement for Channel 47, which was deleted; and modified the construction permit for Station WXTV at Youngstown to specify Channel 33 instead of Channel 73, effective August 25, 1958. By Order (FCC 58-805), adopted August 1, 1958, and released August 5, 1958, in this proceeding, the Commission on its own motion stayed the effective date of its said Report and Order until further order insofar as it (1) deletes Channel 73 from Youngstown and assigns it to Pittsburgh, and (2) modifies the construction permit for Station WXTV at Youngstown to specify Channel 33 instead of Channel 73. This action was taken upon consideration of WKST's July 22, 1958, petition for reconsideration and in light of the fact that the time for filing responses to it had not expired. The Commission was of the view that maintenance of the status quo with respect to the deletion of Channel

73 from Youngstown and the modification of Station WXTV's authorization was desirable until it had the benefit of pleadings from all interested parties.

3. In its instant petitions, WKST requests that the Commission reconsider its July 16, 1958, decision insofar as it deletes Channel 73 from Youngstown and assigns it to Pittsburgh and modifies the construction permit of Station WXTV at Youngstown to specify operation on Channel 33 instead of Channel 73. WKST also requests that, upon reconsideration, the Commission deny Community's petition for modification of its authorization for Station WXTV; stay the effective date of the allocation of Channel 73 to Pittsburgh until necessary comparative proceedings on conflicting applications for Channel 33 in Youngstown are concluded,[1] or, in the alternative, either rescind the allocation of Channel 73 to Pittsburgh or cancel Community's authorization for Channel 73 at Youngstown.

4. In support of its requests, WKST states that in the comments which it filed in this proceeding it, inter alia, indicated that WKST desired to file an application for Channel 33 if it should be assigned to Youngstown; requested that its authorization for Station WKST-TV at New Castle be modified to specify Channel 33 instead of Channel 45; and objected to the proposed modification of the WXTV authorization to specify Channel 33 instead of Channel 73 on the grounds that it would be unfair to WKST, contrary to the best interests of the public, and unlawful. WKST urges that consideration of the arguments advanced in support of its objections to the proposed modification of the WXTV authorization in its comments and subject petitions for reconsideration require reversal of the Commission's decision insofar as it modifies the WXTV authorization for Channel 73 to specify Channel 33.

5. In its oppositions, Community urges that WKST has advanced no reasons which would warrant reconsideration of the question of modification of its authorization for Station WXTV; that the reasons set forth in the Commission's decision for substituting Channel 33 for Channel 73 at Youngstown and modifying its authorization for Station WXTV to specify Channel 33 in lieu of Channel 73 clearly justify and compel such action in the public interest; that the modification of its authorization for Station WXTV was a proper exercise of the Commission's authority under Section 316 of the Communications Act, and that WKST does not have the right to challenge the modification of its permit under this section of the Act nor to apply for the use of Channel 33 since the channel has never been available in Youngstown and unoccupied. In reply, WKST asserts that Channel 33 at Youngstown is unattached insofar as authorized occupancy is concerned, and that all interested parties, including WKST and Community, are entitled to apply for Channel 33, and to be heard with respect to their applications.

6. After consideration of the contentions of the parties, the Commission has reconsidered its July 16, 1958, decision insofar as it shifts Channel 73 from Youngstown to Pittsburgh and modifies the WXTV authorization. Upon reconsideration, we are of the view that there is no reason in the public interest which requires the shift of Channel 73 from Youngstown to Pittsburgh. Because of separation requirements, the assignment of Channel 33 to Youngstown required the deletion of Channel 47 from Pittsburgh. At the time this rule making proceeding was instituted, Golden Triangle Corporation had an outstanding construction permit for Station WTVQ on Channel 47 at Pittsburgh, and the Notice of Proposed Rule Making released on April 4, 1958 (FCC 58-308), included an order for Golden Triangle to show cause why its authorization should not be modified to specify operation on either Channel 22 or Channel 73 instead of Channel 47. However, during the pendency of the rule making proceeding, Golden Triangle relinquished its construction permit,[2] so that it was no longer necessary to provide a new channel for a modified authorization and no longer necessary to assign Channel 73 to the Pittsburgh area. In light of the absence of a demand for an additional UHF channel in the Pittsburgh area, and for the same reasons which led to our rejection of the proposal to assign an additional UHF channel to Clarksburg, West Virginia, as a replacement for Channel 22 (See paragraph 11 of Report and Order released July 18, 1958, in this proceeding), there is no public interest consideration which would warrant the shift of Channel 73 from Youngstown to Pittsburgh at this time.

7. Our decision to retain Channel 73 at Youngstown makes it likewise unnecessary to change Community's existing authorization for Station WXTV on Channel 73 to Channel 33 or another channel. Since Station WXTV has never been on the air, such a modification, even on a temporary basis, would not preserve an existing service or restore a service that had previously been available. Further, in light of the competitive interest and demand evidenced for the use of Channel 33 at Youngstown, we believe that the public interest will be best served by selecting the best qualified applicant for Channel 33 from all parties who file timely applications for the channel.

8. Authority for the Commission's action herein is contained in sections 1, 4 (i), 301, 303 (c), (d), (f) and (r), 307 (b) and 405 of the Communications Act of 1934, as amended.

9. In view of the foregoing: *It is ordered*, That the above-mentioned petitions for reconsideration filed by WKST, Inc., are granted.

10. *It is further ordered*, That our July 16, 1958, report and order (FCC 58-683) in this proceeding is set aside insofar as it shifts Channel 73 from Youngstown to Pittsburgh and modifies the construction permit for Station WXTV at Youngstown to specify Channel 33 in lieu of Channel 73.

11. *Accordingly, it is further ordered*, That effective December 15, 1958, the Table of Assignments, contained in § 3.606 of the Commission's rules and regulations, is amended to restore Channel 73— to Youngstown. As amended, the assignments for Pittsburgh, Pennsylvania, and Youngstown, Ohio, read as follows.

Pittsburgh, Pa	2−, 4+, 11, *13−, *16, 22, 53+
Youngstown, Ohio	21−, 27, 33, 73−

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Adopted: November 5, 1958.

Released: November 7, 1958.

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

[F. R. Doc. 58-9406; Filed, Nov. 12, 1958; 8:53 a. m.]

[1] Both WKST and Community have filed applications for use of Channel 33 at Youngstown. WKST's application was received on September 2, 1958 (BPCT-2568), and Community's application on September 17, 1958 (BMPCT-5204).

[2] The construction permit held by Golden Triangle for Station WTVQ on Channel 47 at Pittsburgh was deleted at its request on June 13, 1958.

[Docket No. 11654; FCC 58-1052]

[Rules Amdt. 7-4]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

TYPE ACCEPTANCE OF TRANSMITTERS, BANDWIDTH AND SPURIOUS EMISSIONS

1. On March 21, 1956, the Commission adopted a notice of proposed rule making in the above-entitled matter, which notice was published in the FEDERAL REGISTER on March 28, 1956 (21 F. R. 1903). Comments were to be filed by June 1, 1956, and replies within ten days thereafter.

2. The reasons for adopting the technical standards set forth below are given in the first report and order in this docket adopted August 1, 1957, and published in the FEDERAL REGISTER on August 8, 1957 (22 F. R. 6346). A discussion of the comments received in this proceeding is also included in the first report and order.

3. The instant action amends § 7.137 (b) (2) of the Commission's rules by revising the specifications for suppression of spurious emissions in the vicinity of the authorized frequency band of emission. Specifically, an attenuation requirement of at least 35 db below the intensity of the unmodulated carrier is made applicable to spurious emissions on radio frequencies 40 kc to 100 kc removed from the carrier frequency in lieu of the more stringent requirements previously applicable under the table contained in that section.

4. The technical requirements adopted herein affect only radiotelephone trans-

mitters operating on frequencies above 30 Mc which are subject to the type acceptance requirements of Part 7. The rule amendment also includes minor editorial changes.

5. In view of the foregoing: *It is ordered*, Under the authority contained in sections 4 (i), 303 (c), (e), (f) and (r) of the Communications Act of 1934, as amended, That, effective December 15, 1958, Part 7 of the Commission's rules is amended as set forth below.

Adopted: November 5, 1958.

Released: November 7, 1958.

(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)

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

Section 7.137 is amended by redesignating subdivision (iii) of subparagraph (2) of paragraph (b) as subdivision (iv), and by inserting, after subdivision (ii), a new subdivision (iii). The text of redesignated subdivision (iv) is also amended by changing the figure 40 kc to 100 kc. As amended, subparagraph (2) of paragraph (b) of § 7.137 reads as follows:

(2) Before being finally considered for type acceptance, such transmitters shall, in addition to meeting all other applicable requirements, comply with the following limitations and operating conditions:

(i) When radiating class F1, F2, or F3 emission on each marine radio-channel within the frequency-band 35 Mc to 44 Mc or within the frequency-band 156.35 Mc to 162.05 Mc, with 100 percent modulation applied, the frequency deviation shall not exceed 15 kc.

(ii) When radiating class F1, F2, or F3 emission on each radio-channel within the frequency-band 35 Mc to 44 Mc or within the frequency-band 156.35 Mc to 162.05 Mc, any spurious emission appearing on any radio frequency removed from the carrier frequency by not less than 20 kc nor more than 40 kc shall be attenuated 25 decibels or more below the intensity of the unmodulated carrier.

(iii) Any spurious emission appearing on any radio frequency removed from the carrier frequency by not less than 40 kc nor more than 100 kc shall be attenuated 35 decibels or more below the intensity of the unmodulated carrier.

(iv) Any spurious emission appearing on any frequency removed from the carrier frequency by not less than 100 kc, shall be attenuated below the intensity of the unmodulated carried by not less than the amount specified herewith:

Maximum authorized transmitter power as specifically defined in § 7.8 (kk):	*Attenuation (decibels)*
3 watts or less	40
Over 3 watts and including 150 watts	60
Over 150 watts and including 600 watts	70
Over 600 watts	80

[F. R. Doc. 58-9407; Filed, Nov. 12, 1958; 8:54 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

[Ex Parte No. MC-41]

PART 166—IDENTIFICATION OF VEHICLES

METHOD OF IDENTIFICATION

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 27th day of October A. D. 1958.

It appearing that the Commission, Division 5, now Division 1, by order of November 17, 1954, in Ex Parte No. MC-41 issued revised rules and regulations respecting identification of motor carrier vehicles;

It further appearing that in revising § 166.2 *Method of identification*, the word "above" was used inadvertently instead of the word "alone"; that a correction thereof appears justified; and good cause appearing therefor:

It is ordered, That said § 166.2 be, and it is hereby, corrected by deleting the word "above" in the third line thereof and substituting therefor the word "alone".

It is further ordered, That notice hereof be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Federal Register Division.

By the Commission, Division 1.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-9370; Filed, Nov. 12, 1958; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1014]

[Docket No. AO-304]

HANDLING OF MILK IN MISSISSIPPI GULF COAST MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held at Gulfport, Mississippi, on April 15-18, 1958, pursuant to notice thereof issued on March 25, 1958 (23 F. R. 2073), upon a proposed marketing agreement and order regulating the handling of milk in the Mississippi Gulf Coast marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on September 17, 1958 (23 F. R. 7386), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision, containing notice of opportunity to file written exceptions thereto.

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

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

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

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

There is regular interstate commerce in the distribution of milk. One distributor whose plant is located just outside Mobile, Alabama, distributes approximately half of the total quantity of milk sold in Pascagoula and other portions of Jackson County. Another handler makes regular distribution of milk in several Gulf Coast cities from a plant located in New Orleans, Louisiana. Also, distributors from outside Mississippi frequently bid on the contract for Keesler Air Force Base at Biloxi. At the time of the hearing, the major part of the Keesler Field contract was supplied by a distributor whose plant is located at Pensacola, Florida. Within recent years part of the contract has also been held by a Shreveport, Louisiana, handler and by the previously mentioned Mobile handler.

The procurement of milk is also interstate in character. A plant located at Picayune, Mississippi, from which milk is distributed in the marketing area obtains its entire supply of milk from a receiving station operated by the Louisiana-Mississippi Milk Producers Association at Poplarville, Mississippi. The Poplarville station receives milk from farms located both in Mississippi and Louisiana and at the time of the hearing was serving primarily as a receiving station for the New Orleans market. It was a fully regulated pool plant under the New Orleans milk marketing order. There is also considerable overlapping of milksheds between the Gulf Coast and the Central Mississippi Federal order market. The Central Mississippi market, in turn, is directly involved in interstate commerce. Several Central Mississippi handlers, regulated under that order, not only procure milk in direct competition with Gulf Coast handlers but also distribute milk in the Gulf Coast area.

Producers for the Mississippi Gulf Coast market supply milk primarily for fluid use. However, there is necessarily some reserve for daily and seasonal variations in sales and production. This reserve milk is commonly manufactured into such storable dairy products as butter, nonfat dry milk, and cheese which compete directly with similar products which are marketed nationally. At times such reserve milk from the Gulf Coast market has been moved in fluid form to a plant in Louisiana for manufacture.

2. *Need for an order*. The issuance of a marketing agreement or order will tend to effectuate the declared policy of the Act.

Stability of marketing conditions, together with a reasonable certainty of an adequate supply of pure and wholesome milk, can be assured for the Gulf Coast marketing area by providing for equal costs of milk according to use for each handler distributing milk in the area or supplying milk to such distributors and by providing for all farmers to share equally in proceeds from the sale of their milk to these handlers. These conditions do not now exist.

Producers supplying milk to plants which would qualify as pool plants hereunder are represented by three cooperative associations. Two of these associations have had very little success in bargaining with the distributors with respect to prices to be paid for their milk, the quantities used in each class, the checking of weights and butterfat tests, or the furnishing of essential market information. The other cooperative has had somewhat greater success in these matters because it operates a receiving station at which the milk is received from members and transferred in bulk to the bottling plant of the distributor.

Some of the producers supplying several of the local plants belong to the Mississippi Milk Producers Association. For a period of several months, one of the handlers at Biloxi was subject to the Central Mississippi order. During that time the Mississippi Milk Producers Association performed marketing services for its members supplying this plant. When the plant was no longer subject to the order, the Association was unable to continue representing its producers with respect to marketing services or price bargaining. At the time of the hearing the Association performed no marketing services for its members at this or the other plants which would be subject to a Gulf Coast order.

Other producers serving the local plants belong to the Gulf Coast Dairymen's Association. This Association has also been unsuccessful in its efforts to perform marketing services for its members, to bargain for price, or to obtain check-off of association dues.

The third cooperative association of producers is the Louisiana-Mississippi Milk Producers Association. It owns and operates a receiving station at Poplarville, Mississippi, and at the time of the hearing this plant was qualified as a pool plant under the New Orleans order. The association ships a full supply of milk by bulk tank to the Picayune, Mississippi, plant of the Brown's Velvet Dairy Products, Inc. Under such an arrangement, this association obviously has substantial influence on the marketing of its members' milk. It can effectively represent them in bargaining for prices and has complete control over the weighing and testing of member milk, payments to producers and providing of marketing information.

The Gulf Coast area lacks a complete system of classifying and pricing milk in accordance with the use made of it by distributors. A partial program of classification and pricing is carried out under the State of Mississippi Milk Audit Law. However, this program is limited in several important respects, including the fact that it provides for an announcement of minimum class prices to be paid to producers by handlers but does not specify such minimum prices, does not apply to milk originating outside the State, and provides market information only for the State as a whole rather than for the several marketing areas within the State.

A retail price war between distributors was developing in the Gulf Coast area while the hearing was in progress. In this particular instance the price competition did not originate from a reduction in prices paid for milk to producers since the distributors who were most aggressively reducing prices were fully subject to Federal orders in the Central Mississippi and New Orleans markets. However, one of the means available to local distributors in meeting the competition created by lower retail prices was to reduce the prices paid to the local dairy farmers. Obviously, if the Gulf Coast dealers were required by a Federal order to pay specified minimum prices to producers for milk used in each class, any reduction they might make in retail and wholesale prices would have to be financed from their own operating margins rather than by any reduction in prices paid to dairy farmers.

A second instance of price instability involves the contracts to supply milk to Keesler Air Force Base at Biloxi. Contracts for the mess hall and commissaries at the base are let quarterly. Commissary privileges are extended not only to military personnel but to civilian employees at the base. Some of the handlers who would be regulated under the proposed order regularly submit bids for these contracts and have frequently obtained one or both contracts in the past. At the time of the hearing, however, the contracts were held by the operator of a plant located at Pensacola, Florida. The prices paid to dairy farmers for milk to supply this contract were well below the competitive level of prices paid for milk for bottling purposes. It appears highly probable that the milk used to supply the contract was a seasonal surplus of Grade A milk which would otherwise have had to be utilized for manufacturing purposes and did not represent a supply which would be available on a regular basis for this market.

The lack of a complete system of classified pricing and the inability of producers to achieve orderly marketing conditions through cooperative association activities clearly demonstrate the need for a Federal order to establish and maintain orderly marketing conditions throughout the Gulf Coast marketing area. In addition to the essential pricing and pooling functions of an order, the audit of records and receipts of utilization of milk, the checking of butterfat tests and weights of milk and the publication of the current marketwide information will contribute greatly to the achievement of this objective in this market.

3. *Order provisions*—(a) *Scope of regulation*. Federal milk orders achieve marketing and pricing stability by using techniques authorized by the Agricultural Marketing Agreement Act of 1937, as amended. Important among these techniques are the requirements that (1) regulated distributors (handlers) pay at least specified minimum prices to producers in accordance with a classified use plan established in an order, and (2) these payments are distributed to each producer on a uniform basis through either an individual-handler pool, or a marketwide pool. Under the circumstances it is important to establish clearly which plants and which milk will be subject to all or part of the pricing provisions of the orders and, in turn, which producers will participate in the distribution of returns through the equalization pool. To identify such persons and to facilitate reference to them throughout this decision and in the proposed orders, such terms as marketing area, producer, types of milk plants, handler, producer milk, and other source milk are defined and are used herein.

Marketing area. The Mississippi Gulf Coast marketing area should include all the territory within the outer boundaries of Jackson, Harrison, Hancock, George, Stone, Pearl River, and Greene Counties in Mississippi. This territory comprises a contiguous area within which there is such competition in the sale and procurement of milk as to constitute a distinct marketing area to which a single system of pricing is applicable.

This seven-county marketing area constitutes the block of territoy bordering the Gulf Coast and extending north to the southern boundary of the Central Mississippi milk marketing area, except that Beat 2 of Lamar County is not included in the Central Mississippi area and was not proposed for inclusion in the Gulf Coast market. The major cities in the area are Biloxi, Gulfport, and Pascagoula, all of which are located on the Gulf. The total population in the proposed area is just over 200,000.

The area is served mainly by six local handlers. One distributing plant is located at Picayune, one at Gulfport, two at Biloxi, one at Pascagoula and one in Lucedale. Several of these distributors sell throughout most of the defined area and only one of them has any significant volume of sales outside the defined area. In this respect these counties form an unusually homogeneous market. This group of handlers receives approximately 4 million pounds of milk per month from about 500 producers.

The sanitary requirements relative to the production, processing and sale of milk are uniform throughout the area. The State of Mississippi standards are effective throughout the territory and are uniformly applied in all the jurisdictions. The extensive overlapping of sales territories by the plants located in the market and the acceptance of milk of comparable sanitary standards from plants located outside the area demonstrate the uniformity of these standards.

Although the local handlers sell very little milk outside the area, several outside handlers have distribution in the Gulf Coast. Some handlers whose plants are regulated under the Central Mississippi order sell comparatively small volumes of milk in the Gulf Coast area. Milk is also sold in several Gulf Coast locations by a distributor regulated under the New Orleans order.

The major competition from outside sources is provided by the Dairy Fresh Corporation operating a distributing plant at Pritchard, Alabama, just north of Mobile. This handler has extensive Class I sales in Pascagoula and throughout Jackson County. At various times he has also had part of the contract to supply milk to Keesler Air Force Base, near Biloxi in Harrison County. His primary sales territory is the city of Mobile, Alabama, and surrounding areas. His principal source of milk supply is a receiving station located at Greensboro, Alabama. The milk purchased there from dairy farmers is subject to the regulations of the Alabama Milk Control Board.

The Dairy Fresh Corporation proposed that Jackson County, Mississippi, be eliminated from the proposed marketing area. This handler has steadily increased his volume of sales in Jackson County since World War II. The record evidence is conflicting as to the proportion of Class I sales in Jackson County made by this handler but it is apparent that he does approximately half of the total Class I business.

Jackson County is an important outlet for the milk of proponent producers. Gulf Coast handlers still supply approximately one-half of the fluid sales in the county. One of them does the major portion of his business in the county. Accordingly, it is concluded that Jackson County should be included in the Mississippi Gulf Coast marketing area.

It is intended that the sales of fluid milk from piers, docks and wharves and to crafts moored thereat be included as sales in the marketing area. It is also intended that the area include all of the territory occupied by Government reservations, institutions or other such establishments whether municipal, State or Federal, if they lie within the limits of the area as defined. The quality requirements for milk for such outlets are similar to those for milk sold in other parts of the marketing area. These installations, by location, represent logical areas of distribution for handlers who would become regulated under the proposed order or for regulated handlers under adjacent Federal orders. Unless they are included, regulated handlers will be placed at a serious disadvantage in competing with unregulated handlers for such sales. The inclusion of these areas will assure as between handlers uniform minimum cost of milk received from producers.

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

The definition of a pool plant should be such as to determine which plants will be subject to pool regulation and which dairy farmers will be considered as producers and their milk included in the determination of a marketwide uniform price. Pool plant standards are needed because some of the plants involved in supplying milk to Gulf Coast area consumers are also involved in other areas. The pool plants should be those whose operations are identified in a substantial way with the Gulf Coast market and who are not more substantially associated with some other Federal milk marketing area.

Milk handling plants may conveniently be classified in two major groups according to the functions they perform. One consists of the distributing plants at which milk is processed, bottled, and distributed on routes in the marketing area. The second category of plants is those at which milk is received from dairy farmers, cooled, and combined into tank truck loads for shipment to the bottling plants. These plants are commonly referred to as supply plants. The order should include specific definitions of each of these two types of plants, preliminary to the subsequent definition of pool plants.

A "distributing plant" should be defined as a plant at which fluid milk products, conforming to the Grade A sanitation requirements of any duly constituted health authority having jurisdiction in the marketing area, are processed and packaged and from which fluid milk products are disposed of on a route(s) in the marketing area.

A "supply plant" should be defined as a plant at which milk, produced in conformity with Grade A health regulations for the marketing area, is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

A "pool plant" should be specifically defined as (1) a distributing plant from which 20 percent or more of the total receipts of Grade A milk is distributed as fluid milk products on routes in the marketing area and 50 percent or more on routes either within or outside the marketing area, or (2) a supply plant from which 50 percent or more of the milk received from dairy farmers in any given month is shipped to distributing plants which qualify as pool plants. It should also be provided that if a supply plant qualifies as a pool plant during each of the low production months of September through January, it should be able to retain pool plant status during the following flush months of February through August without making additional shipments.

The requirement that at least 20 percent of the total supply at a distributing plant be sold as fluid milk products within the marketing area is an appropriate standard for designating such plants as pool plants. Any plant with a lower proportion of its business in the marketing area would be primarily identified with some other market. It would be inequitable to require that such a plant pay the Gulf Coast class prices on its entire sales or that the producers supplying such plant be included in the Gulf Coast utilization pool. Such a plant should, however, be subject to partial regulation with respect to the volume sold in the marketing area, as hereinafter described.

The requirement that at least half of the total supply at a distributing plant be distributed on routes in the form of fluid milk products is necessary to distinguish between plants which are primarily identified with the market as distributing plants and those which are primarily engaged in supply plant and milk manufacturing operations. All of the plants presently associated with the market as distributing plants utilize nearly their entire supply of milk for fluid purposes, do not supply significant quantities of milk to other plants, and have only limited facilities for the processing of milk into manufactured products.

With respect to supply plants, the requirement that at least 50 percent of the milk received from dairy farmers be shipped to Gulf Coast distributing plants demonstrates a primary association with this market and is an appropriate pool plant standard. The demand for milk from supply plants is commonly greatest during the fall and winter months of lowest production. On the other hand, during the flush production months, the demand on supply plants is normally lowest, and the milk is either manufactured in the supply plant or shipped to manufacturing plants instead of being shipped to the distributing plants. Accordingly, any supply plant which qualifies as a pool plant during the five low-production months of September through January is, in fact, an integral part of the market supply of milk for fluid purposes. Such plant and producers shipping thereto should therefore remain pooled during the subsequent flush production season regardless of the proportion of milk actually shipped to distributing plants unless the operator specifically requests nonpool status.

Since this order will not become effective at the start of the fall-qualifying period, a supply plant qualifying from the effective date of the order through January 1959 should also remain pooled during the subsequent February-August period unless the operator of such plant specifically requests nonpool status.

A "handler" should be defined as (1) any person in his capacity as the operator of a pool plant(s), (2) the operator of a nonpool distributing plant with route distribution in the marketing area, or (3) a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant.

The handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and payment thereof, with certain exceptions noted below. A cooperative association which markets the milk of its producer members may for short periods of time need to divert producers' milk from pool plants to nonpool plants. If the association is defined as a handler for such milk, even though it has no plant, the producers whose milk is so diverted should continue to receive the uniform price under the order until their milk will be needed for fluid use.

"Producer-handler" should be defined as any person who operates both a dairy farm and a distributing plant and who receives no milk from other dairy farmers or nonpool plants. The order is not intended to establish minimum prices for such operators, but they should be required to make reports to the market administrator. Such reports are necessary to determine whether the operator is a producer-handler.

The limitations of the proposed producer-handler definition would remove any cost advantage that a producer-handler might gain over a pool handler through the purchase of supplemental milk. By limiting the supply of a producer-handler to his own production and receipts from pool plants, he could not receive unpriced milk and retain his producer-handler status. He must, therefore, purchase his supplemental needs from pool plants and such milk would be priced as Class I.

At the hearing, consideration was given to a quantity limitation on the Class I sales of a producer-handler. At present, however, only two small-scale producer-handlers are serving the market. Moreover, the principal objective sought by the quantity limitation would be achieved by limiting producer dealers to their own production and purchases from pool plants.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred from a pool plant to the plant of a producer-handler will be Class I milk. Any supplemental supplies of milk which may be obtained from pool plants may, by virtue of the type of operation involved, be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from pool plants and still maintain his status as a producer-handler. Pursuant to the attached order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the pool plant of a handler after the allocation of shrinkage on producer milk.

"Producer" should be defined as a person, other than a producer-handler, who produces Grade A milk, in conformity with the sanitation requirements issued by a duly constituted health authority, for consumption in the marketing area as a fluid milk product and whose milk is received at a pool plant. It should also include a person whose milk is diverted from a pool plant by a handler, including a cooperative association, to a nonpool plant for the handler's account. Such milk should be deemed to have been received at the location of the pool plant from which diverted. In order to distinguish between milk which may be temporarily diverted and that which has become disassociated from the Gulf Coast market, some limitation on the length of time that milk may be diverted and still be considered as producer milk under the order is desirable. Based on the conditions in the market, it is concluded that milk of a dairy farmer which is diverted to a nonpool plant in excess of 10 days' production during the normally low production months of September through January should not be considered as producer milk under the order. Milk of a dairy farmer which is moved to a nonpool plant in a quantity that exceeds 10 days' production during any of the months September through January when the regulated plants are in greatest need of milk, is not sufficiently associated with this market to be priced and pooled with other producer milk. Unlimited diversion of milk during the flush months of February through August will facilitate the economical disposal of seasonal reserve supplies. Such provisions will permit milk regularly associated with the market to be diverted to manufacturing plants during periods of seasonal flush production and over weekends and holidays when supply and demand relationships may require some reserve to be manufactured in plants not regulated by the order. The diversion provisions will facilitate interplant movements of milk for the purpose of short time adjustments of supply and demand without depriving dairy farmers producing the regular supply for the market of their status as producers.

"Other source milk" should be defined to include all skim milk and butterfat contained in fluid milk products received by a handler at his plant(s), except producer milk and fluid milk products received from other pool plants. Any receipts from a producer-handler would be other source milk since such a person is neither producer nor the operator of a pool plant. This definition would also include milk products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed and converted to another product in the plant during the month. Supplemental supplies of other source milk from nonpool plants are occasionally needed and the amounts needed vary from season to season and between handlers.

"Fluid milk product" is specifically defined in the order because of frequent references to this group of items. The fluid milk products are those which constitute Class I use and should be defined as all the skim milk (including concentrated and reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks or concentrated milk (not sterilized or in hermetically sealed containers), eggnog, yogurt, cream (sweet or sour), and any fluid mixture of cream and milk or skim milk (except aerated cream, ice cream mix, and frozen dessert mix).

(b) *The classification and allocation of milk.* Milk should be classified in two classes reflecting the principal differences in the value of milk used for different purposes. Class I should include all skim milk and butterfat disposed of for consumption as a fluid milk product and Class II should include the manufacturing uses.

Because skim milk and butterfat are not used in most products in the same proportions as received from producers, these components should be accounted for and classified separately. Class prices, however, will apply per hundredweight of milk, and will be adjusted for the butterfat content of the milk actually used in each class through butterfat differentials.

The fluid milk products which are included in Class I are those distributed to consumers in fluid form and required by the health authorities having jurisdiction in the marketing area to be obtained from milk or milk products from Grade A sources. The extra cost of Grade A quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used as Class I somewhat higher than for milk used for manufacturing purposes. It is appropriate that all of the products required to be from Grade A milk be included in a single class so that all milk required to make such products may contribute uniformly to the cost of supplying the market needs for Grade A milk. Plant loss of producer skim milk and butterfat in excess of 2 percent and skim milk and butterfat not accounted for as Class II should also be classified as Class I.

Reserve milk not needed seasonally, or at other times such as weekends, for Class I use must be disposed of for use in manufactured products. These products are not required to be made from inspected milk, must be sold in competition with products made from uninspected sources produced over a large area and generally are less perishable than fluid milk products. Milk so used should be classified as Class II and priced in accordance with its value in such outlets.

Class II should therefore include skim milk and butterfat used to produce any product other than a fluid milk product, including but not limited to such products as ice cream, ice cream mix, ice milk, frozen desserts and mixes, frozen cream, aerated cream, dried milk products, whole and nonfat, condensed or evaporated products, butter, cottage cheese and hard cheese. Class II should also include plant loss of other source milk, actual plant loss on producer milk not in excess of 2 percent, all skim milk dumped or accounted for as disposed of for livestock feed, and inventories of fluid milk products on hand at the end of any month. Cream which is frozen and placed in storage should be Class II since such cream is intended primarily for use in ice cream or ice cream mix. Any frozen cream or other Class II products which may be used later in a fluid milk product would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

Handlers have inventories of fluid milk products at the beginning and end of each month which must enter into the accounting for current receipts and utilization. The record testimony indicates that an appropriate classification of the inventory of fluid milk products is as Class II. This manner of classifying inventory with correlated steps in the allocation procedure provides a means of charging each handler for his Class I sales each month at the current Class I price. Fluid milk products whether in bulk or packaged form should be inventoried and classified as Class II. Manufactured milk products are not included in inventory accounting because the skim milk and butterfat used for such products are accounted for in the month when such products are manufactured.

Uniformity of cost to handlers and simplicity of accounting are achieved if, so far as possible, Class I utilization each month is assigned to current receipts of producer milk. This can be accomplished by classification of closing inventory as Class II, and allocation of opening inventory to Class I only when current receipts of producer milk (except allowable Class II shrinkage) are less than Class I sales. In such case the handler should pay the difference between the Class II price for such milk in the preceding month and the current Class I price. The volume on which this charge is made should not exceed the volume (in excess of allowable Class II shrinkage) for which producers were paid at the Class II price in the preceding month.

Inventories of products designated as Class I on hand at a pool plant at the beginning of any month during which such a plant becomes qualified for the first time should likewise be subtracted from the Class II utilization of such plant. This will preserve the priority of assignment of current producer receipts to current Class I use for each month.

The allocation of inventory to Class I which is in excess of the producer milk classified as Class II in the preceding month should be subject to the same rate of compensatory payment as a current receipt of other source milk.

Unaccounted for milk in excess of a reasonable allowance for plant loss should be Class I so as to require full accounting by handlers for their receipts. Two percent is considered a reasonable maximum allowance for plant loss. No limit need be put on shrinkage of other source milk since such milk is deducted from the lowest use class under the allocation procedures. Since it is not feasible to segregate shrinkage of producer milk from that of other source milk in the same plant, total shrinkage is prorated on the basis of the volume of receipts. Allowance for loss on producer milk diverted to another pool plant should be at the pool plant where actually received. When milk is moved in bulk from one pool plant to another pool plant the loss on producer milk should be prorated at the rate of 0.5 percent to the shipping plant and 1.5 percent to the receiving plant to reflect the greater losses in the bottling operation. Each handler must be held responsible for full accouuting of all his receipts of skim milk or butterfat in any form. The handler who first receives the milk from producers should be responsible for establishing the classification of and the payment for producer milk. Except for such limited quantities of shrinkage as may be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

Transfers of milk between plants. Classification of butterfat and skim milk used in the production of Class II items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, since some Class I items may be disposed of to other milk plants for processing, separate classification procedure should be prescribed for transfers to other plants.

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

Milk, skim milk or cream transferred or diverted from Mississippi Gulf Coast pool plants to nonpool plants should be classified as Class I to the extent that the receipts from regulated plants under this order or any other order exceeds the Class II usage in the nonpool plant. In the event fluid milk products are received at a nonpool plant from more than one plant regulated by a Federal order, any skim milk or butterfat classified as Class I at such a nonpool plant should be shared pro rata between pool plants of this and other orders. In order to substantiate a Class II classification the nonpool plant must have and make available records adequate to verify any Class II utilization claimed.

There was no evidence indicating that the Mississippi Gulf Coast market carries milk supplies for other markets and therefore producers have no claims of priority to Class I sales in other markets resulting from transfers from pool plants to nonpool plants in such markets. Accordingly, only ungraded supplies at the nonpool plant are assigned to Class II uses before the milk transferred from a Gulf Coast pool plant is assigned.

Allocation. When handlers receive butterfat and skim milk from sources other than from producers, it is necessary to provide a method for allocating such receipts to the classes of utilization in such a manner as to determine the classification of producer milk. Inasmuch as producer milk is the regular available supply for fluid consumption in the marketing area, producer milk should be assigned the Class I utilization in preference to other source milk. This is necessary to insure the effectiveness of the classified pricing program of the proposed order. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in detail in the proposed marketing agreement and order.

In general this procedure requires that skim milk and butterfat, respectively, remaining in each class be assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class II milk, except as otherwise noted:

(1) Class II shrinkage of producer milk;

(2) Other source milk unregulated;

(3) Other source milk under Federal regulation;

(4) Beginning inventory;

(5) Receipts from other handlers (according to classification);

(6) Add shrinkage deducted in (1); and

(7) Overage.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all receipts during the month.

(c) *Class prices.* The Class I price for the Mississippi Gulf Coast market should be the Central Mississippi Class I price plus 10 cents.

The Gulf Coast marketing area is bounded on the north by the Central Mississippi marketing area. There is substantial competition between the two markets, both in procurement and sale of milk. With respect to procurement, over 15 percent of the total number of shippers supplying the Gulf Coast handlers are actually located within the Central Mississippi marketing area. Conversely, substantial numbers of Central Mississippi producers shipping to handlers located at Hattiesburg and other points are located in these same counties and in the seven counties which comprise the Gulf Coast marketing area. In addition, several Central Mississippi handlers make regular route sales of milk in the Gulf Coast.

There is also substantial competition between the Gulf Coast and New Orleans markets. The plant operated by the Louisiana-Mississippi Milk Producers' Association at Poplarville, Mississippi, is regulated as a pool supply plant under the New Orleans order. From this plant the association also furnishes a full supply of milk by bulk tank truck to a Picayune, Mississippi, bottling plant which would be subject to regulation hereunder. In addition, a New Orleans distributor has regular route sales in the southwestern portion of the Gulf Coast market. Under the New Orleans order the Class I and uniform prices are announced at the 60–70-mile zone. Poplarville is in the 81–90-mile zone and has a minus 4-cent differential.

In both the New Orleans and Central Mississippi orders, Class I prices are set at stated differentials over identical basic formula prices. In New Orleans the differentials are $2.30 during the flush months of March through June and $2.50 in the other 8 months, for an average of $2.43. In Central Mississippi the differentials for the corresponding months are $1.85 and $2.25, for an average of $2.12. The New Orleans Class I price is further subject to a supply-demand adjustment which raises the differential whenever supplies are below normal in relation to Class I sales and lowers it when an over-supply is indicated. In each of these orders the Class I prices have been in effect for a sufficient length of time to demonstrate that they are adequate to induce the production of a sufficient supply of pure and wholesome milk for the needs of the market.

Since the Gulf Coast market is most directly in competition with Central Mississippi, that market rather than New Orleans should serve as the primary determinant of Class I prices in the Gulf Coast. The Gulf Coast is, of course, more distant from the usual sources of supplemental milk (Missouri, Iowa, Minnesota, and Wisconsin) than the major cities in Central Mississippi. Supplemental milk would, therefore, be expected to cost more because of the added transportation to Gulf Coast points.

On the other hand, the location adjustment which would apply to milk furnished to Central Mississippi from a plant at Gulfport would be 11.5 cents per hundredweight. In the recommended decision the Class I price was set at the same level as in Central Mississippi.

In their exceptions producers emphasized the importance of a higher price in attracting adequate supplies of producer milk and in attracting such quantities of supplemental milk as may be needed. Although there would be a location adjustment of 11.5 cents under the Central Mississippi order at a plant located at Gulfport, no Central Mississippi supply plants are, in fact, located in the Gulf Coast area. The producers whose farms are located in the southeastern portion of the Central Mississippi area and the northeastern portion of the Gulf Coast area ship directly to the distributing plants and receive the market area price for their milk.

The addition of 10 cents to the Gulf Coast Class I price also recognizes that the Central Mississippi handlers who sell milk in the Gulf Coast area have incurred additional transportation costs on such sales. Gulf Coast handlers will not, therefore, be placed at a competitive disadvantage on their sales in the Gulf Coast market. The higher Class I price also allows, to some degree, for the fact that the New Orleans Class I price has continued to average higher than that in Central Mississippi.

The Central Mississippi order provides for a Class I price only through February 29, 1960. Before that date it is expected that a hearing will be held in Central Mississippi to consider a more permanent Class I pricing formula. Since the Gulf Coast Class I price is directly related to that in Central Mississippi, all interested parties in the Gulf Coast would be invited to participate in such a hearing. Gulf Coast conditions would be relevant both with respect to the general level of the Class I price and to the appropriate relationship between Class I prices in the two markets. This would not, of course, preclude Gulf Coast parties from requesting reconsideration of the Gulf Coast Class I price at a separate hearing whenever they consider such action advisable.

Class II price. The Class II price should reflect the value of milk for general manufacturing uses in the Mississippi Gulf Coast milkshed. The average of the prices paid at four Mississippi dairy manufacturing plants provides an appropriate indication of the value of milk for such uses in the area. The four plants selected are in the general area of the Mississippi Gulf Coast milkshed and are not operated or controlled by persons who will be handlers under the order.

To the monthly average of prices paid at local dairy manufacturing plants 10 cents per hundredweight should be added for the months of March through July and 20 cents in all other months. The proposed Class II price will be the same as the Class III price under the Central Mississippi order and will be slightly lower than the New Orleans Class II price. In 1957 the Central Mississippi Class II price averaged $3.29 while the New Orleans Class II price averaged $3.31.

The cooperative associations are in a position to divert milk directly from producers' farms to a manufacturing plant if the occasion arises. There are a number of plants located within the surplus disposal area where the associations would be able to dispose of reserve supplies of milk.

However, the proposed Class II price will be a level that will tend to discourage handlers from procuring needless supplies of Grade A milk for Class II uses and thus will tend to maximize returns to producers for Grade A milk used in Class II.

Butterfat differentials. Butterfat and skim milk will be accounted for separately for classification purposes since they are not used in most products in the same proportions as received from producers. The basic test for which class prices are determined is 4.0 percent butterfat content, the usual fat test at which prices are quoted in the area, and on which the market has operated for many years. It will then be necessary to adjust Class I and Class II prices of milk to handlers in accordance with the average test of milk used in each class. Butterfat differentials which reflect differences in value due to differences in butterfat content are used for this purpose.

Producers proposed that the handler butterfat differential for Class I milk be 0.12 times the Chicago price of 92-score butter. In the Mississippi Gulf Coast area, fluid cream must be from Grade A milk and is therefore priced as Class I milk. Butterfat in cream from inspected sources sold as fluid cream or cream mixtures has a higher value than that in ungraded milk which will be approximately reflected by a butterfat differential 0.12 times the Chicago butter price. Such a differential should be used to adjust the hundredweight price of Class I milk for each one-tenth percent variation for 4.0 percent butterfat content. The Class II butterfat differential should be 0.11 times the Chicago butter price as proposed. Such a differential reflects an appropriate value of butterfat for Class II uses in this area.

The butterfat differential used in making payments to producers should be calculated at the average of the returns actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sales value of their butterfat at the class differentials provided in the order. The producer butterfat differential in no way affects the handlers' cost of milk but merely divides returns among producers according to the varying butterfat tests of their milk.

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

Distant plants not subject to another order may become partially or fully regulated by this order. The operator of such a plant would incur a substantial transportation cost on the bulk or packaged milk before reaching any portion of the marketing area and should be allowed an offsetting credit in order to be fully competitive with the pool plants located within the marketing area. The means of allowing for transportation costs under the order is to establish the Class I price for such milk delivered to plants at a point in the market and then provide a schedule of deductions from the Class I price as location differentials. This will place all handlers on an equal competitive basis on the Class I milk distributed in the marketing area.

In applying location differentials under the Mississippi Gulf Coast order the mileage zone of a plant should be determined by the shortest highway distance, as determined by the market administrator, from the Court House at Gulfport or Pascagoula, Mississippi, whichever is closer. These cities are so situated with respect to the overall marketing area so that basing location differential mileage zones from the nearer of them would be equitable to all handlers.

Because of the close competition between the plants which are located within the marketing area, it would be inappropriate to have location differentials applicable at such plants. The Central Mississippi marketing area borders the Gulf Coast area on the north and that order provides a single Class I price for plants located within 50 miles of Hattiesburg, Jackson, Meadville, or Meridian. Location adjustments under the Gulf Coast order can be made to conform to this pattern by creating a second zone, priced at minus 10 cents and extending from 60 to 160 miles from Gulfport or Pascagoula. This second zone will include all of the Central Mississippi basing points and the effective Class I prices will be identical. Beyond 160 miles the Gulf Coast Class I price should be reduced at the rate of 1.5 cents per 10 miles or fraction thereof.

The location differential proposed herein is economically sound and will be applicable to all handlers wherever located. The proposed rates are fundamentally the same as those contained in various other orders and are representative of the cost of hauling milk by an efficient means to the market.

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

Equivalent price. An equivalent price provision is designed to meet an emergency situation in which a price quotation necessary in the determination of class prices, or for any other purpose, may not be available. In such event, the Secretary would determine a price equivalent to the price quotation normally available. The provision proposed will remove uncertainty as to the procedure to be followed in the absence of any price quotation provided for in the order and thereby will prevent unnecessary interruption in the administration of the order.

Payments on unpriced milk. The order should provide compensatory payments with respect to unpriced milk which is allocated to Class I in a pool plant, in any month when receipts from producers exceed 112 percent of Class I utilization at all pool plants in the market.

Plant operators must have available a larger supply of milk than is necessary to fill their Class I requirements on any given day. Reserves are needed because production fluctuates seasonally without corresponding changes in the demand for Class I milk. Reserves are also needed to cover short-time fluctuations in receipts and for variations in Class I requirements resulting from 5- or 6-day bottling, the heavy weekend demand at grocery stores, holidays, and similar factors. The reserve milk is commonly manufactured into the more storable and transportable dairy products which are sold in competition with products made from manufacturing grade milk. The existence of this reserve Grade A milk, which must be marketed at a lower price, is a primary element of instability affecting fluid milk markets.

There are considerable volumes of such Grade A reserve milk close enough to be available to Gulf Coast handlers. A Grade A supply plant for the Houston, Texas, market operated by the South Texas Milk Producers Association at Magnolia, Mississippi, is one available source of unpriced reserve milk. The distributor from Pensacola who was holding part of the Keesler Field contract at the time of the hearing had apparently obtained another supply of such milk.

Since this reserve milk in other markets is ordinarily converted to manufactured dairy products, the seller would be willing to market it at any price which would net him more than the manufacturing value. Consequently, handlers under the Gulf Coast order could expect to obtain such reserve milk at approximately manufacturing values as reflected in the Class II price under the order. It is, therefore, appropriate that the compensatory payment on other source milk allocated to Class I should be the difference between the Class II price and the Class I price, adjusted to the location of the plant from which such other source milk was received from farmers. This rate will reflect generally the difference in value between unregulated and regulated milk for Class I use. The payment will, therefore, remove any competitive sales advantage which the regulated handler might otherwise obtain by substituting other source milk for available producer milk.

The compensatory payment should apply in all months except those in which the market supply of producer milk is inadequate to fill Class I requirements, including an operating reserve of 12 percent. On the basis of past experience, it appears that during times when producer supplies in the Gulf Coast market have not been adequate, the other nearby sources have also been in short supply. At such times milk must be obtained from Missouri, Wisconsin, or other distant sources and has commonly cost more delivered to Mississippi points than the Class I prices paid to local producers. Under these circumstances, there is no competitive advantage to be gained by the use of other source milk, and compensatory payments would be inappropriate.

It is administratively necessary to use the stated rate of compensatory payment instead of attempting to determine an appropriate rate in each given case. Pool plant operators may obtain other source milk with little or no advance notice from a wide variety of sources. Any attempt to determine the actual cost of such milk to the regulated handler would be complicated by the number of plants involved, the fact that some of the plants supplying the other source milk might be operated by the same handler in which case the interplant billing would be purely arbitrary, the possibility of arbitrary billing even where the plants were not under common ownership, and the fact that the originating plant would not be subject to the audit and payment provisions of the order. It is, therefore necessary to have definite and specified rates applicable to all handlers similarly situated. The rates herein provided are those which will best effectuate the intent of the Act under current marketing conditions in the area.

Other source milk used in the form of concentrated milk products should be considered to be from a source at the location of the pool plant where it is used. In some instances there will be no, and in all cases insignificant, transportation charges per hundredweight experienced by handlers on such other source milk under the skim milk equivalent basis of accounting provided in the order. By following this procedure, the compensatory payment on other source milk derived from concentrated products, such as condensed milk or nonfat dry milk solids, will be comparable to that on any other source milk which is allocated to Class I milk.

No compensatory payments are required on milk which has been classified and priced under any other Federal order. The alignment of Class I prices for the Gulf Coast market with those provided under the Central Mississippi and New Orleans markets has already been described. It follows that there is little opportunity for handlers in any one of the markets to achieve any appreciable competitive advantage over handlers regulated by other Federal orders.

Another category of unpriced milk is that sold on routes in the marketing area by handlers operating nonpool plants. There are the plants which are primarily associated with some other market but from which less than 20 percent of the total supply is sold as Class I within the Gulf Coast marketing area. Also, it is conceivable that a distributing plant might fail to achieve pool status because less than half of its total receipts were disposed of in fluid form.

These nonpool distributors should have the choice of paying either the difference between the Class I and Class II prices on their sales within the area or any amount by which such operator has failed to pay his Grade A dairy farmers the use value of milk at order prices.

Handlers operating nonpool distributing plants are required to file such reports as will enable the market administrator to verify their nonpool status. Under the second option described in the preceding paragraph (that of proving minimum payments to dairy farmers) the nonpool distributor would file a complete report of receipts and utilization. From such reports, subject to audit, the value of his disposition of milk would be computed at the class prices adjusted for location and butterfat content in the same manner as for a pool plant. From this utilization value, the market administrator would subtract cash payments to the Grade A dairy farmers who constitute the regular supply of milk at the nonpool plant. Only such payments would be recognized as had been made to dairy farmers by the 20th day following the end of the delivery month. The payments would be the gross amount paid for milk delivered by farmers to the nonpool plant; the only deductions allowed would be those authorized in writing by the dairy farmers for supplies or services, including hauling. Any amount by which such payments fail to equal the utilization value of the milk would be payable to the utilization fund. In this way, the nonpool plant operator would be fully equated, so far as the utilization cost of his milk is concerned, with the pool plant operators.

In case the nonpool plant receives no milk or only part of its supply directly from dairy farmers, the application of these provisions should follow those which would be applied to similarly situated pool plants. For example, on the basis of the operations described in the record the Dairy Fresh Corporation plant at Prichard, Alabama, would be a nonpool plant. No milk is received directly from farms at the Prichard plant; its principal supply is from a receiving plant located at Greensboro, Alabama. In this instance, the Greensboro plant constitutes a supply plant and the entire operation there and at Prichard would be reported and audited to compare payments to dairy farmers delivering at Greensboro with class utilization and values of all milk received at and disposed of from the two plants.

The milk production area around Greensboro, Alabama, is entirely separate from that drawn upon by those Gulf Coast handlers who would be fully regulated hereunder. There was no proposal for extending regulation into Alabama, nor did producers there desire to be included under a Federal order at this time. In the circumstances, the Gulf Coast producers and handlers were concerned only that this Alabama handler, or any other nonpool handler who might be affected, be denied any competitive advantage based on minimum class prices paid to producers. They were not concerned about the possibility that nonpool handlers would have any competitive advantage in the procurement of milk through lack of pooling.

Other nonpool handlers may purchase some milk from dairy farmers and the remainder from other sources. The other source and dairy farmer milk will be allocated in the same fashion as if the plant were a pool plant, and compensatory payments computed if the other source milk did not come from plants subject to a Federal order.

The option of paying the difference between the Class I and Class II prices on the quantities sold as Class I in the marketing area should also be available to any handler operating a nonpool plant. Such payment will remove any competitive sales advantage as compared with fully regulated handlers just as in the case of other source milk allocated to Class I at a pool plant.

The assessment of administrative expenses should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between Class I and Class II prices on his in-area sales, he should continue to pay administrative expense only on such quantities. However, if he elects the payment-to-dairy farmers option, he should pay administrative expense on his entire receipts from the Grade A dairy farmers. Obviously, the second option involves fully as much verification of receipts and utilization by the market administrator as at a pool plant. Such verification might well include the checking of weights and butterfat tests of receipts from dairy farmers and of the product sold as well as an audit of the books and records. Also, some of the fully regulated plants have nearly as large a proportion of out-of-area sales as a nonpool distributor yet are assessed administrative expense on their entire receipts.

(d) *Distribution of proceeds to producers; type of pool.* Returns from the sale of milk should be distributed to producers through a marketwide pool rather than through individual-handler pools. Under the marketwide pool, all producers regularly supplying the market would receive the same uniform price for their milk regardless of its utilization by the particular handler who received it. This type of pool provides for the uniform distribution among all producers in the market of the sales proceeds from the Class I and reserve supplies of milk.

A marketwide pool will also accommodate the previously described distribution of milk by the Alabama handler located at Prichard, Alabama, without either directly involving his primary market in Mobile, Alabama, through complete regulation or leaving his milk unpriced. It will be recalled that this handler will be an operator of a nonpool plant under this order and will be subject to the compensatory payment provisions applicable to such handler.

The marketwide pool will also contribute to the flexibility of milk marketing in the Mississippi Gulf Coast area in two important respects. One is that supplemental supplies can be freely distributed among handlers without affecting the prices paid to producers at each plant. The second is that temporary or seasonal reserves can be moved between plants either by transfer of the milk or of the shippers without affecting the prices paid to producers at the individual plants.

A marketwide pool will permit any handler to bid on contracts as those offered by military installations and other public institutions and to obtain supplies for such sales without upsetting the market whenever the business might shift from one handler to another.

Base-excess plan. A base and excess plan of distributing returns for milk among producers for the purpose of encouraging level production should be adopted for this market.

A base and excess plan would be an effective means of improving the seasonal pattern of milk deliveries because it would relate producer returns directly to deliveries of milk during the low production months. Such a plan will help achieve a production pattern more nearly fitted to the sales pattern for fluid milk products in this area. A base and excess plan that is uniformly applied to all producers by being made a part of the attached order, will play an essential role in stabilizing marketing conditions in the Mississippi Gulf Coast area.

Fundamentally the base-excess plan proposed by the cooperative association and included herein is similar to that now being used by most of the handlers in the area. The period for base-making would be the months of September through January. Each producer would be assigned a daily base equal to his deliveries during that period divided by the number of days from the first day of his deliveries (using days of production in the case of a bulk tank shipper) to the last day of January, or by 120, whichever is more. The daily bases for each producer should be announced on or before March 1 of each year.

During the months of March through July separate uniform prices would be computed for base milk and excess milk for the purpose of allocating Class I sales first to base milk. Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month during which he delivers milk to any handler. The excess price would be the Class II price except in these months when the total Class I sales exceed the total quantity of base milk. During such months the excess price would be a blend of the Class I and Class II usage of excess milk. The base price is determined by dividing the total base milk into the remaining returns for all producers after subtracting the value of excess milk and the value of milk from producers with no base. The proposed method of arriving at uniform prices for base and excess milk will avoid the possibility that the price for base milk could exceed the Class I price.

Certain rules regulating the transfer of established bases were proposed and are adopted herein subject to some modification. Transfers within these rules should be made only on written request filed with the market administrator. The rules permit reasonable transfer of bases and correspond closely to present practices in the market.

The proposed rules provide for computing bases for dairy farmers on deliveries during the preceding base-forming period whenever any plant first achieves pool plant status in a base paying period. This provision will permit these producers to share equally with all other producers in the returns for milk.

Also, since the effective date of this order will occur after the beginning of the period provided for computing bases, this provision will allow for the establishment of bases on deliveries during the entire 1958-59 base-forming period.

Payments to producers and cooperative associations. The order should provide that each handler make final payment to each producer for milk received at the appropriate uniform price(s) on or before the 15th day after the end of each month. Since it has been the practice in this area for handlers to pay producers semimonthly, provision has been made for partial payments to producers on or before the 25th of each month for milk delivered during the first 15 days of such month at not less than the Class II price per hundredweight for the preceding month. No adjustment for butterfat content or location is required on such advance payment.

Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions from the final settlement for goods or services furnished, or for payments made on behalf of the producer.

The order should provide that handlers shall, if so requested, make payment directly to qualified cooperative associations for milk received from producer members of such association. This provision is necessary to enable producer cooperative associations to carry out their essential functions as authorized by the Act.

The successful operation of any classified pricing program and of a milk marketing order is dependent in large measure upon the cooperative marketing activity of producers supplying the market. The collective marketing activities of cooperative associations are of benefit not only to member producers, but also to producers not members of the association who are able to market their milk in a stable and orderly market at prices comparable to those received by association members. Under such marketing conditions, all producers are assured that they will be paid for their fair share of the fluid sales. They are assured, also, that their milk will not be displaced with milk purchased from other producers at lower prices than they received. The stable and orderly marketing conditions which may be achieved and maintained by cooperative action of producers likewise are of benefit to consumers and distributors in that they foster a dependable supply of pure and wholesome milk.

In order for a cooperative association to be able to carry out these functions, it is important that such association have full authority and not be impeded in collective bargaining and in selling milk. In order for a cooperative association to be able to market milk effectively and distribute returns therefrom to producer members, it may be necessary for them to receive payments for such milk. Thus, payments to all members of the association may be made in accordance with the association's pooling program authorized by the Act. Under the authority of the Marketing Agreement Act, payments may be received by a cooperative association on behalf of its members for milk caused to be marketed by the association.

At the time handlers make payment to producers or to cooperative associations for milk they should be required to furnish each such producer or cooperative association with a statement. This statement should show the pounds and butterfat tests of milk received, together with the rate or rates of payment for such milk and a description of any deductions claimed by the handler.

Producer-settlement fund. Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, some method of balancing these amounts is necessary. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund, and all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal except for minor differences that may result from rounding of uniform prices. In order to permit this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the proposed order should be sufficient for these purposes. This reserve would be accumulated by deducting between 4 and 5 cents each month from the uniform or base price, as applicable, after adding half of the unobligated balance to the pool from which such prices are computed. Since excess milk will rarely share in the higher class uses of the market, and deduction for the reserve from the excess milk price would reduce this price below the level of ungraded manufacturing milk prices, excess milk need not contribute to this revolving reserve fund in months when payments are computed under the base-excess plan.

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producer-settlement fund should be paid as soon as the balance in the fund is sufficient, and handlers should then complete payments to producers.

(e) *Administrative provisions.* The remaining provisions of the order are of a general administrative nature, are incidental to the other provisions of the order, and are necessary for the proper and efficient administration of the order. They provide for the selection of a market administrator, define his powers and duties, provide for an administrative assessment, prescribe the information to be reported by handlers and set forth the rules to be followed in making the computations required by the order. They also prescribe the length of time that records must be retained and provide a plan for the liquidation of the order in the event of its suspension or termination. They are similar to like provisions of other orders, and except as set forth below require no comment.

Expenses of administration. As his share of the expenses of administering this order each handler should pay not in excess of 5 cents per hundredweight with respect to all producer milk received, all other source milk received at a pool plant which was classified as Class I milk, and as prescribed in § 1014.61 of the attached order with respect to a handler operating a nonpool plant. The market administrator must verify receipts and utilization of all such milk; therefore all such milk should be subject to the expenses of administration. Experience in other markets indicates that 5 cents per hundredweight with respect to all such milk should yield sufficient money to cover expenses of administration. If payment of expenses of administration at the rate of 5 cents per hundredweight yields more money than is needed, provision is made for the Secretary to prescribe a lesser rate of payment from time to time.

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

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

An important phase of the marketing service program of the order is to furnish producers with correct market information. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

In the case of producers who are members of the cooperative operating a plant, the matter of milk-testing and milk-weighing is under the complete control of such producers and is assessed against such producers either through an association check-off or as a plant operating cost. The bargaining associations were not performing check weighing and testing services at Gulf Coast plants at the time of the hearing. However, whenever such services are adequately performed by cooperatives, the market administrator need not duplicate the services. The additional service of providing market information to producers is carried on to some extent at present by the cooperatives although detailed information regarding market prices, supplies, and the utilization of milk is not available either to the cooperative associations and their members or the independent producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 7 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing. In the event any qualified cooperative association of producers is determined by the market administrator to be performing such services for its members, handlers would be required to pay to the cooperative association such association dues as are authorized by its members.

Records and reports. Reports are required from handlers on receipts and utilization so that the market administrator may make the computations necessary to the marketwide pooling operation and the uniform price to producers. Handlers would also be required to submit payroll reports which would show the details of milk receipts from each producer, the value of the milk received from the producer, deductions therefrom, and net amount paid to the producer.

The order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all orders in operation on July 30, 1957, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444) covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of the decision.

Time schedule. Dates must be prescribed for announcing prices, filing reports and making payments. The following time schedule should allow all interested persons adequate time to perform each function. (These time limits apply to the indicated day of the month following the month for which computations are being made.)

Day of the Month and Function

6th—Submission of monthly reports of receipts and utilization by handlers.

6th—Announcement of class price and butterfat differentials by the market administrator.

10th—Announcement of uniform price and producer butterfat differential by market administrator.

12th—Payments by handlers of amounts due producer-settlement fund and expenses for administration and marketing services.

13th—Payments by market administrator due handlers from producer-settlement fund.

15th—Final payment to producers.

25th—Partial payment to producers.

Milk subject to other Federal orders. A handler who operates a plant at which minimum prices to dairy farmers are established under another order issued pursuant to the act, but nevertheless supplies milk for distribution in the Mississippi Gulf Coast marketing area should be exempt from the provisions of this order, except for reporting his volume of Class I sales in the marketing area. It would be impracticable to attempt to regulate a handler under two separate orders with respect to the same milk. The applicable order should be determined by the volume of Class I sales.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

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

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

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

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted among producers to determine whether the issuance of the attached order regulating the handling of milk in the Mississippi Gulf Coast marketing area, is approved or favored by the producers, as defined under the terms of the proposed order, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of October 1958 is hereby determined to be the representative period for the conduct of such referendum.

Hobart E. Crone is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this decision is issued.

Issued at Washington, D. C., this 7th day of November 1958.

[SEAL] E. L. PETERSON,
Acting Secretary.

Order[1] Regulating the Handling of Milk in the Mississippi Gulf Coast Marketing Area

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

AUTHORITY: §§ 1014.0 to 1014.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 1014.0 *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 Mississippi Gulf Coast 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 such handler's own production, (b) other source milk allocated to Class I pursuant to § 1014.46 (a) (2) and (b), and (c) the quantities of milk at the plants of handlers operating nonpool plants as specified in § 1014.61 (a) (2) or (b) (2).

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

DEFINITIONS

§ 1014.1 *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.).

§ 1014.2 *Secretary.* "Secretary" means 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 Secretary of Agriculture.

§ 1014.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1014.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1014.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association, to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act.

§ 1014.6 *Mississippi Gulf Coast marketing area.* "Mississippi Gulf Coast marketing area", hereinafter called the marketing area, means all the territory, including incorporated municipalities and military reservations, within the counties of George, Greene, Hancock, Harrison, Jackson, Pearl River, and Stone, all within the State of Mississippi.

§ 1014.7 *Route.* "Route" means a delivery (including delivery by a vendor or sale from a plant or plant store) of any fluid milk product, other than a delivery to any milk processing plant.

§ 1014.8 *Distributing plant.* "Distributing plant" means any plant at which fluid milk products, eligible for distribution in the marketing area under a Grade A label, are processed and packaged and from which fluid milk products are disposed of on a route(s) in the marketing area.

§ 1014.9 *Supply plant.* "Supply plant" means any plant at which milk eligible for distribution in the marketing area under a Grade A label, is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1014.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant, other than that of a producer-handler or one described in § 1014.62, from which during the month:

(1) Disposition in the marketing area of fluid milk products on routes is 20 percent or more of the total receipts of Grade A milk; and

(2) Total disposition of fluid milk products on routes is 50 percent or more of the total receipts of Grade A milk; or

(b) A supply plant from which during the month 50 percent or more of receipts from dairy farmers producing Grade A milk is moved to a plant described in paragraph (a) of this section. Any supply plant that was a pool plant in each of the months from the effective date hereof through January 1959 and thereafter any supply plant that was a pool plant during each of the months of September through January immediately preceding shall continue to be a pool plant each of the following months of February through August unless written notice to the market administrator is received, before the first day of the month of its intention to withdraw, in which case such plant shall thereafter be a nonpool plant, unless it again qualifies as a supply plant by shipping 50 percent or more of its receipts from dairy farmers to a plant described in paragraph (a) of this section.

§ 1014.11 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 1014.12 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) The operator of a nonpool distributing plant with route distribution in the marketing area; or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1014.14.

§ 1014.13 *Producer-handler.* "Producer-handler" means a dairy farmer who operates a distributing plant at which no fluid milk or fluid milk products are received during the month except his own production or transfers from a pool plant(s).

§ 1014.14 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant or is diverted by a handler from a pool plant to another pool plant or to a nonpool plant for the account of such handler but for not more than 10 days production during any months of September through January. Milk diverted for the account of such handler shall have been deemed to have been received at the plant from which it was diverted.

§ 1014.15 *Producer milk.* "Producer milk" means all skim milk and butterfat received at a pool plant directly from producers, or diverted pursuant to § 1014.14.

§ 1014.16 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products from pool plants, and (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, or for which other utilization or disposition is not established.

§ 1014.17 *Fluid milk product.* "Fluid milk product" means all the skim milk (including concentrated and reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks or concentrated milk (not sterilized or in hermetically sealed containers), eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, ice cream mix, frozen dessert mix).

§ 1014.18 *Chicago butter price.* "Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

MARKET ADMINISTRATOR

§ 1014.20 *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.

§ 1014.21 *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.

§ 1014.22 *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 on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon, satisfactory to the Secretary;

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

(c) Obtain 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 § 1014.88, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1014.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) 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 of each handler by examination of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(h) Publicly disclose, 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, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1014.30 and 1014.31, or payments pursuant to §§ 1014.80 to 1014.82, 1014.84 and 1014.86 to 1014.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing:

(1) On or before the 6th day of each month, the minimum price for Class I milk pursuant to § 1014.50 (a) adjusted by the applicable location adjustments pursuant to § 1014.52 and the Class I butterfat differential computed pursuant to § 1014.51 (a), both for the current month, and the minimum price for Class II milk computed pursuant to § 1014.50 (b) and the Class II butterfat differential computed pursuant to § 1014.51 (b) both for the previous month;

(2) On or before the 10th day after the end of each of the months of August through February, the uniform price computed pursuant to § 1014.71, adjusted by the applicable location adjustments pursuant to § 1014.82, and by the butterfat differential computed pursuant to § 1014.81; and

(3) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk computed pursuant to § 1014.72, adjusted by the applicable location adjustment pursuant to § 1014.82, and the butterfat differential computed pursuant to § 1014.81;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by each handler; and

(k) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 1014.30 *Reports of receipts and utilization.* On or before the 6th day, excluding Sundays and holidays, of each month each handler, other than a producer-handler or a handler making payment pursuant to § 1014.61 (a), shall report for the preceding month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat in:

(1) Milk received from producers and for the months of March through July the total quantity of base and excess milk. In lieu thereof the operator of a nonpool distributing plant shall report aggregate receipts from dairy farmers who would be producers if such plant were a pool plant;

(2) Fluid milk products received from other pool plants;

(3) Other source milk; and

(4) Inventories of fluid milk products on hand at the beginning and end of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements with respect to:

(1) Disposition of fluid milk products on routes within the marketing area from plants described in §§ 1014.61 and 1014.62, and from other plants for which the market administrator requires such information as a basis for determination of status or obligations; and

(2) Class I milk outside the marketing area;

(c) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1014.31 *Other reports.* (a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 1014.12 (c) shall report its producer payroll for the preceding month which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer and for the base-operating months of March through July the total pounds of base and excess milk;

(3) The number of days on which milk was received from such producer if less than a full calendar month;

(4) The average butterfat content of such milk; and

(5) The net amount of such handler's payment, the price paid and the amount and nature of any deductions;

(b) Each handler who received producer milk for which payment is to be made to a cooperative association pursuant to § 1014.80 (c) shall report to such cooperative association with respect to each such producer, as follows:

(1) On or before the 20th day of each month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the 10th day after the end of each month;

(i) The daily and total pounds of milk received during the month with separate totals for base and excess milk for the months of March through July, and the average butterfat test thereof; and

(ii) The amount or rate and nature of any deductions.

(c) On or before the 25th day after the end of the month each handler (other than a producer-handler or one described in § 1014.62) operating a nonpool distributing plant and making payments pursuant to § 1014.61 (b) shall report his payments to dairy farmers qualified to be producers if such plant were a pool plant, showing for each such dairy farmer:

(1) The pounds of milk;

(2) The average butterfat content thereof; and

(3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

§ 1014.32 *Producer-handler reports.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe.

§ 1014.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and butterfat and other content of all milk, skim milk, cream, and other milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1014.34 *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 calendar 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

§ 1014.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat required to be reported pursuant to § 1014.30 shall be classified (separately as skim milk and butterfat), pursuant to § 1014.41 to § 1014.46.

§ 1014.41 *Classes of utilization.* Subject to the conditions set forth in § 1014.42 to § 1014.46 the classes of utilization shall be as follows:

(a) Class I shall be all skim milk and butterfat (1) disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2) and (5) of this section; and (2) not accounted for as Class II;

(b) Class II shall be all the skim milk and butterfat (1) used to produce any product other than a fluid milk product, (2) in skim milk authorized by the market administrator to be dumped or accounted for as disposed of for livestock feed, (3) in shrinkage allocated to receipts of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat directly from producers, plus 1.5 percent of receipt of skim milk and butterfat, respectively, transferred in bulk from pool plants of other handlers, less 1.5 percent of receipt of skim milk and butterfat, respectively, transferred in bulk lots to pool plants of other handlers, (4) in shrinkage of other source milk, and (5) in inventories of fluid milk products on hand at the end of the month.

§ 1014.42 *Assignment of shrinkage.* The market administrator shall assign shrinkage at the pool plant(s) of each handler as follows:

(a) Compute the total shrinkage of skim milk and butterfat.

(b) Assign the resulting amount, prorated to the handler's receipts of skim milk and butterfat, respectively, in (1) milk received directly from producers and from other pool plants and (2) other source milk.

§ 1014.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

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

§ 1014.44 *Transfers.* Skim milk and butterfat transferred or diverted during the month as milk, skim milk or cream from a pool plant to:

(a) The pool plant of another handler shall be classified as Class I unless Class II is indicated by the operators of both plants in their reports submitted pursuant to § 1014.30 and:

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

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

(b) A plant operated by a producer-handler shall be Class I;

(c) A nonpool plant, except as specified in paragraph (b) of this section, shall be Class I unless:

(1) The transfer is in bulk form and the transferring handler claims Class II use on his report for the month;

(2) The operator of the nonpool milk plant maintains books and records which are made available for examination upon request by the market administrator and which are adequate for verification of such Class II use; and

(3) The skim milk and butterfat respectively, received at the nonpool plant during the month from a pool plant(s) and from a plant(s) at which milk is priced pursuant to another order issued pursuant to the act does not exceed the skim milk and butterfat, respectively, resulting from the following computation:

(i) Determine the skim milk and butterfat, respectively, used to produce any items of Class II milk (as defined pursuant to § 1014.41 (b)) at such nonpool plant during the month;

(ii) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a plant at which milk is priced pursuant to this part or another order issued pursuant to the act and such cream is allocated to other than Class I (under the applicable order definitions and allocation procedures at the transferee plant);

(iii) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a second nonpool plant which is not in excess of the items of Class II processed in such second nonpool plant plus the bulk fluid cream shipped from such second nonpool plant to other nonpool plants which do not dispose of milk or cream for consumption in fluid form: *Provided*, That the second nonpool plant meets the conditions of subparagraph (2) of this paragraph; and

(iv) Subtract the skim milk and butterfat, respectively, received in fluid milk products at such nonpool plant from any source(s) other than that which has been approved by a governmental agency as a source(s) of Grade A fluid milk products. In the event that the remaining skim milk and butterfat, respectively, computed pursuant to this subdivision is less than the skim milk and butterfat, respectively, received at such nonpool plant from a pool plant(s) and from a plant(s) at which milk is priced pursuant to another order issued pursuant to the act, the difference shall be assigned pro rata, to each pool plant (in accordance with receipts of skim milk and butterfat, respectively, from all plants regulated pursuant to the act), and shall be classified as Class I milk.

§ 1014.45 *Computation of the skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II 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.

§ 1014.46 *Allocation of skim milk and butterfat.* After making the computation pursuant to § 1014.45, the market administrator shall determine the classification of producer milk as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 1014.41 (b) (3);

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

(3) Subtract from the pounds of skim milk remaining in each class in series beginning with Class II, the pounds of skim milk in other source milk subject to the pricing and payment provisions of another order issued pursuant to the Act.

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

(5) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers in such class pursuant to §§ 1014.41 and 1014.44 (a);

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

(7) If the remaining pounds of skim milk in all classes exceeds the pounds of skim milk in milk received from producers, subtract such excess from the remaining pounds of skim milk in each class in series beginning with Class II;

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the same manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk.

(c) Add the pounds of skim milk and butterfat allocated to producer milk in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percent of butterfat in such milk in each class.

MINIMUM PRICES

§ 1014.50 *Class prices.* Subject to the provisions of §§ 1014.51 to 1014.53 the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The price per hundredweight for Class I milk of 4.0 percent butterfat content shall be the price for Class I milk computed pursuant to § 987.51 (a) of this chapter (handling of milk in the Central Mississippi marketing area) plus 10 cents.

(b) *Class II price.* The price per hundredweight for Class II milk shall be the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture; plus 10 cents during each of the months of March through July and plus 20 cents during all other months.

Present Operator and Location

Kraft Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Pet Milk Co., Kosciusko, Miss.

§ 1014.51 *Butterfat differentials to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices determined pursuant to § 1014.50 shall be increased or decreased, respectively, for each one-tenth of one percent of butterfat by multiplying the Chicago butter price 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 0.12; and

(b) *Class II milk.* Multiply such price for the current month by 0.11.

§ 1014.52 *Location differentials to handlers.* For milk which is received from producers at a pool plant located more than 60 miles by the shortest highway distance as determined by the market administrator from the courthouse in Gulfport or Pascagoula, Mississippi, whichever is closer, and which is classified as Class I milk the prices computed pursuant to § 1014.51 (a) shall be reduced by 10 cents if such plant is located more than 60 miles but not more than 160 miles from such courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 160 miles: *Provided*, That, for the purposes of calculating such location differentials, fluid milk products transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1014.46 (a) (1), (2) and (3), and the comparable steps in § 1014.46 (b) for such plant, such assignment to transferor-plants to be made first to plants at which the greatest location differential is applicable.

§ 1014.53 *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

§ 1014.60 *Producer-handlers.* Sections 1014.40 to 1014.46, 1014.50 to 1014.53, 1014.61, 1014.70 to 1014.72, and 1014.80 to 1014.88 shall not apply to a producer-handler.

§ 1014.61 *Handler operating a nonpool distributing plant.* In lieu of the payments required pursuant to §§ 1014.80 to 1014.88 each handler, other than a producer-handler or one exempt pursuant to § 1014.62, who operates during the month a nonpool distributing plant, shall pay to the market administrator on or before the 25th day after the end of the month the amount calculated pursuant to paragraph (a) of this section unless the handler elects at the time of reporting pursuant to § 1014.30, to pay the amounts computed pursuant to paragraph (b) of this section.

(a) The following amounts:

(1) For the producer-settlement fund, an amount equal to the value of all skim milk and butterfat disposed of as Class I milk on routes in the marketing area at the Class I price applicable at the location of such handler's plant, less the value of such skim milk and butterfat at the Class II price; and

(2) As his share of the expense of administration, the rate specified in

§ 1014.88 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts:

(1) For the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 1014.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the month from Grade A dairy farmers at such plant or at a plant(s) which serves as a supply plant(s); and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 1014.88 had such plant been a pool plant.

§ 1014.62 *Plants subject to other Federal orders.* The provisions of this part, except §§ 1014.30 (b) (1), 1014.33 and 1014.34, shall not apply to:

(a) A distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless a greater volume of Class I is disposed of from such plant during the month on routes in the Mississippi Gulf Coast marketing area than in the marketing area defined in such other order.

(b) A supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant during each of the preceding months of September through January.

DETERMINATION OF UNIFORM PRICE

§ 1014.70 *Computation of the value of milk received from producers by each handler.* The value of milk received during each delivery period by each handler from producers shall be a sum of money computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 1014.46 (c) by the applicable respective class prices and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 1014.46 (a) (7) and (b) by the applicable respective class prices;

(c) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified as Class II milk (other than shrinkage) during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 1014.46 (a) (4) and (b), whichever is less; and

(d) For any skim milk or butterfat subtracted from Class I milk pursuant to § 1014.46 (a) (2) and (b), and pursuant to § 1014.46 (a) (4) and (b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (c) of this section, add an amount equal to the differences between the values of such skim milk and butterfat at the Class I price and at the Class II price: *Provided,* That such calculation shall not apply if the total receipts of producer milk at pool plants during the month are not more than 112 percent of the total Class I utilization of such plants for the month.

§ 1014.71 *Computation of uniform price.* For each of the delivery periods of August through February the market administrator shall compute the uniform price per hundredweight for milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1014.70 for all handlers specified in § 1014.12 (a) and (c), and who made the payments pursuant to §§ 1014.80 and 1014.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 1014.82;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract for each one-tenth percent by which the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add for each one-tenth percent that such average butterfat content is less than 4.0 percent an amount computed by multiplying the butterfat differential computed pursuant to § 1014.81 by the total hundredweight of such milk;

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

(f) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received at pool plants f. o. b. marketing area.

§ 1014.72 *Computation of uniform price for base milk and excess milk.* For each of the delivery periods of March through July the market administrator shall compute uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Combine into one total the values computed pursuant to § 1014.70 for all handlers specified in § 1014.12 (a) and (c) and who made the payments pursuant to §§ 1014.80 and 1014.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 1014.81;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement funds;

(d) Subtract for each one-tenth percent by which the average butterfat content of the milk included in these computations is greater than 4.0 percent or add for each one-tenth percent that such average butterfat content is less than 4.0 percent, an amount computed by multiplying the butterfat differential computed pursuant to § 1014.82 by the total hundredweight of such milk;

(e) Compute the total value of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers;

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the aggregate value of milk obtained in paragraph (d) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations; and

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers at pool plants, f. o. b. marketing area.

§ 1014.73 *Notification of handlers.* On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1014.30, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof;

(b) For the months of March through July the amounts and value of his base and excess milk respectively;

(c) The uniform price(s) computed pursuant to §§ 1014.71 and 1014.72 and the butterfat differential computed pursuant to § 1014.81; and

(d) The amounts to be paid by such handler pursuant to § 1014.84, § 1014.87, § 1014.88, or § 1014.61; and the amount due such handler pursuant to § 1014.85.

BASE RATING

§ 1014.75 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through January by the number of days from the first day milk is received from such producer during said months to the last day of January, inclusive, but not less than 120 days.

§ 1014.76 *Computation of base.* The base of each producer to be applied during the months of March through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days production delivered by such producer to handlers during the month.

§ 1014.77 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a pool plant during the months of September through January and to each person for whose account milk was delivered to a plant that did not qualify as a pool plant during each month of the base forming period, but which qualifies as a pool plant during any of the months of March through July, bases shall be assigned on deliveries at such plant in the same manner as if such plant had been a pool plant during each month of the base forming period; and

(b) An entire base shall be transferred by the market administrator to another person upon receipt of an application form, approved by the market administrator, and signed by the baseholder(s), or his heirs, and by the person to whom such base is transferred subject to the following condition:

(1) If a base is transferred to a producer already holding a base, a new base shall be computed by adding together the producer milk deliveries of the transferee and transferor during the base forming period and dividing the total by the number of days from the first day of delivery by either the transferee or transferor during the base forming period to the last day of January inclusive but not less than 120 days.

§ 1014.78 *Announcement of established bases.* On or before March 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 1014.80 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each delivery period during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) pursuant to § 1014.71 or § 1014.72, adjusted by the butterfat differential computed pursuant to § 1014.81, subject to the location adjustment to producers pursuant to § 1014.82, and less the following amounts (1) the payments made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 1014.87, and (3) any proper deductions authorized in writing by the producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1014.85 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipts of the balance from the market administrator.

(b) On or before the 25th day of each delivery period to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section and (2) who had not discontinued shipping milk to such handler before the 18th day of the delivery period, an advance payment with respect to milk received from such producer during the first 15 days of the delivery period at the approximate value of such milk, not to be less than the Class II price for 4.0 percent milk for the preceding delivery period, without deduction for hauling; and

(c) To a cooperative association which has filed request for such payment with such handler and with respect to producers for whose whole milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 23d day of the delivery period, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section less any deductions authorized in writing by such cooperative association;

(2) On or before the 13th day after the end of each delivery period an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association.

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1014.80, 1014.81 and 1014.82;

(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 of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1014.87 together with a description of the respective deductions; and

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

§ 1014.81 *Producer butterfat differential.* In making payments pursuant to § 1014.80, the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in milk received from each producer is above or below 4.0 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials pursuant to § 1014.51 weighted by the pounds of butterfat in producer milk in each class, rounded to the nearest one-tenth cent.

§ 1014.82 *Producer location differentials.* In making payments pursuant to § 1014.80, for all milk which is received from producers at a pool plant located more than 60 miles but not more than 160 miles by the shortest highway distance as determined by the market administrator from the courthouse at Gulfport or Pascagoula, Mississippi, whichever is closer, there shall be deducted 10 cents per hundredweight and an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 160 miles.

§ 1014.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1014.61 (a) (1) and (b) (1) and 1014.84 and all appropriate payments pursuant to § 1014.86 and out of which he shall make all payments pursuant to § 1014.85 and all appropriate payments pursuant to § 1014.86: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

§ 1014.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each delivery period, each handler shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers during such delivery period as determined pursuant to § 1014.70 is greater than the amount required to be paid producers by such handler pursuant to § 1014.80 before deductions (a) for marketing services pursuant to § 1014.87 and (b) authorized by the producer.

§ 1014.85 *Payments out of the producer-settlement fund.* On or before the 13th day after the end of each delivery period during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during such delivery period as determined pursuant to § 1014.70 is less than the amount required to be paid producers by such handler pursuant to § 1014.80 before deductions (a) for marketing services pursuant to § 1014.87 and (b) authorized by the producer: *Provided*, That if at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

§ 1014.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

§ 1014.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 1014.80 (a) shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from and to provide market information to such producers.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler shall in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1014.80 (a), as are authorized by such producers, and, on or before the 12th day after the end of each delivery period, pay over such deductions to the association of which such producers are members, accompanied by a statement showing the amount of the deduction and the quantity of milk for which it was computed for each such producer.

§ 1014.88 *Expense of administration.* As his pro rata share of the expense of the administration of this part, each handler shall pay the market administrator, on or before the 12th day after the end of each delivery period, 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk, including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1014.46 (a) (2) and (b) and

(c) The quantities of milk at the plants of handlers operating nonpool plants as specified in § 1014.61 (a) (2) or (b) (2).

§ 1014.89 *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 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 representative 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 obligations 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

§ 1014.90 *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 § 1014.91.

§ 1014.91 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision 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.

§ 1014.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations under this part 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.

§ 1014.93 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1014.100 *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.

§ 1014.101 *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.

[F. R. Doc. 58-9439; Filed, Nov. 12, 1958; 8:56 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 295]

RELINQUISHMENT OF WITHDRAWN OR RESERVED FEDERAL LANDS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by Section 3 of the Federal Property and Adminstrative Services Act of 1949 (63 Stat. 377), as amended February 28, 1958 (72 Stat. 29; 40 U. S. C. 472), and by Revised Statutes 2478 (43 U. S. C. 1201), it is proposed to issue regulations governing the relinquishment of withdrawn or reserved Federal lands. The proposed regulations are set forth below.

Interested persons may submit in triplicate written comments, suggestions or objections with respect to the proposed regulations to the Director, Bureau of Land Management, Washington 25, D. C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

FRED A. SEATON,
Secretary of the Interior.

NOVEMBER 5, 1958.

Sections 295.17 to 295.20 are added to Part 295 to read as follows:

§ 295.17 *Surplus property; statutory exceptions.* The Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, governs the disposal of surplus Federal lands or interests in lands. Section 3 of that act (40 U. S. C. 472), as amended, February 28, 1958 (72 Stat. 29), excepts from its provisions the following:

(a) The public domain.

(b) Lands reserved or dedicated for national forest or national park purposes.

(c) Minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws.

(d) Lands withdrawn or reserved from the public domain, but not including lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator of the General Services Administration, determines are not suitable for return to the public domain for disposition under the general public-land laws, because such lands are substantially changed in character by improvements or otherwise.

§ 295.18 *Scope of regulations; relinquishment procedure.* (a) The regulations of §§ 295.17 to 295.20 apply to lands and interests in lands withdrawn or reserved from the public domain, except lands reserved or dedicated for national forest or national park purposes, which are no longer needed by the agency for which the lands are withdrawn or reserved.

(b) Agencies holding withdrawn or reserved lands which they no longer need will file, in duplicate, a notice of intention to relinquish such lands in the proper land office in the State in which the lands are located. For lands in States in which there is no land office, they shall file their notices with the Bureau of Land Management, Washington 25, D. C., except that notices for lands in North Dakota or South Dakota shall be filed in the Land Office at Billings, Montana, notices for lands in Kansas or Nebraska shall be filed in the Land Office at Cheyenne, Wyoming, and for lands in Oklahoma in the Land Office at Santa Fe, New Mexico.

(c) No specific form of notice is required, but all notices must contain the following information:

(1) Name and address of the holding agency.

(2) Citation of the order which withdrew or reserved the lands for the holding agency.

(3) Legal description and acreage of the lands, except where reference to the order of withdrawal or reservation is sufficient to identify them.

(4) Description of the improvements existing on the lands.

(5) The extent to which the lands are contaminated and the nature of the contamination.

(6) The extent to which the lands have been decontaminated or the measures taken to protect the public from the contamination and the proposals of the holding agency to maintain protective measures.

(7) The extent to which the lands have been changed in character other than by construction of improvements.

(8) The extent to which the lands or resources thereon have been disturbed and the measures taken or proposed to be taken to recondition the property.

(9) If improvements on the lands have been abandoned, a certification that the holding agency has exhausted General Services Administration procedures for their disposal and that the improvements are without value.

(10) A description of the easements or other rights and privileges which the holding agency or its predecessors have granted covering the lands.

(11) A list of the terms and conditions, if any, which the holding agency deems necessary to be incorporated in any further disposition of the lands in order to protect the public interest.

(12) Any information relating to the interest of other agencies or individuals in acquiring use of or title to the property or any portion of it.

(13) Recommendations as to the further disposition of the lands, including, where appropriate, disposition by the General Services Administration.

(d) The holding agency will send one copy of its report on unneeded lands to the appropriate regional office of the General Services Administration for its information.

§ 295.19 *Return of lands to the public domain; conditions.* (a) When the authorized officer of the Bureau of Land Management determines the holding agency has complied with the regulations of this part, including the conditions specified in paragraph (b) of this section, and that the lands or interests in lands are suitable for return to the public domain for disposition under the general public land laws, he will notify the holding agency that the Department of the Interior accepts accountability and responsibility for the property, sending a copy of this notice to the appropriate regional office of the General Services Administration.

(b) Agencies will not be discharged of their accountability and responsibility under this section unless and until:

(1) The lands have been decontaminated of all dangerous materials and have been restored to suitable condition or, if it is uneconomical to decontaminate or restore them, the holding agency posts them and installs protective devices and agrees to maintain the notices and devices.

(2) To the extent deemed necessary by the authorized officer of the Bureau of Land Management, the holding agency has undertaken or agrees to undertake or to have undertaken appropriate land treatment measures correcting, arresting, or preventing deterioration of the land and resources thereof which has resulted or may result from the agency's use or possession of the lands.

(3) The holding agency, in respect to improvements which are of no value, has exhausted General Services Administration's procedures for their disposal and certifies that they are of no value.

(4) The holding agency has resolved, through a final grant or denial, all commitments to third parties relative to rights and privileges in and to the lands or interests therein.

(5) The holding agency has submitted to the appropriate office mentioned in paragraph (b) of § 295.18 a copy of, or the case file on, easements, leases, or other encumbrances with which the holding agency or its predecessors have burdened the lands or interests therein.

§ 295.20 *Declarations to General Services Administration.* (a) When the authorized officer of the Bureau of Land Management determines that the holding agency has complied with the regulations of this part and that the lands or interests in lands other than minerals are not suitable for return to the public domain for disposition under the general public land laws, because the lands are substantially changed in character by improvements or otherwise, he will request the appropriate officer of the General Services Administration, or its delegate, to concur in his determination.

(b) When the authorized officer of the Bureau of Land Management determines that minerals in lands subject to the provisions of paragraph (a) of this section are not suitable for disposition under the public land mining or mineral leasing laws, he will notify the appropriate officer of the General Services Administration or its delegate of this determination.

(c) Upon receipt of the concurrence specified in paragraph (a) of this section, the authorized officer of the Bureau of Land Management will notify the holding agency to report as excess property the lands and improvements therein, or interests in lands to the General Services Administration pursuant to the regulations of that Administration. The authorized officer of the Bureau of Land Management will request the holding agency to include minerals in its report to the General Services Administration only when the provisions of paragraph (b) of this section apply. He will also submit to the holding agency, for transmittal with its report to the General Services Administration, information of record in the Bureau of Land Management on the claims, if any, by agencies other than the holding agency of primary, joint, or secondary jurisdiction over the lands and on any encumbrances under the public land laws.

[F. R. Doc. 58-9363; Filed, Nov. 12, 1958; 8:45 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED PEARS

STANDARD OF IDENTITY; LABEL STATEMENT OF OPTIONAL INGREDIENTS

Notice is hereby given that a petition has been filed by the National Canners Association, 1133 Twentieth Street NW., Washington, D. C., whose members are manufacturers and distributors of canned pears, setting forth a proposed amendment to the regulations fixing and establishing a standard of identity for canner pears (21 CFR 27.20).

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e) (1), 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U. S. C. 341, 371 (e) (1)) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of

Health, Education, and Welfare (22 F. R. 1045), all interested persons are hereby invited to present their views in writing regarding the proposals published below. Such views and comments should be submitted in quintuplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

It is proposed that § 27.20 *Canned pears; identity; label statement of optional ingredients* be amended as follows:

1. By deleting from the second sentence of the introduction to paragraph (a) the clause: "Such food may be seasoned with one or more of the following ingredients:", and substituting therefore the following: "Such food may also contain one or more of the following optional ingredients:".

2. By deleting the word "and" at the end of paragraph (a) (2).

3. By changing the period at the end of paragraph (a) (3) to a semicolon and adding the word "and".

4. By adding to paragraph (a) a new subparagraph (4), as follows:

(4) (i) Mint flavoring and harmless artificial green coloring; or

(ii) Spice or spice flavoring and harmless artificial red coloring.

5. By changing the period at the end of paragraph (e) (3) to a semicolon.

6. By adding to paragraph (e) a new subparagraph (4), as follows:

(4) "With added flavoring and artificial coloring" or "Flavoring and artificial coloring added." The word "flavoring" may be replaced by "mint flavoring," "spice flavoring," or "spice," as is appropriate, or by the common or usual name of the flavoring or spice used. The artificial coloring may be named as "artificial green coloring" or "artificial red coloring," as the case may be.

7. By changing the concluding sentence of paragraph (e) to read as follows: "When two or more of the optional ingredients specified in paragraph (a) (1), (2), (3), and (4) of this section are used, such words may be combined, as for example: 'With added cloves and cinnamon oil, artificial red coloring, and seasoned with cider vinegar.'"

Dated: November 5, 1958.

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

[F. R. Doc. 58-9378; Filed, Nov. 12, 1958; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 34]

[Draft Release 58-18]

EXPERIENCE REQUIREMENTS FOR FLIGHT NAVIGATORS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety, notice is hereby given that the Bureau will propose to the Board an amendment to Part 34 of the civil air regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by December 12, 1958. Copies of such communications will be available after December 17, 1958, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

In order to meet the flight navigator experience requirements of current § 34.31 (a) (1) of Part 34, an applicant must have at least 200 hours of satisfactory flight navigation including celestial and radio navigation and dead reckoning. If an applicant is a pilot who has logged 500 hours of cross-country flight, of which 100 hours was at night, he can be credited with 100 hours toward the experience requirements.

In the absence of electronic and other aids, the safe navigation of an aircraft at night to its destination depends upon the flight navigator's competence to conduct accurate celestial navigation at night. While the current requirements provide generally for experience in flight navigation at night, the Bureau believes these requirements would provide greater assurance of competence if they were amended to specify a minimum of required flight navigation time at night. Moreover, such an amendment would bring Part 34 into conformity with Annex 1 to the International Civil Aviation Convention (ICAO). Accordingly, it is proposed to amend the flight navigator experience requirements of § 34.31 to specify that at least 50 hours of the satisfactory flight navigation experience must be acquired at night.

In addition, it is proposed to add a provision to § 34.31 which would permit an applicant holding a certificate of competence as a Master or Mate of an ocean-going vessel to meet the experience requirements for a flight navigator certificate if he has served in that capacity for at least one year and has 100 hours of satisfactory flight navigation experience of which 50 hours was acquired at night. The addition of such a provision would also achieve uniformity between Part 34 and ICAO Annex 1.

In view of the foregoing, notice is hereby given that it is proposed to recommend to the Board that Part 34 of the civil air regulations be amended:

By amending § 34.31 to read as follows:

§ 34.31 *Experience.* An applicant shall have satisfactorily determined his position in flight not less than 25 times by night by celestial observations and not less than 25 times by day by celestial observations in conjunction with radio and other specialized means of navigation; and,

(a) Within 90 days immediately preceding the date of application, have completed successfully a course of instruction which the Administrator approves as adequate for the training of a flight navigator; or

(b) Have at least 200 hours of satisfactory flight navigation, including celestial, radio, and other specialized means of navigation, of which at least 50 hours shall have been at night; or

(c) Have at least 100 hours of satisfactory flight navigation, including celestial, radio, and other specialized means of navigation, of which at least 50 hours shall have been at night: *Provided,* That he either:

(1) Has logged at least 500 hours of cross-country flight time as pilot of which 100 hours shall have been at night; or

(2) Holds a certificate of competency as Master or Mate of an ocean-going vessel and shall have served in that capacity on such a vessel for at least one year.

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

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601-610, 52 Stat. 1007-1012, as amended; 40 U. S. C. 551-560)

Dated at Washington, D. C., November 6, 1958.

By the Bureau of Safety.

[SEAL] OSCAR BAKKE,
Director.

[F. R. Doc. 58-9415; Filed, Nov. 12, 1958; 8:55 a. m.]

[14 CFR Part 297]

[Economic Regs., Draft Release 100]

CLASSIFICATION AND EXEMPTION OF AIR CARGO CONSOLIDATORS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration the adoption of a revised Part 297 of the economic regulations designed to implement its policy determinations in the International Air Freight Forwarder Investigation, Docket No. 7132.

The principal features of the proposed regulation are explained in the explanatory statement and the proposed revised Part 297 is set forth below.

Interested persons may participate in the making of the proposed rule through submission of written data, views, or arguments pertaining thereto, in triplicate, addressed to the Secretary, Civil Aeronautics Board, Washington 25, D. C. All relevant matter in communications received on or before December 12, 1958, will be considered by the Board before taking further action on the proposed rule.

This regulation is proposed under the authority of sections 205 (a), 1 (2), 411, and 416 of the Civil Aeronautics Act of 1938, as amended, 52 Stat. 984, 977, 1003, 1004, as amended; 49 U. S. C. 425, 401, 491, 496.

Dated: November 6, 1958.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

Explanatory statement. In order to implement Board Opinion and Order E-13141 of November 6, 1958, the proposed regulation changes the title of the present classification of indirect air carriers engaging in overseas and foreign air transportation under Part 297 from "International Air Freight Forwarders" to "Air Cargo Consolidators." This new title is considered more descriptive of the services performed by such indirect air carriers and will serve to clearly differentiate them from that classification of indirect air carriers which engage in interstate air transportation under exemption authority granted pursuant to Part 296.

The proposed regulation enlarges the present operating authority of indirect air carriers subject to Part 297. It expressly authorizes two or more air cargo consolidators to engage in joint loading as defined therein. Joint loading agreements, as in the case of other agreements coming within the scope of section 412 of the Act, are required to be filed with the Board. Such agreements will be subject to approval or disapproval by the Board. The proposed regulation also permits, as a "stop-loss" technique, any holder of an operating authorization as an air cargo consolidator to act as agent of the individual shipper on any shipment or shipments accepted by such holder in the capacity of an air cargo consolidator in the event that the volume of freight available for a consolidated single shipment is inadequate or, in the alternative, to act as agent of an identified direct air carrier which has authorized the agency relationship under such circumstances. Since it is intended that there be no overlapping of such agency relationships, an air cargo consolidator who elects to act as agent of the shipper would be prohibited from charging any commission for its agency services in obtaining the direct air transportation and would be required to limit its charges, for those accessorial and surface services actually rendered, to the amounts separately specified in the consolidator's filed tariffs. When the air cargo consolidator consigns a shipment as agent of the direct air carrier rendering the transportation service, the consolidator may not charge the shipper other than the airport to airport rate for air transportation specified in the applicable tariffs of such direct air carrier and the applicable charges for accessorial and surface transportation services actually rendered, as specified in the tariffs filed with the Board by the air cargo consolidator.

In addition, the present operating authority is enlarged to permit, for a period of three years, air cargo consolidators to use the services of supplemental, large irregular and irregular transport air carriers engaged in overseas or foreign air transportation on an individual shipment basis. Finally, although the proposed regulation expressly prohibits air cargo consolidators from engaging in the direct operation of aircraft, it enlarges the present operating authority to permit air cargo consolidators to charter aircraft from any direct air carrier authorized by the Board to operate cargo charter trips and special services in overseas or foreign air transportation.[1] However, certain conditions would have to be met by a consolidator when the cargo charter trip is to be conducted between points between which other direct air carriers are authorized to engage in air transportation as certificated air carriers. Under such circumstances, an air cargo consolidator would be prohibited by the regulation from chartering aircraft from the direct air carrier involved without specific authority granted by the Board, unless the direct air carrier involved has a certificate and could be authorized by its terms to serve such points or areas on a nonstop basis, or consent is obtained of the authorized certificated air carriers.

With respect to specific exemptions, it will be noted that the regulation exempts air cargo consolidators from the applicability of sections 403 and 404 of the Act insofar as property inbound to the United States from any place outside thereof is concerned.

The exemption authority provided by the proposed part has been given an indefinite duration,[2] terminable upon a finding by the Board that the continued operation by indirect air carriers classified as air cargo consolidators would no longer be in the public interest. However, the Board has reserved power in the proposed part to issue exemption authorizations shorter than the life of this part and to establish appropriate conditions upon individual authorizations.

Although the provision prohibiting the transfer of an operating authorization is retained, this regulation permits successors by operation of law to continue operations under the existing authorization for a maximum period of six months. Thereafter, a new operating authorization in the name of the successor is required.

The Board considers a prohibition against holders of operating authorizations consigning shipments in the capacity of air cargo consolidators through intermediaries who receive commissions from direct air carriers engaged in overseas or foreign air transportation as necessary to assure sound economic conditions (section 2 (b) of the act) in the air cargo business. The principal function of air cargo or sales agents is to persuade potential shippers to use air transportation and to represent the interest of a particular airline by soliciting customers for its services. However, air cargo consolidators have a basic obligation to promote the interest of the shipper in the expeditious routing and handling of the goods consigned to their care. Thus, it is equally inherent in the nature of the services performed by air cargo consolidators that they select the most suitable direct air carrier. Consequently, there does not appear to be any demonstrable need for air cargo consolidators to utilize the services of such agents.[3] Furthermore, it is considered very likely that the leverage afforded consolidators due to the intense competition for their business between agents of direct air carriers would tend to result in the use by the agents of part of their commissions for granting direct or indirect benefits to consolidators. These considerations apply to shipments which the holder of an operating authorization consigns as an air cargo consolidator whether or not they are consolidated shipments or shipments inbound to the United States from a point outside thereof. Accordingly, this proposed regulation would prohibit the holder of such an authorization from tendering any shipment in the capacity of an air cargo consolidator to any agent or other intermediary of the underlying direct air carrier.

Certain of the provisions governing the suspension of operating authorizations for alleged violations have been clarified. Thus, specific provision is made for giving notice to consolidators regarding alleged violations which are not knowing and willful and affording such consolidators a reasonable opportunity to demonstrate or achieve compliance within a specified period of time. Also, failure to operate for a two year period has been made a basis for revocation.

Minimum insurance requirements covering damage to the property of the shipper have been raised from $5,000 to $10,000 and the requirements on public liability for property damage have been raised from $2,000 to $5,000. For the protection of the public, an air cargo consolidator will be required to maintain insurance at all times and as long as it is the holder of an authorization under this part.

Each holder of an authorization as an air cargo consolidator would continue to comply with the reporting requirements of Part 244 of the economic regulations,

[1] This would not, of course, enlarge the charter authorization of any direct air carrier.

[2] An exception has been included, however, with respect to certain operations to and from Alaska. Due to the impending change in the status of Alaska from a Territory to a State, the proposed part provides that on the date on which Alaska ceases to be a Territory the exemption authority provided by the proposed part shall terminate insofar as it authorizes overseas air transportation between a place in any State of the United States, or the District of Columbia, and any place in Alaska. When Alaska becomes a State such operations will constitute inter-state air transportation, and it is the intent of the Board that they be authorized and regulated pursuant to orders or regulations other than the proposed Part 297.

[3] Admittedly, the Board has no statutory responsibility to assure the soundness of the economic structure of foreign air carriers. The prohibition, however, would apply to the use of an agent of a foreign air carrier, based on the desirability of equality of opportunity among direct air carriers to compete for traffic.

as amended, and would be required to comply with the record-breaking provisions of Part 249 of the economic regulations which apply to air freight forwarders. Provisions pertaining to joint-loading records contained in § 249.10 of Part 249 will have to be complied with by air cargo consolidators.

It has come to the Board's attention that, in the absence of specific requirements in the regulations, there has been no uniformity among the indirect air carriers in the preparation of their air waybills and manifests. The lack of uniformity in this regard tends to confuse and mislead the shipping public and unduly hampers the Board in effectively carrying out its investigative functions. While all forwarders use an air waybill of some sort, some fail to set forth therein an adequate itemization of charges imposed or a description of the commodity being shipped, making it impossible to determine whether the correct commodity rate has been applied without actually opening the package and examining the contents. In order to rectify this situation, provisions have been added in this regulation which specify when an air waybill and manifest must be prepared and the information required to be set forth in such documentation.

SUBPART A—GENERAL

§ 297.1 *Definitions.* For the purposes of this part:

(a) "Indirect air carrier" means any citizen of the United States [1] which engages indirectly in overseas or foreign air transportation [2] of property only, and which: (1) Does not engage directly in the operation of aircraft in air transportation, and (2) does not engage in air transportation pursuant to any Board order which has been issued for the purpose of authorizing air express services under a contract with a direct air carrier.

(b) "Direct air carrier" means any air carrier (other than an air taxi operator) or foreign air carrier directly engaged in the operation of aircraft pursuant to a certificate of public convenience and necessity or foreign air carrier permit issued by the Board, or under other authority conferred by any applicable regulation or order issued by the Board.

(c) "Air cargo consolidator" means an indirect air carrier coming within the classification established by § 297.2.

(d) "Joint loading" means an agreement between two or more air cargo consolidators, which provides for the pooling of shipments and their delivery to a direct air carrier for transportation as one shipment in accordance with the filed tariff rules of such direct air carrier.

§ 297.2 *Classification.* There is hereby established a classification of indirect air carriers designated "air cargo consolidators." An "air cargo consolidator", in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating of property or performs or provides for the performance of break-bulk and distributing operations with respect to consolidated shipments, or both, is responsible for the transportation of such property from the point of receipt to point of destination, and utilizes for the whole or any part of such transportation the services of a direct air carrier.

§ 297.3 *Air cargo consolidator acting as agent of shipper or carrier.* (a) Any air cargo consolidator may, by complying with the requirements of this section, accept a particular shipment for transport by it as an air cargo consolidator on condition that it may exercise an expressly reserved option to deal therewith as the agent of the shipper thereof or as the agent of a direct air carrier which has authorized such agency, in the event that a volume of freight adequate to permit a consolidated shipment cannot be assembled.

(b) Any air cargo consolidator seeking to avail itself of this option must give notice that it reserves such right, in the case of every shipment accepted subject thereto, to handle the shipment as agent of the shipper or, if such be the case, as agent of an identified direct air carrier. Such notice shall be given to the shipping public and to any person from whom any shipment is so accepted, and such notice shall be furnished such person in writing at the time the shipment is accepted. Such notice shall be given by means of:

(1) Notices with the heading "Notice to Shippers" conspicuously displayed at all premises operated by or under the control of the consolidator in connection with its air transportation activities so as to be clearly visible to the shipping public.

(2) A legible statement set forth on all letterhead stationery used by the consolidator in connection with its air transportation activities, and

(3) Reasonably prominent statements on all the airwaybills of such consolidator and on such receipts or other documentation as may be furnished to the shippers at the time of acceptance of the shipment.

(c) Any air cargo consolidator exercising its option to act as agent of either the shipper or the direct air carrier shall transmit to the shipper a copy of its charges for the accessorial and transportation services actually rendered with respect to all shipments billed to the consignee.

(d) In the event that it acts as agent of the direct air carrier, the air cargo consolidator shall not charge other than the airport to airport rate for air transportation specified in the applicable tariffs of the direct air carrier rendering the service and the applicable charges for accessorial and surface transportation services actually rendered, as specified in the tariffs filed with the Board by the air cargo consolidator.

(e) In the event that it acts as agent of the shipper, the air cargo consolidator shall not charge any commission for its agency services and shall not charge other than the applicable charges for accessorial and surface transportation services actually rendered, as specified in the consolidator's own tariffs filed pursuant to Part 221 of this chapter.

§ 297.4 *Payment of transportation charges.* Freight bills from direct air carriers for all transportation charges shall be paid by every air cargo consolidator within 30 days after being billed therefor.

§ 297.5 *Separability.* If any provision of this part or the application thereof to any air transportation, person, class of persons, or circumstances is held invalid, the remainder of the part and the application of such provisions to other air transportation, persons, classes of persons, or circumstances shall not be affected thereby.

SUBPART B—EXEMPTIONS

§ 297.11 *Exemption of air cargo consolidators.* Subject to the other provisions of this part, air cargo consolidators are hereby relieved from the provisions of Title VI of the Act, and from all provisions of Title IV of the Act, other than the following:

(a) Subsection 401 (1) (3) (Compliance with Labor Legislation);

(b) Section 403 (Tariffs);

[1] As defined in section 1 (13) of the Act.

[2] As defined in section 1 (21) of the Act.

(c) Subsection 404 (a) (Carrier's Duty to Provide Service, etc.) insofar as said subsection requires air carriers to provide safe service, equipment and facilities in connection with air transportation, and to establish, observe, and enforce just and reasonable individual rates and charges, and just and reasonable classifications, rules, regulations, and practices relating to air transportation;

(d) Subsection 404 (b) (Discrimination);

(e) Subsection 407 (a) (Filing of Reports): *Provided*, That no provision of any rule, regulation, term, condition, or limitations prescribed pursuant to said subsection 407 (a) shall be applicable to air cargo consolidators unless such rule, regulation, term, condition, or limitation expressly so provides;

(f) Subsection 407 (b) (Disclosure of Stock Ownership);

(g) Subsection 407 (c) (Disclosure of Stock Ownership by Officers or Directors);

(h) Subsection 407 (d) (Form of accounts): *Provided*, That no provision of any rule, regulation, term, condition, or limitation prescribed pursuant to said subsection 407 (d) shall be applicable to air cargo consolidators unless such rule, regulation, term, condition, or limitation expressly so provides;

(i) Subsection 407 (e) (Inspection of Accounts and Property);

(j) Section 408 (Consolidation, Merger and Acquisition of Control);

(k) Section 409 (Prohibited Interests);

(l) Section 410 (Loans and Financial Aid);

(m) Section 411 (Methods of Competition);

(n) Section 412 (Pooling and Other Agreements);

(o) Section 413 (Form of Control);

(p) Section 414 (Legal Restraints);

(q) Section 415 (Inquiry into Air Carrier Management); and

(r) Section 416 (Classification and Exemption of Carriers).

Provided, however, That the provisions of sections 403 and 404 shall not be applicable insofar as they would otherwise prohibit any air cargo consolidator from engaging in joint loading and shall not be applicable with respect to property inbound to any place within the United States[3] from any place outside thereof. *Provided, further*, That the provisions of subsection 404 (b) shall not be applicable insofar as they would otherwise prohibit the exercise by any air cargo consolidator, of its option to act as either a consolidator or as agent of the direct air carrier or the shipper, in accordance with provisions of § 297.3.

§ 297.12 *Duration of exemptions.* The exemption authority provided by this part shall continue in effect until the Board shall find that the continuation of such authority in respect of air cargo consolidators is no longer in the public interest, and thereafter the authority with respect to such classification shall terminate: *Provided, however*, That upon the date on which Alaska ceases to be a Territory of the United States the exemption authority provided by this part shall terminate insofar as it authorizes overseas air transportation between a place in any State of the United States, or the District of Columbia, and any place in Alaska.

[3] As defined in section 1 (33) of the Act.

SUBPART C—LIMITATIONS ON EXEMPTIONS

§ 297.21 *Limitations on use of aircraft.* The exemption authority provided to air cargo consolidators by this part shall be effective only with respect to shipments of property, in aircraft operated in overseas or foreign air transportation by direct air carriers which have effective tariffs for the services thus utilized on file with the Board: *Provided, however*, That this authority shall terminate three years from the effective date of this part with respect to other than charter shipments of property in aircraft of direct air carriers operating under authority conferred in Part 291 of this subchapter, in individual exemption orders, or in Order E-9744. No air cargo consolidator shall ship property by air, except in aircraft operated in overseas or foreign air transportation by a direct air carrier specified in this section.

§ 297.22 *Prohibition on use of aircraft.* The exemption authority provided by this part to air cargo consolidators shall not be effective to authorize any such indirect air carrier to directly engage in the operation of aircraft in air transportation. No air cargo consolidator may directly engage in the operation of aircraft in air transportation: *Provided, however*, That this limitation and prohibition shall not be construed to prohibit charters of aircraft by an air cargo consolidator from a direct air carrier authorized by the Board to operate cargo charter trips and special services in overseas or foreign air transportation.

§ 297.23 *Cargo charter trips and other special services in overseas and foreign air transportation over routes of a certificated air carrier.* An air cargo consolidator shall not charter aircraft from a direct air carrier for cargo charter trips or special services in overseas or foreign air transportation between points or areas between which other direct air carriers have been authorized to engage in air transportation by the Board through one or more certificates of public convenience or necessity, unless such direct air carrier has been issued a certificate and could be authorized by the terms thereof to serve such points or areas on a nonstop basis, or unless the provisions of either paragraph (a) or (b) of this section are complied with.

(a) The consent in writing of the certificated air carriers authorized to engage in air transportation between the points involved has been obtained and such consent has been filed with or mailed to the Board in a properly addressed envelope with postage thereon prepaid, or

(b) Specific authority for such cargo charter trip or special services has been granted by the Board upon a showing by the air cargo consolidator that it would be a hardship upon it to use a certificated air carrier authorized to engage in air transportation between the points involved.

SUBPART D—CONDITIONS ON EXEMPTION

§ 297.31 *Necessity for Operating Authorization.* No person shall operate as an air cargo consolidator, within the meaning of this part, unless there is in force with respect to such person a document entitled "Operating Authorization" authorizing him to engage in overseas or foreign air transportation pursuant to the general exemption granted by this part.

§ 297.32 *Application for issuance.* Any person, other than those specified in § 297.33, desiring to operate as an air cargo consolidator may apply to the Board for an appropriate Operating Authorization. Such an applicant shall execute in duplicate, an "Application for Operating Authorization as an Air Cargo Consolidator" (CAB Form —).[4] The applicant shall also submit such other additional information pertinent to its proposed activities as may be requested by the Board with respect to any individual application.

§ 297.33 *Issuance of Operating Authorization to international air freight forwarders holding letters of registration.* Each holder of a currently effective letter of registration as an international air freight forwarder on the effective date of this part shall be issued an "Operating Authorization as an Air Cargo Consolidator" bearing the same effective date as this part. Such authorization shall be deemed to constitute a letter of registration for the purpose of any pending enforcement proceeding and shall in no way affect such proceeding.

§ 297.34 *Issuance of Operating Authorization to all other applicants.* (a) If, after the filing of an application for an Operating Authorization, it appears that the applicant is capable of performing the air transportation authorized by this part as an air cargo consolidator and of conforming to the provisions of the Act and all rules and requirements thereunder, and that the conduct of such operations by the applicant will not be inconsistent with the public interest, the applicant will be notified by letter. Such notification will advise the applicant that upon the filing of a valid tariff within a specified period, an Operating Authorization will be issued to the applicant, unless it has engaged in unauthorized air transportation or other activities prohibited by the Act or the rules and regulations of the Board between the date of such notification and such filing. In the latter event, an Operating Authorization will not be issued, unless and until, a due showing is made by the applicant that it has terminated such unauthorized or prohibited activities, and that the issuance of such authorization would be consistent with the public interest.

(b) No Operating Authorization will be issued to an applicant who fails to demonstrate, as a part of its showing of capability, that it will have such branch offices, associated companies, affiliated companies, or agents located outside the continental United States

[4] Available from Publications Section.

to indicate that such applicant will be able to perform pickup or delivery, consolidation or break-bulk, and to render customs and other necessary services to be performed in conjunction with handling shipments, with reasonable effectiveness for the benefit of the shipping public.

(c) No Operating Authorization will be issued to an applicant which has, or proposes to have, as owner, partner, manager, officer, director, or stockholder holding a controlling interest, any person who is or has been connected in any such capacity with any other air cargo consolidator, air freight forwarder, international air freight forwarder, cooperative shippers association, irregular air carrier, supplemental air carrier, or noncertificated cargo carrier, if the letter of registration, Operating Authorization, or other exemption privilege of such carrier was suspended or revoked by the Board on account of acts or omissions which occurred during the time of such connection: *Provided, however*, That an Operating Authorization may be issued to such an applicant where the Board finds, upon a showing by an applicant, that the public interest and applicant's intention and ability to conform to the provisions of the act and requirements thereunder are not adversely affected by such relationship.

(d) If, after the filing of an application for an Operating Authorization, it appears that the applicant has not made a due showing of capability or that the conduct of operations by the applicant might otherwise be inconsistent with the public interest, the Board may on its own motion assign the application for hearing, or may notify the applicant by letter of its intention to dismiss such application. Within 30 days of the date of the mailing of such letter the applicant may make written request for reconsideration and submit such additional information as it believes will make the necessary showing, or request that the application be assigned for hearing, in which case the applicant shall outline the evidence to be presented at such hearing and shall show the need for hearing in order to properly present its case.

(e) In the event that reconsideration or hearing is requested, the Board may, without notice or hearing, approve or disapprove the application in accordance with its determination of the public interest upon the showing made, or on its own initiative may assign the application for hearing.

§ 297.35 *Effective period.* Each Operating Authorization shall be effective upon the date specified therein, and shall continue in effect, unless sooner suspended, revoked or terminated, during such period as the authority provided by this part shall remain in effect, or if issued for a limited period of time, shall continue in effect until the expiration thereof unless sooner suspended or revoked.

§ 297.36 *Conditions on Operating Authorization*—(a) *Attachment of conditions to Operating Authorizations.* At the time of issuance, and from time to time thereafter, there shall be attached to the exercise of the privileges granted by any Operating Authorization issued under this part such reasonable terms, conditions, and limitations applicable to the person named therein as are necessary to carry out the requirements of the act and the regulations prescribed thereunder.

(b) *Prohibition against holders of Operating Authorizations having tainted officers or owners.* No holder of an Operating Authorization shall have and retain as an owner, partner, manager, officer, director, or stockholder holding a controlling interest, any person who was, or is, affiliated in any of said capacities with any other air cargo consolidator, air freight forwarder, international air freight forwarder, cooperative shippers association, irregular air carrier, supplemental air carrier, or noncertificated cargo carrier, under the circumstances set forth in paragraph (c) of § 297.34: *Provided, however*, That such holder may have and retain persons presently or previously affiliated, in the manner described above, where the Board finds that the public interest and the carrier's intention and ability to conform to the provisions of the act and requirements thereunder are not adversely affected by such relationship.

§ 297.37 *Nontransferability of Operating Authorizations.* (a) An Operating Authorization shall be nontransferable and shall be effective only with respect to the person named therein or his successor by operation of law, subject to the provisions of this section. The following persons may temporarily continue operations under an Operating Authorization issued in the name of another person, for a maximum period of six months from the effective date of succession, by giving written notice of such succession to the Board within 60 days after the succession:

(1) Administrators or executors of deceased persons;

(2) Guardians of incapacitated persons;

(3) Surviving partner or partners collectively of dissolved partnerships, and

(4) Trustees, receivers, conservators, assignees or other such persons who are authorized by law to collect and preserve the property of financially disabled persons.

(b) All operations by successors, as above authorized, shall be performed in the name or names of the prior holder of the Operating Authorization and the name of the successor, whose capacity shall also be designated. Any successor desiring to continue operations after the expiration of the six-month period above authorized must file an application for a new Operating Authorization within 120 days after such succession. If a timely application is filed, such successor may continue operations until final disposition of the application by the Board.

§ 297.38 *Filing of agreements with foreign agents required.* It shall be an express condition upon the exercise of the privileges herein granted and the operating authorization issued hereunder that any contract or agreement between the holder of such Operating Authorization and a foreign agent encompassing matters set forth in section 412 of the Act and entered into prior to, on, or after the effective date of this part shall be filed with the Board in accordance with the requirements of Part 261 of this chapter:[6] *Provided*, That agreements entered into prior to the effective date of this part shall be filed within 30 days after said effective date. Agreements so filed shall be subject to approval or disapproval by the Board in accordance with the provisions of section 412 of the Act.

§ 297.39 *Prohibition against shipping property at preferential rates which have not been approved.* No holder of an Operating Authorization shall tender property for transportation in the capacity of an air cargo consolidator at preferential rates filed by a direct air carrier unless such rates have been approved by the Board.

§ 297.40 *Prohibition on use of agents of direct air carriers.* No holder of an operating authorization issued pursuant to this part shall tender any shipment (for transportation, wholly or partially by air) in the capacity of an air cargo consolidator to any cargo agent or sales agent of any direct air carrier or to any other intermediary receiving a commission on such shipment from the direct air carrier. Nor shall any holder of such authorization tender any shipment to the direct air carrier for the account of, or on behalf of, any cargo agent, sales agent, or any other intermediary while acting in the capacity of an air cargo consolidator. The payment of a commission by the direct air carrier to such agent or intermediary shall be prima facie evidence of a violation of this prohibition by the air cargo consolidator concerned in all proceedings before the Board conducted under the authority of section 1002 (a), (b) and (c) of the Act.

§ 297.41 *Prohibition on operations unless tariffs are observed.* No holder of an operating authorization issued pursuant to this part shall ship property in the capacity of an air cargo consolidator in overseas or foreign air transportation unless it pays the direct air carrier transporting such property the rates and charges specified in the currently effective tariffs of such direct air carrier for such transportation; and no such consolidator shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates or charges so specified in the tariffs of such direct air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service or facility except those specified in the currently effective tariff of such direct air carrier.

§ 297.42 *Business name of air cargo consolidators.* It shall be an express condition upon the exercise of the privileges

[6] Agreements between air cargo consolidators and foreign freight forwarders are, of course, subject to the provisions of section 412 relating to agreements between an air carrier and any other carrier.

herein granted and the operating authorization issued hereunder, that the air cargo consolidator concerned, in holding out to the public and in performing air transportation services, shall do so only in a name the use of which is authorized under the provisions of this section or under § 297.37.

(a) Except as otherwise provided under paragraph (b) of this section, an air cargo consolidator may do business in the name or names in which its operating authorization is then issued and outstanding, including abbreviations, contractions, initial letter, or other minor variations of such name or names which are readily identifiable therewith.

(b) An air cargo consolidator may do business in other and different name or names as the Board may permit in said operating authorization or by order, upon a finding that the use of such other name or names is not contrary to the public interest. Any such permission may be made conditional upon the abandonment of the use of the name in which its operating authorization is issued and outstanding, in air transportation services by the carrier concerned, or otherwise be made subject to such reasonable terms and conditions as the Board may find necessary to protect the public interest.

(c) Slogans shall not be considered names for the purposes of this section, and their use is not restricted thereby.

(d) Neither the provisions of this section nor the grant of a permission hereunder shall be deemed to constitute a finding for purposes other than for this section or to effect a waiver of, or exemption from, any provisions of the Civil Aeronautics Act, or any orders, or regulations issued thereunder.

§ 297.43 *Suspension of Operating Authorizations.* An Operating Authorization may be suspended by the institution of suspension proceedings in accordance with either the procedure specified in Subpart B of Part 302 of this chapter, or the procedure prescribed in paragraphs (a), (b), and (c) of this section.

(a) Whenever the Board decides to institute a suspension proceeding, pursuant to this section, which involves alleged knowing and wilful violations, it shall issue an order instituting a suspension proceeding. However, whenever the alleged violations are not knowing and wilful, the Board shall, by letter, give the carrier the notice and warning specified in section 9 (b) of the Administrative Procedure Act. Such notice shall specifically recite the holder's failure to comply with any provisions of the Act or any order, rule, or regulation issued under any such provision, or any term, condition or limitation of any authority issued under such act or regulation. Such notice shall also afford the holder a reasonable opportunity to demonstrate or achieve compliance with such legal requirements within a specified period of time. At the expiration of such period, the Board may issue an order instituting a suspension proceeding.

(b) Each order instituting a suspension proceeding will specify a period of time within which the holder must file a written response with the Board. In such response, the holder may deny noncompliance or adduce such considerations as it desires to rely upon in order to justify or excuse noncompliance.

(c) In the event such a written response is filed, the Board may assign the proceeding for hearing or oral argument or, in appropriate cases, enter an order of suspension or an order dismissing the suspension proceeding.

(d) Such suspension may continue until the Board finds that such suspended consolidator has complied with the provisions of the act, or with such rules, regulations, orders, terms, conditions, or limitations or until the expiration of such a minimum suspension period, of fixed duration, as the Board may prescribe. The Board may also order a suspension, of indefinite duration, during the pendency of a docketed revocation proceeding brought under § 297.44.

§ 297.44 *Revocation of Operating Authorizations.* (a) Operating Authorizations shall be subject to revocation, after notice and hearing, for knowing and wilful violation of any provision of the act or of any order, rule, or regulation issued under any such provision, or of any term, condition, or limitation of any authority issued under said act or regulation.

(b) An Operating Authorization shall be revoked without prejudice [5] upon the filing by an air cargo consolidator of a written notice with the Board indicating the discontinuance of air cargo consolidator activities: *Provided*, That the Board may refuse to accept such notice if any proceedings or action is pending in which an air cargo consolidator's authority may be subject to suspension or revocation action. The failure of any holder of an Operating Authorization to perform air transportation services as an air cargo consolidator for a period of two years or failure of any such holder for two successive periods to file the periodic reports required by this chapter may, for the purpose of this part, be deemed by the Board to constitute the filing of written notice indicating the discontinuance of air cargo consolidator activities.

§ 297.45 *Insurance*—(a) *Cargo.* No air cargo consolidator shall engage in air transportation pursuant to this part unless it shall have on file with the Board any one of the following:

(1) A satisfactory certificate or certificates of insurance evidencing a properly endorsed policy of insurance (CAB Form); [4]

(2) Evidence of qualifications as a self-insurer (a self-insurance fund or other qualifications approved by the Board); or

(3) A surety bond.

Any such guaranty shall not be less than the amount prescribed in paragraph (c) (1) of this section, and shall cover risks of loss of or damage to the property it handles as an air cargo consolidator pursuant to the provisions of this part.

[4] Available from Publications Section.

[5] To the filing of a subsequent application for such authorization.

(b) *Public liability, property damage and personal injury.* No air cargo consolidator shall engage in the performance of transfer, collection or delivery services pursuant to this part unless it shall have on file with the Board a satisfactory certificate or certificates of insurance evidencing a properly endorsed policy of insurance (CAB Form), [4] qualifications as a self-insurer (a self-insurer fund or other qualifications approved by the Board) or surety bond in not less than the amounts prescribed in paragraph (c) (2) and (3) of this section, conditioned to pay within the amount of such insurance coverage any final judgment recovered against it on account of bodily injuries to or death of any person, or loss of or damage to property (other than property covered by paragraph (c) (1) of this section) resulting from the negligent operation, maintenance or use of motor vehicles operated by or under its direction and control.

(c) *Minimum liability limits*—(1) *Cargo insurance.* For loss of or damage to property while carried on or resting in any conveyance or premises; minimum $10,000 per conveyance or premises. Conveyance includes, but is not limited to, aircraft, motor vehicles, rail and water craft.

(2) *Public liability; property.* For loss of or damage to property occurring at any one time or place: minimum $5,000;

(3) *Public liability; personal injury.* Claims for bodily injury or death: minimum $10,000 for one person subject to that limit per person and $20,000 for all persons in any one accident.

(d) *Maintenance of insurance coverage.* The insurance coverage referred to herein shall be kept in effect by the air cargo consolidator at all times and until such time as the operating authorization may be revoked pursuant to § 297.44 or is otherwise terminated by the Board.

SUBPART E—REPORTING REQUIREMENTS AND REQUIREMENTS FOR THE MAINTENANCE AND RETENTION OF RECORDS

§ 297.50 *Reporting requirements.* Each holder of an Operating Authorization as an Air Cargo Consolidator shall comply with the reporting provisions of Part 244 of this subchapter, as amended, applicable to international air freight forwarders.

§ 297.51 *Records requirements.* (a) Each holder of an Operating Authorization as an air cargo consolidator shall comply with the record-keeping provisions of § 249.10 of this subchapter, as amended, applicable to air freight forwarders.

(b) Each holder of an Operating Authorization as an air cargo consolidator shall prepare an accurate airwaybill for each shipment consigned for transportation to a direct air carrier by such holder in the capacity of an air cargo consolidator and a copy thereof shall be supplied to the consignor and consignee of each such shipment. Each such airwaybill shall contain:

(1) The following information:

(i) Name and address of consignor, consignee, and air cargo consolidator.

(ii) A limitation of liability statement.

(iii) Number of packages in shipment.

(iv) Total weight (both actual and dimensional, where applicable).

(v) Description of commodities.

(vi) Point of origin and destination of shipment.

(vii) Declared value of shipment.

(viii) Date of airwaybill preparation.

(ix) Name of employee or agent preparing airwaybill.

(2) The following charges, when applicable:

(i) Commodity rate applied.

(ii) Total weight-rate charge.

(iii) Pick-up and/or delivery.

(iv) Excess valuation.

(v) Charges advanced.

(vi) Assembly or distribution.

(vii) Preparation of export documents.

(viii) Insurance (liability).

(ix) C. O. D. fee.

(x) Transportation tax.

(xi) Total charges and an indication as to whether charges are prepaid or collect.

(c) Each holder of an Operating Authorization as an Air Cargo Consolidator shall prepare an accurate manifest showing every individual shipment included in each consolidated shipment consigned for transportation to a direct air carrier by such holder. There shall be set forth in each such manifest the following information:

(1) The number of the air cargo consolidator's individual airwaybill for each individual shipment within a consolidated shipment.

(2) Name of the direct air carrier transporting the shipment and the number of the air carrier's airwaybill under which the shipment is transported, and

(3) Date of shipment.

(4) Weight of each individual shipment and the total weight of consolidated shipment.

[F. R. Doc. 58-9414; Filed, Nov. 12, 1958; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 9]

[Docket No. 12661; FCC 58-1057]

AVIATION SERVICES; FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

ADDITIONAL CHANNELS THROUGH REDUCTION IN CHANNEL SPACING

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

2. It is proposed to amend Part 9—Aviation Services, and Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, to provide additional 50 kc channels in the VHF band 117.975–132.0 Mc through reduction in channel spacing.

3. This proposal parallels recommendations contained in the Radio Technical Commission for Aeronautics (RTCA) reports titled "Frequency Utilization Plan for the Band 108–132 megacycles," (SC-56) dated January 24, 1958, and "Frequency Requirements for Common System Air Traffic Control," (SC-80) dated May 13, 1958. In addition, studies of frequency requirements for common system air traffic control communciations, conducted by the Air Coordinating Committee (ACC report titled, "Accelerated Modernization of the U. S. Air Traffic Control and Navigation System," dated March 1957) have indicated the need for a substantial increase in the number of available VHF channels, and the report recognized that ground implementation of 50 kc channel spacing would be expected to commence in 1958 (Recommendation R5). In the international field, the use of 50 kc spacing between VHF channels was endorsed at the Sixth Session of the International Civil Aviation Organization (ICAO) Communications Division.

4. The proposed 50 kc spacing would make available additional channels in portions of the 117.975–132.0 Mc band for Air Traffic Control operations, the frequency 123.55 Mc for Flight Test Stations, and the frequencies 126.85 Mc and 131.95 Mc for aeronautical en route stations. Flight test and aeronautical en route stations are already authorized to operate on 50 kc spaced channels in other portions of the 117.975–132.0 Mc band.

5. It is contemplated that implementation of the newly derived 50 kc spaced channels may be accomplished without disruption of air traffic control communications on presently assigned 100 kc spaced channels. The Civil Aeronautics Administration (CAA) has indicated that it plans to begin implementation of 50 kc channels in the near future to relieve conditions of communications congestion in areas of heavy air traffic, such as the Metropolitan New York area.

6. The proposal to subdivide the general aviation band 121.975–123.075 into 50 kc channels at this time is not intended to mean that these 50 kc channels will be implemented immediately. It is expected that implementation in this band will involve a gradual transition to be completed when general aviation, and particularly the smaller private aircraft can be equipped to utilize the 50 kc channels without destructive interference to operations on existing channels in the band. The 50 kc channeling of this band is consistent with the general recommendations of the aviation industry, including the users and implementing agencies, and will serve as a guide for equipment manufacturers.

The proposed amendment is issued under the authority of sections 303 (b), (c), and (r) of the Communications Act of 1934, as amended.

8. Any interested person who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before November 26, 1958, written data, views, or arguments setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Rebuttal comments may be filed within ten days from the last day for filing of original comments. No additional comments may be filed unless, (1) specifically requested by the Commission, or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

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

Adopted: November 5, 1958.

Released: November 7, 1958.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

A. Amend Part 9—Aviation Services, as indicated below:

1. Amend paragraphs (g) and (h) of § 9.312 to read as follows:

(g) 121.60, 121.65, 121.70, 121.75, 121.80, 121.85, 121.90 and 121.95 megacycles: Airport utility frequencies. The frequency 121.60 Mc. may be used by aircraft radio stations for airport utility communications on the condition that no harmful interference is caused to search and rescue communications during any period of search and rescue operations in the locale involved.

(h) These frequencies are available for air traffic control operations:

118.00A	119.75	121.70C	125.10
118.05	119.80	121.75C	125.15
118.10B	119.85	121.80C	125.20
118.15	119.90	121.85C	125.25
118.20	119.95	121.95C	125.30
118.25	120.00	123.60	125.35
118.30	120.05	123.65	125.40
118.35	120.10	123.70	125.45
118.40	120.15	123.75	125.50
118.45	120.20	123.80	125.55
118.50	120.25	123.85	125.60
118.55	120.30	123.90	125.65
118.60	120.35	123.95	125.70
118.65	120.40	124.00	125.75
118.70	120.45	124.05	125.80
118.75	120.50	124.10	125.85
118.80	120.55	124.15	125.90
118.85	120.60	124.20	125.95
118.90	120.65	124.25	126.00
118.95	120.70	124.30	126.05
119.00	120.75	124.35	126.10D
119.05	120.80	124.40	126.15D
119.10	120.85	124.45	126.20D
119.15	120.90	124.50	126.25D
119.20	120.95	124.55	126.30D
119.25	121.00	124.60	126.35
119.30	121.05	124.65	126.40
119.35	121.10	124.70	126.45
119.40	121.15	124.75	126.50
119.45	121.20	124.80	126.55
119.50	121.25	124.85	126.60
119.55	121.30	124.90	126.65
119.60	121.35	124.95	126.70E
119.65	121.40	125.00	126.75
119.70	121.65C	125.05	126.80

A—The frequency 118.0 Mc may be used for air traffic control communications on the condition that no harmful interference is caused to the aeronautical radionavigation service.

B—Primarily for international operations.

C—Available on a secondary basis to its primary use as an airport utility frequency.
D—Available on a non-interference basis to government use of 126.18 Mc.
E—For communication with Air Traffic Communication Stations.

2. Amend paragraph (b) of § 9.331 to read as follows:

(b) These frequencies are available to private aircraft for air traffic control operations: 122.00, 122.05, 122.10, 122.15, 122.20, 122.25, 122.30, 122.35, 122.40, 122.45, 122.50, 122.55, 122.60, 122.65, 122.70, 122.75, 122.85, 122.90, 122.95, and 123.05 megacycles.

3. Amend paragraph (c) of § 9.331 to read as follows:

(c) [Reserved]

4. Amend paragraphs (a) and (c) of § 9.411 to read as follows:

(a)

118.00A	119.75	121.70C	125.10
118.05	119.80	121.75C	125.15
118.10B	119.85	121.80C	125.20
118.15	119.90	121.85C	125.25
118.20	119.95	121.95C	125.30
118.25	120.00	123.60	125.35
118.30	120.05	123.65	125.40
118.35	120.10	123.70	125.45
118.40	120.15	123.75	125.50
118.45	120.20	123.80	125.55
118.50	120.25	123.85	125.60
118.55	120.30	123.90	125.65
118.60	120.35	123.95	125.70
118.65	120.40	124.00	125.75
118.70	120.45	124.05	125.80
118.75	120.50	124.10	125.85
118.80	120.55	124.15	125.90
118.85	120.60	124.20	125.95
118.90	120.65	124.25	126.00
118.95	120.70	124.30	126.05
119.00	120.75	124.35	126.10D
119.05	120.80	124.40	126.15D
119.10	120.85	124.45	126.20D
119.15	120.90	124.50	126.25D
119.20	120.95	124.55	126.30D
119.25	121.00	124.60	126.35
119.30	121.05	124.65	126.40
119.35	121.10	124.70	126.45
119.40	121.15	124.75	126.50
119.45	121.20	124.80	126.55
119.50	121.25	124.85	126.60
119.55	121.30	124.90	126.65
119.60	121.35	124.95	126.75
119.65	121.40	125.00	126.80
119.70	121.65C	125.05	

A—The frequency 118.0 Mc may be used for air traffic control communications on the condition that no harmful interference is caused to the aeronautical radionavigation service.
B—Primarily for international operations.
C—Available on a secondary basis to its primary use as an airport utility frequency.
D—Available on a non-interference basis to government use of 126.18 Mc.

* * * * *

(c) 121.60, 121.65, 121.70, 121.75, 121.80, 121.85, 121.90, and 121.95 megacycles: These airport utility frequencies are available to airdrome control stations for communications with ground vehicles and aircraft on the ground at airdromes. The antenna heights shall be restricted to the minimum necessary to achieve the required coverage. The frequency 121.60 Mc is available to airdrome control stations for airport utility communications on the condition that no harmful interference is caused to search and rescue communications during any period of search and rescue operations in the locale involved.

5. Amend paragraph (e) of § 9.432 to read as follows:

(e) Frequencies for VHF aeronautical en route operations. In addition to the frequencies in §§ 9.433 to 9.436, and § 9.440, other frequencies spaced at 50 kc intervals from 126.85 Mc through 131.95 Mc, inclusive, are available to aeronautical en route stations upon a showing that the proposed operation is compatible with existing operations in the band.

6. Amend § 9.451 to read as follows:

§ 9.451 *Frequencies available.* The frequencies 121.60, 121.65, 121.70, 121.75, 121.80, 121.85, 121.90, and 121.95 megacycles are available for use by aeronautical utility mobile stations. The frequency 121.60 Mc is available to aeronautical utility mobile stations for airport utility communications on the condition that no harmful interference is caused to search and rescue communications during any period of search and rescue operations in the locale involved.

7. Amend paragraph (a) of § 9.611 to read as follows:

(a) The frequencies 3281 kilocycles, 123.1, 123.2, 123.3, 123.4 and 123.5 megacycles are available for assignment to ground and aircraft flight test stations. (The frequencies 123.1, 123.3, and 123.5 megacycles are shared with flying school stations on a non-interference basis.) The frequencies 123.15, 123.25, 123.35, 123.45, and 123.55 megacycles are available for assignment only to aircraft manufacturers: *Provided, however,* That until January 1, 1960, these frequencies will be assigned only upon an adequate showing that harmful interference will not be caused to flight test and flying school stations operating on the other very high frequencies listed in this section.

B. It is proposed to amend Part 2, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, in the following particulars:

1. Amend that portion of § 2.104 (a) (5), the table of frequency allocations, between 108 and 132 Mc, columns 5 through 11, to read as follows:

Band Mc 5	Allocation 6	Band Mc 7	Service 8	Class of station 9	Frequency 10	Nature {OF SERVICES / of stations 11
108–117.975	G, NG	108–117.975	Aeronautical radionavigation.	Radionavigation land.	108.1	Localizer.
					108.2	Omni, directional radio range.
					108.3	Localizer.
					108.4	Omni-directional radio range.
					108.5	Localizer.
					108.6	Omni-directional radio range.
					108.7	Localizer.
					108.8	Omni-directional radio range.
					108.9	Localizer.
					109.0	Omni-directional radio range.
					109.1	Localizer.
					109.2	Omni,directional radio range.
					109.3	Localizer.
					109.4	Omni-directional radio range.
					109.5	Localizer.
					109.6	Omni-directional radio range.
					109.7	Localizer.
					109.8	Omni-directional radio range.
					109.9	Localizer.
					110.0	Omni-directional radio range.
					110.1	Localizer.
					110.2	Omni-directional radio range.
					110.3	Localizer.
					110.4	Omni-directional radio range.
					110.5	Localizer.
					110.6	Omni-directional radio range.
					110.7	Localizer.
					110.8	Omni-directional radio range.
					110.9	Localizer.
					111.0	Omni-directional radio range.
					111.1	Localizer.
					111.2	Omni-directional radio range.
					111.3	Localizer.
					111.4	Omni-directional radio range.
					111.5	Localizer.
					111.6	Omni-directional radio range.
					111.7	Localizer.
					111.8	Omni-directional radio range.
					111.9	Localizer.
					112.0	Omni-directional radio range.
					112.1–117.9 (NG49)	Omni-directional radio range.
117.975–121.975 (US93) (US94) (US95) (US96)	G, NG	117.975–121.975	Aeronautical mobile.	a. Aeronautical. b. Aircraft.	118.0–121.4 (NG47)	Airdrome control.
					121.5	AERONAUTICAL MOBILE.
					121.6	Aeronautical search and rescue mobile; aeronautical utility land; aeronautical utility mobile.
					121.65	Aeronautical utility land; aeronautical utility mobile.
					121.7	Do.
					121.75	Do.
					121.8	Do.
					121.85	Do.
					121.9	Do.
					121.95	Do.

Band Mc 5	Allocation 6	Band Mc 7	Service 8	Class of station 9	Frequency 10	Nature of services of stations 11
121.975–123.075 (US97) (US98) (US99)	NG	121.975–123.075	Aeronautical mobile.	a. Aeronautical. b. Aircraft.	122.0–123.05 (NG47)	Private aircraft.
123.075–126.825 (US94) (US100) (US101)	G, NG	123.075–126.825	Aeronautical mobile.	a. Aeronautical. b. Aircraft.	123.1	Flight test; flying school.
					123.15	Flight test.
					123.2	Do.
					123.25	Do.
					123.3	Flight test; flying school.
					123.35	Flight test.
					123.4	Do.
					123.45	Do.
					123.5	Flight test; flying school.
					123.55	Flight test.
					123.6–126.8 (NG47)	Airdrome control.
126.825–132.0	NG	126.825–132.0	Aeronautical mobile.	a. Aeronautical. b. Aircraft.	126.85–131.95 (NG47)	AERONAUTICAL MOBILE.

2. Amend the list of US footnotes immediately following the table by inserting in proper numerical order the text of footnote US93, to read as follows:

US93 The frequency 118.0 Mc may be used for air traffic control communications on the condition that no harmful interference is caused to the aeronautical radionavigation service.

3. Amend the text of footnotes US94, US100 and US101 to read as follows:

US94 The bands 117.975–121.425 and 123.575–126.825 Mc are for air traffic control communications.

* * * * *

US100 The band 123.075–123.575 Mc is for (a) non-Government operations in accordance with the Commission's Rules and (b) for CAA communications incident to flight test activities pertinent to aircraft certification.

* * * * *

US101 The band 123.075–123.575 Mc is for use by flight test and flying school stations.

[F. R. Doc. 58-9408; Filed, Nov. 12, 1958; 8:54 a. m.]

[47 CFR Parts 7, 8]

[Docket No. 12592; FCC 58-1061]

STATIONS ON LAND AND SHIPBOARD IN MARITIME SERVICES

ASSIGNMENT OF FREQUENCIES IN VICINITIES OF COOS BAY AND OF ASTORIA-PORTLAND, OREGON

1. On September 4, 1958, the Commission adopted a Notice of Proposed Rule Making in the above-designated docket (FEDERAL REGISTER of September 11, 1958; 23 F. R. 7046). In the Notice it was proposed to make available for assignment the frequency pair 2566 kc. (coast)—2031.5 kc. (ship) during the hours 7 a. m. to 7 p. m., Pacific Standard Time, only, for service via shore facilities in the vicinity of Coos Bay, Oregon, and simultaneously to delete the frequency pair 2566 kc (coast)—2009 kc (ship) from availability for assignment in the Astoria-Portland area.

2. This further Notice of Proposed Rule Making is issued to propose that a non-interference requirement be associated with the use of the ship station frequency 2031.5 kc. Information available to the Commission indicates that there are Government and Canadian radio stations, at Seattle, Washington and Penticton, British Columbia, respectively, that operate on the frequency 2030 kc. With ship station radiotelephone transmission on the frequency 2031.5 kc to a coast station in the vicinity of Coos Bay, Oregon, there is a possibility that the Government and Canadian operations would experience long range harmful interference during those hours of darkness that are included between 7 a. m. and 7 p. m., P. s. t., for a portion of each year. It is not expected that daytime operation of ship stations within normal communicating distance of the Coos Bay area will cause such interference.

3. This proposal is issued under the authority contained in the original Notice of Proposed Rule Making in this Docket.

4. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, may file with the Commission on or before December 3, 1958, written data, views or briefs setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments in reply to the original comments may be filed within ten days from the last day for filing said original data, views or briefs. The Commission will consider all such comments prior to taking final action in this matter.

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

Adopted: November 5, 1958.

Released: November 7, 1958.

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

A. Part 7 is amended as follows:

1. Section 7.306 (b): That portion of the frequency table in this paragraph which lists Astoria-Portland, Oregon, is amended by deleting the frequency pair 2566 kc (coast)–2009 kc (ship). As amended, that portion of the frequency table reads as follows:

Astoria-Portland, Oreg.	2598	None.	2206	None.

2. Section 7.306 (b): In the frequency table in this paragraph, after the entry Astoria-Portland, Oregon, add a new location and frequencies as follows:

Coos Bay, Oreg.	2566	7 a. m. to 7 p. m., P. s. t., only.	2031.5	7 a. m. to 7 p. m., P. s. t., only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

B. Part 8 is amended as follows:

1. Section 8.354 (a) (1): That portion of the frequency table in this paragraph which lists Astoria-Portland, Oregon, is amended by deleting the frequency pair 2009 kc (ship)–2566 kc (coast). As amended, that portion of the frequency table reads as follows:

Astoria-Portland, Oreg.	2206	None.	2598	None.

2. Section 8.354 (a) (1): In the frequency table in this paragraph, after the entry Astoria-Portland, Oregon, add a new location and frequencies as follows:

Coos Bay, Oreg.	2031.5	7 a. m. to 7 p. m., P. s. t., only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.	2566	7 a. m. to 7 p. m., P. s. t. only.

[F. R. Doc. 58-9409; Filed, Nov. 12, 1958; 8:54 a. m.]

[47 CFR Part 19]

[Docket No. 12662; FCC 58-1060]

CITIZENS RADIO SERVICE

OPERATION OF CLASS D STATIONS

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

2. By its Second Report and Order in Docket No. 11994 (FCC 58-798) published in the FEDERAL REGISTER of August 9, 1958 (23 FR 6128) and effective on September 11, 1958, the Commission completely revised its rules governing the Citizens Radio Service and, among other things, established a new class of station in that service (Class D) for operation with radio-telephone emissions on certain frequencies in the 26.96-27.23 Mc band.

3. The Commission has considered the advisability of adding the frequency 27.255 Mc to those now available for use by Class D citizens radio stations, and has concluded that such action appears desirable. The frequency 27.255 Mc is presently available in the Citizens Radio Service for use by Class C mobile stations for the remote control of objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention. It is also available in many of the Commission's other services for miscellaneous uses such as voice communications, telemetry, etc., in which instance power inputs considerably in excess of 5 watts may be authorized. It would appear that the addition of that frequency to those on which Class D citizens radio stations may operate with a maximum plate power input of not more than 5 watts will not contribute materially to the interference problems on that frequency. On the other hand, substantial use of the frequency might be made by Class D stations which might permit the simplified construction of equipment for use at both Class C and Class D stations, in that a single crystal on the frequency 27.255 Mc could be used in either case.

4. Accordingly, the Commission proposes to amend the table of frequencies appearing in § 19.31 (d) of Part 19 of its rules, by the addition of the frequency 27.255 Mc thereto, with the notation that the frequency is shared with stations in other services.

5. Authority for the foregoing amendment is contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any person desiring to support this proposal may file with the Commission on or before December 5, 1958, a written statement or brief setting forth his comments. Replies to such comments may be filed within ten days from the last date for filing original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

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

Adopted: November 5, 1958.

Released: November 7, 1958.

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

[F. R. Doc. 58-9401; Filed, Nov. 12, 1958; 8:53 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 54727; Customs Delegation Order 14]

ORDER OF SUCCESSION OF PERSONS TO ACT AS COMMISSIONER OF CUSTOMS

NOVEMBER 6, 1958.

Under the authority conferred upon me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955, it is hereby ordered that the following officers of Customs, in the order of succession enumerated, shall act as Commissioner of Customs during the absence or disability of the Commissioner of Customs, or when there is a vacancy in such office:

1. The Assistant Commissioner of Customs.
2. The Deputy Commissioner of Customs for Management and Controls.
3. The Deputy Commissioner of Customs for Investigations.
4. The Deputy Commissioner of Customs for Appraisement Administration.
5. The Chief, Division of Classification and Drawbacks.
6. The Chief, Division of Entry, Value, and Penalties.
7. The Chief, Division of Marine Administration.
8. The Collector of Customs, Tampa, Florida.
9. The Assistant Collector of Customs, Tampa, Florida.
10. The Collector of Customs, Charleston, South Carolina.
11. The Assistant Collector of Customs, Charleston, South Carolina.
12. The Collector of Customs, Mobile, Alabama.
13. The Collector of Customs, El Paso, Texas.
14. The Assistant Collector of Customs, El Paso, Texas.
15. The Collector of Customs, Savannah, Georgia.

This order supersedes the order of succession established in Bureau of Customs of Treasury Department Delegation Order No. 9 dated May 5, 1955.

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 58-9374; Filed, Nov. 12, 1958; 8:48 a. m.]

[424.41]

CAST IRON WING NUTS

CHANGE OF TARIFF CLASSIFICATION

NOVEMBER 4, 1958.

The Bureau of Customs published a notice in the FEDERAL REGISTER dated August 20, 1958, that the tariff classification of certain wing nuts was under review. The Bureau by its letter to the collector of customs at New York, New York, dated November 4, 1958, ruled that cast iron wing nuts made of non-malleable iron are properly classifiable as castings wholly of cast iron, including all castings of iron which have been machined, but not made up into articles, or parts thereof, or finished machine parts, under paragraph 327, Tariff Act of 1930, and dutiable at the rate of 5 per centum ad valorem under that paragraph, as modified.

The Bureau further ruled that cast iron wing nuts made of malleable iron are properly classifiable as nuts, of which metal is the component material of chief value, not specially provided for, not plated with platinum, gold, or silver, and not colored with gold lacquer, under paragraph 397 of the tariff act, as modified, and dutiable at the rate of 19 per centum ad valorem if having holes or threads over $^{24}/_{100}$ inch in diameter, or at the rate of 22½ per centum ad valorem if having holes or threads not over $^{24}/_{100}$ inch in diameter.

In the belief that imported iron wing nuts were made of wrought iron it became the practice of customs officers to classify such merchandise as nuts of wrought iron or steel under paragraph 330, Tariff Act of 1930, and dutiable at the rate of .3 cents per pound under that paragraph, as modified.

It is now recognized that many iron wing nuts are made of cast non-malleable iron and cast malleable iron and properly classifiable under paragraph 327 or 397 of the tariff act, as indicated above.

As this ruling will result in the assessment of duty at a higher rate than has heretofore been assessed under a uniform practice, it shall be applied to such or similar merchandise only when entered, or withdrawn from warehouse, for consumption after 90 days after the date of publication of an abstract of this decision in the weekly Treasury Decisions.

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 58-9383; Filed, Nov. 12, 1958, 8:50 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

WILHELM CHARLES REUTER AND HILDA REUTER KAHN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

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

Claimant, Claim No., Property, and Location

Wilhelm Charles Reuter, 52 Rue Georges Appay, Suresnes/Seine, France; Hilda Reuter Kahn, 323 cours Emile Zola, Villeubanne/Rhone, France; Claim No. 60683; Vesting Orders Nos. 17996 and 18827.

To each ½ of the following property: $3,637.37 in the Treasury of the United States; 100 shares of Consolidated Edison Company of New York common stock evidenced by Certificate No. C385900, and 120 shares of General Foods Corporation common stock, evidenced by Certificates Nos. 130305 and 232529 for 60 shares each, registered in the name of the Attorney General and held in the Federal Reserve Bank, New York, for safekeeping.

Executed at Washington, D. C., on November 4, 1958.

For the Attorney General.

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

[F. R. Doc. 58-9379; Filed, Nov. 12, 1958; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification No. 165]

NEVADA

SMALL TRACT CLASSIFICATION

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (10 F. R. 2473), I hereby classify the following described public lands, totaling 153.20 acres in Elko County, Nevada as suitable for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a) as amended:

MOUNT DIABLO MERIDIAN

T. 34 N., R. 56 E.
Sec. 30, Lots 13 to 47 inclusive (SW¼)

The area described contains 153.20 acres subdivided into 35 tracts.

2. Classification of the above described lands by this order segregates them from all appropriation, including location under the mining laws, except as to application under the mineral leasing laws.

3. The lands are located in the southwest portion of Elko County, Nevada, approximately 3 miles southeast of the town of Elko. Precipitation at Elko is 10 inches annually. Topography ranges from undulating to hilly. Soils are shallow upland types. Elevation is approximately 6,200 feet above sea level. Frost free period is 103 days. Vegetation consists of upland sagebrush, scattered juniper, and associated annuals. Estimated carrying capacity is 23 acres per A. U. M. The lands are nontimbered and nonmineral. All mineral rights in the lands will be reserved to the United States.

4. The individual tracts will range in size from 2.5 acres to 7.5 acres. All tracts will be rectangular in shape. The appraised value of the tracts is $50.00 per acre for the tracts classified for homesites and $100.00 per acre for the tract classified as a business site. Rights-of-way 50' wide within tracts for road purposes and for public utilities will be reserved as shown below. Leases will be for a period of 3 years at a minimum rental of $10.00 per year payable in advance for the entire lease period.

Description of tracts	Acres	Advance rentals (3 years)	Right-of-way, width and location	Appraised value
13	5.00	$37.50	50 feet northern and eastern boundary	$250.00
14	5.00	37.50	50 feet northern and western boundary	250.00
15	5.00	37.50	50 feet northern and eastern boundary	250.00
16	4.15	30.00	50 feet northern and western boundary	207.50
17	2.90	30.00	50 feet western boundary	145.00
18	3.75	30.00	No	187.50
19	2.50	30.00	50 feet eastern boundary	125.00
20	5.00	37.50	50 feet western boundary	250.00
21	5.00	37.50	50 feet eastern boundary	250.00
22	5.00	37.50	50 feet eastern boundary	250.00
23	5.00	37.50	50 feet western boundary	250.00
24	5.00	37.50	50 feet eastern boundary	250.00
25	4.15	30.00	50 feet western boundary	207.50
26	3.30	30.00	50 feet western boundary	165.00
27	3.75	30.00	50 feet southern boundary	187.50
28	3.75	30.00	50 feet western boundary	187.50
29	5.00	37.50	50 feet western and southern boundary	250.00
30	5.00	37.50	50 feet eastern and southern boundary	250.00
31	2.50	30.00	50 feet eastern and northern boundary	125.00
32	5.00	37.50	50 feet northern boundary	250.00
33	5.00	37.50	50 feet northern boundary	250.00
34 [1]	5.00	37.50	50 feet northern, eastern and southern boundary.	250.00
35 [1]	3.30	30.00	50 feet western boundary	165.00
36 [1]	7.50	112.50	50 feet northern, western and southern boundary.	750.00
37	5.00	37.50	50 feet western and southern boundary	250.00
38	5.00	37.50	50 feet eastern boundary	250.00
39	2.50	30.00	50 feet eastern boundary	125.00
40	3.75	30.00	No	187.50
41 [1]	5.00	37.50	50 feet northern boundary	250.00
42 [1]	5.00	37.50	50 feet northern boundary	250.00
43 [1]	4.15	30.00	50 feet western and southern boundary	207.50
44 [1]	5.00	37.50	50 feet southern boundary	250.00
45	2.50	30.00	50 feet southern boundary	125.00
46	5.00	37.50	50 feet southern boundary	250.00
47	3.75	30.00	50 feet eastern and southern boundary	187.50

[1] Under application from an individual having statutory preference.

5. This classification is for the benefit of approximately seven applicants who have filed for small tracts 5 acres to 7.5 acres in size.

6. Leases will be issued for a term of three years and will contain an option to purchase in accordance with 43 CFR 257.13. Lessees who comply with the general terms and conditions of their leases will be permitted to purchase their tracts at the prices listed above, providing that during the period of their leases they either (a) construct the improvements specified in paragraph 8 or (b) file a copy of an agreement in accordance with 43 CFR 257.13 (d). Leases will be renewable at the discretion of the Bureau of Land Management and the renewal lease will be subject to such terms and conditions as are deemed necessary in the light of the circumstances and the regulations existing at the time of renewal. However, a lease will not be renewable unless failure to construct the required improvements is justified under the circumstances and nonrenewal would work an extreme hardship on the lessee.

7. Persons who have previously acquired a tract under the Small Tract Act are not qualified to secure a tract unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

8. The improvements referred to in paragraph 6 above must conform with health, sanitation and construction requirements of applicable ordinances and must in addition meet the following standards:

a. Building must be suitable for year-round habitation, must be neat and attractive and must be placed on a permanent foundation.

b. All buildings must be built in a workmanlike manner of attractive properly finished materials and may consist of wood or masonry construction.

c. All habitable rooms used for eating, sleeping, or living shall be provided with not less than one window with an area of not less than 12 square feet.

d. The dwelling shall have a floor space of not less than 500 sq. ft.

e. There shall be at least two doors, not on a common wall, as a means of access to each dwelling unit.

f. All dwellings must be connected to a sewage disposal system in accordance with the requirements of the Nevada State Department of Health as to type, size, and construction. No other type of sewage disposal will be permitted. For information relative to sanitary requirements the lessee may contact the Nevada State Department of Health at 325 West Street, Reno, Nevada. An applicant for purchase will be required to submit a certificate of approval signed by the proper authority of the Health Department.

9. Applicants must file, in duplicate, with the Manager, Land Office, 50 Ryland Street, Reno, Nevada, application form 4-776 filled out in compliance with the instructions on the form and accompanied by any showings or documents required by those instructions. Copies of the application form can be secured from the above-named official.

The application must be accompanied by a filing fee of $10.00 plus the advanced rental specified above. Failure to transmit these payments with the application will render the application invalid. Advance rentals will be returned to unsuccessful applicants. All filing fees will be retained by the United States.

10. The lands are now subject to application under the Small Tract Act. All valid applications filed prior to 10:00 a. m., September 2, 1958, will be granted the preference right provided by 43 CFR 257.5 (a). All valid applications from persons entitled to veterans' preference filed after 10:00 a. m., September 2, 1958, and prior to 10:00 a. m., November 4, 1958, will be considered as simultaneously filed at that time. All valid applications from persons entitled to veterans' preference filed after that time will be considered in the order of filing. All valid applications from other persons filed after 3:00 p. m., February 2, 1959, and prior to 10:00 a. m., February 3, 1959, will be considered as simultaneously filed at that time. All valid applications filed after that time will be considered in the order of filing.

11. Inquiries concerning these lands shall be addressed to Manager, Land Office, 50 Ryland Street, Reno, Nevada.

BOYD S. HAMMOND,
Acting State Supervisor.

NOVEMBER 4, 1958.

[F. R. Doc. 58-9361; Filed, Nov. 12, 1958; 8:45 a. m.]

National Park Service

[Delegation of Authority Order 14, Amdt. 12]

REGIONAL DIRECTORS

DELEGATION OF AUTHORITY

NOVEMBER 6, 1958.

Section 1 of Order No. 14, issued December 1, 1954 (19 F. R. 8824) is amended by the addition of paragraph (x) reading as follows:

(x) Exercise of the authority to determine whether or not any surplus building proposed to be demolished by the Administrator of General Services is an historic building of national significance within the meaning of the act of August 21, 1935 (49 Stat. 666), as amended.

(Secretary's Order No. 2640, as amended; 21 F. R. 3067; 5 U. S. C., sec. 22)

E. T. SCOYEN,
Acting Director.

[F. R. Doc. 58-9362; Filed, Nov. 12, 1958; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8130]

CURREY AIR TRANSPORT ENFORCEMENT PROCEEDING

NOTICE OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on November 25, 1958, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., November 6, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-9419; Filed, Nov. 12, 1958; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11997; FCC 58-1053]

VARIOUS NON-GOVERNMENTAL SERVICES

ALLOCATION OF FREQUENCIES

In the matter of statutory inquiry into the allocation of frequencies to the various nongovernmental services in the radio spectrum between 25 Mc and 890 Mc; Docket No. 11997.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of November 1958;

The Commission having under consideration a petition, filed on July 24, 1958, by Motorola, Inc., General Communications Service, Chicago Communications Service, Inc., Electronics Communications Service, Inc., Goodenough's and Earl Clausen, requesting an inquiry and investigation into Domestic Public Land Mobile Radio Stations, Regulations and Services; letters and pleadings in support of the petition filed by numerous parties; Oppositions to the Petition filed by the American Telephone and Telegraph Company (AT&T) and the United States Independent Telephone Association (USITA); a reply by Motorola, Inc. and a joint reply by General Communications Service and Chicago Communications Service, Inc. to the AT&T and USITA Oppositions; and

It appearing that questions have been raised by the pleadings as to whether the issues set forth in the petition should be considered in the proceedings in the above-entitled docket; and

It further appearing that while the Commission is not adopting the specific issues set forth by Motorola, Inc., et al. in the petition (as shown below), nor determining at this time the relevancy of any particular issues, it would nevertheless be appropriate to consider the matters raised by the petition in the proceedings in this docket; and

It further appearing, that by order adopted September 24, 1958, the Commission extended the time for filing statements of proposed evidence in this docket until October 31, 1958, and, that in view of the action taken herein with respect to the Motorola petition, additional time should be provided to permit interested parties to file statements of proposed evidence with respect to the Motorola petition or to supplement statements already filed;

It is ordered, That the matters raised by the aforementioned petition will be considered in the above-entitled docket; and

It is further ordered, That the time for filing statements of proposed evidence with respect to the aforementioned petition is hereby extended until November 21, 1958.

Released: November 7, 1958.

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

The issues proposed in the Petition for Inquiry, Investigation and Rule Making concerning the Domestic Public Land Mobile Radio Service filed by Motorola, Inc., et al., on July 24, 1958, are as follows:

(1) Whether common carrier mobile radio systems in the land mobile service should be owned and operated independently of wireline telephone carriers in order to promote the development of mobile radio by those who have no conflicting interests in a rival communications technology.

(2) Whether the public interest and the legislative policies expressed in the Communications Act are best implemented by the fostering of effective competition among common carrier mobile radio services at the community level, and if so, to what extent an independent system would suffer an inherent and unfair disadvantage in competing against another radio system under the ownership of a landline exchange telephone company.

(3) Whether all classes of mobile radio common carriers should have equal rights of interconnection with landline telephone exchanges.

(4) Whether a common carrier mobile radio service should be diversified nationally as to ownership and operation through reasonable administrative limitations on the number of mobile systems authorized for any one concern or concerns under common ownership or control.

(5) Whether there is any inherent technical, economic or social need for the common ownership of wireline exchange telephone companies and common carrier mobile radio stations.

(6) Whether, and the extent to which, common carrier mobile radio systems, if operated by landline exchange telephone carriers, should be limited as to (a) service areas coterminous with landline telephone exchange area, (b) class of stations, (c) class of service fully interconnected with landline telephone exchange and (d) number of radio channels in relationship to the needs of the particular community served.

(7) What policies or regulations should be adopted to foster and develop MCC mobile radio, to eliminate discriminatory treatment and artificial handicaps impeding the commercial opportunities of miscellaneous common carriers, and to improve generally

the position of persons engaging in common carrier mobile radio services.

(8) How should responsibilities between common carrier land mobile radio and non-common carrier land mobile radio be divided for the purpose of minimizing duplications in radio frequency allocations and to assure the most economical utilization of frequency assignments.

(9) Under section 2 (b) of the Act amended April 27, 1954, the Commission does not have jurisdiction of "mobile radio telephone exchange service." Should a new class of mobile radio station or an additional class of mobile radio station be established which is not "mobile radio telephone exchange service" and which would therefore be subject to Commission jurisdiction?

[F. R. Doc. 58-9410; Filed, Nov. 12, 1958; 8:54 a. m.]

[Docket No. 12344 etc., FCC 58M-1253]

L. E. U. BROADCASTING CO. ET AL.

ORDER CONTINUING HEARING CONFERENCE

In re applications of L. E. U. Broadcasting Co., Erie, Pennsylvania, Docket No. 12344, File No. BPCT-2362; The Jet Broadcasting Company, Inc., Erie, Pennsylvania, Docket No. 12345, File No. BPCT-2388; WERC Broadcasting Corporation, Erie, Pennsylvania, Docket No. 12346, File No. BPCT-2402; for construction permits for new television broadcast stations.

The Hearing Examiner having under consideration the propriety of ordering a continuance;

It appearing that a further hearing conference in this proceeding is currently scheduled for November 10, 1958; and

It further appearing that the Broadcast Bureau filed a petition on October 24, 1958, requesting that the three applications be dismissed without prejudice, such petition being opposed by all three applicants; and

It further appearing that until the question raised by the Bureau's petition has been resolved any attempt to go forward on the scheduled date would be fruitless;

It is ordered, This 6th day of November 1958, on the Examiner's own motion that the further hearing conference is continued from November 10 to December 22, 1958.

Released: November 6, 1958.

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

[F. R. Doc. 58-9411; Filed, Nov. 12, 1958; 8:54 a. m.]

[Docket No. 12598; FCC 58M-1254]

M & M BROADCASTING COMPANY (WMBV-TV)

ORDER CONTINUING HEARING

In re application of M & M Broadcasting Company (WMBV-TV), Marinette, Wisconsin, Docket No. 12598, File No. BPCT-2524; for television construction permit.

The Hearing Examiner having under consideration a petition filed on November 5, 1958, by Valley Telecasting Company requesting extension of the time for exchange of affirmative evidence in the above-entitled proceeding from November 7, 1958, to November 11, 1958 and continuance of the hearing herein from November 14, 1958 to November 18, 1958;

It appearing, that counsel for all other parties to the proceeding have consented to immediate consideration and grant of the said petition, but that the date requested for the exchange of affirmative evidence is a legal holiday and accordingly the date of November 12, 1958, for such exchange would be more appropriate;

It is ordered, This 6th day of November 1958, that the said petition is granted except as to the date requested for the exchange of affirmative evidence; the date for exchange of affirmative evidence is, on the Hearing Examiner's own motion, extended to November 12, 1958; and the hearing is continued to November 18, 1958, commencing at 2:00 p. m. in the offices of the Commission, Washington, D. C.

Released: November 7, 1958.

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

[F. R. Doc. 58-9412; Filed, Nov. 12, 1958; 8:54 a. m.]

[Docket No. 12625; FCC 58M-1252]

CHEROKEE BROADCASTING CO.

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of Roy Alexander, tr/as Cherokee Broadcasting Company, Centre, Alabama, Docket No. 12625, File No. BP-11300; for construction permit.

It is ordered, This 6th day of November 1958, that a prehearing conference in the above-entitled proceeding will be held on November 18, 1958, at 9:00 a. m., in the offices of the Commission, Washington, D. C.

Released: November 6, 1958.

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

[F. R. Doc. 58-9413; Filed, Nov. 12, 1958; 8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-15456]

ALABAMA-TENNESSEE NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 1, 1958.

Take notice that Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), a Delaware corporation with its principal place of business in Florence, Alabama, filed an application on July 11, 1958, and a supplement thereto on September 10, 1958, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities, subject to the jurisdiction of the Commission, as more fully described in the application on file with the Commission, and open to public inspection. The facilities are described as follows:

(1) Approximately 5.60 miles of 10¾-inch O. D. main line to be constructed parallel to Applicant's existing 6⅝-inch O. D. main line in Limestone and Madison Counties, Alabama.

(2) An additional 350 BHP compressor unit to be added to Applicant's Sheffield Compressor Station.

(3) Replacement of low pressure compressor cylinders on Units No. 1 and 2 of the Sheffield Compressor Station with high pressure cylinders.

The application recites, Applicant proposes to reinforce its system by the installation of a 350 horsepower compression unit at its Sheffield Station located at the mid-point of its system and the replacement of two low pressure compressor cylinders in existing units with high pressure cylinders at the same station and approximately 5.6 miles of 10¾-inch pipeline loop at a point near the terminus of its system, and states construction will permit Applicant to meet its expanded system loads for the coming heating season and in particular will provide sufficient pressure at the terminus of its system to meet the peak hour loads in the Huntsville area wherein considerable load growth has occurred.

The estimated cost of the facilities is \$340,000 which will be financed from cash on hand and funds available from internal sources plus the issuance of \$450,000 of pipeline bonds of which \$150,000 will be utilized in the settlement of an existing bank loan.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission, by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 2, 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 application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 26, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9384; Filed, Nov. 12, 1958; 8:50 a. m.]

[Docket No. G-16101]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 3, 1958.

Take notice that Transcontinental Gas Pipe Line Corporation (Applicant), a Delaware corporation with principal place of business at 3100 Travis Street, Houston, Texas, filed in Docket No. G-16101 on August 22, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing Applicant to construct and operate facilities as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes, during the 12 months following the date on which any certificate may be issued herein, to construct and operate the lateral and field facilities which may be necessary to enable it to take into its certificated pipeline system the natural gas which it may purchase from producers in the general area of its existing system. Applicant estimates that expenditures for the contemplated lateral and field facilities will not exceed a total of $4,000,000 and states that the cost for any one project will not exceed $500,000. The proposed facilities will be initially financed by cash on hand, or, alternatively, by short-term bank loans.

Applicant avers that it is in the public interest for it to acquire new gas reserves from time to time and alleges that the grant of the requested certificate will improve Applicant's "* * * chances of economically acquiring new gas reserves since time is often a major factor determining the success of a gas acquisition program".

No new sale or service is proposed in the application and the construction of the facilities proposed will not increase the delivery capacity of applicant's main transmission system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 4, 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 application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 24, 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. 58-9385; Filed, Nov. 12, 1958; 8:50 a. m.]

[Project No. 2249]

LEWIS-CLARK G AND T COOPERATIVE, INC.

CORRECTED NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

NOVEMBER 3, 1958.

Public notice is hereby given that Lewis-Clark G and T Cooperative, Inc., of Walla Walla, Washington, has filed application under the Federal Power Act (16 U. S. C. 791a–825r) for a preliminary permit for proposed water-power Project No. 2249, to be known as Long Meadows dam, located on Yaak River, a tributary of Kootenai River, in Lincoln County, near Libby and Troy, Montana, affecting lands of the United States within the Kootenai National Forest. The proposed project will consist of a dam, located about 30 miles upstream from the confluence of the Yaak River and Kootenai River, which will be a concrete gravity structure about 250 feet high and 1,500 feet long, creating a reservoir at normal pool elevation of 3,100 feet, with a surface area of about 7,740 acres, and with a storage capacity of about 726,000 acre-feet and about 397,700 acre-feet of usable storage; a separate spillway; and a powerhouse at the foot of the dam with an installed capacity of 25,000 kilowatts.

No construction is authorized under a preliminary permit. A permit, if issued, merely gives the permittee, during the period of the permit, the right to priority of application for license while the permittee undertakes the necessary studies and examinations, including the preparation of maps and plans, in order to determine the economic feasibility of the proposed project, the means of securing the necessary financial arrangements for construction, the market for the project power, and all other information necessary for inclusion in an application for license, should one be filed.

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 date upon which protests or petitions may be filed is December 19, 1958. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9386; Filed, Nov. 12, 1958; 8:50 a. m.]

[Docket No. G-15351]

ARKANSAS LOUISIANA GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 4, 1958.

Take notice that Arkansas Louisiana Gas Company (Applicant), a Delaware corporation with a principal office in Shreveport, Louisiana, filed an application on June 24, 1958, and a supplement thereto on October 15, 1958, pursuant to section 7 of the Natural Gas Act for:

(1) Under section 7 (a) for an order of the Commission directing Tennessee Gas Transmission Company (Tennessee) to establish a physical connection of its existing facilities with a natural gas transmission line proposed to be constructed and owned by the towns of Portland and Montrose, Arkansas, and to sell natural gas to Applicant who will operate the pipeline and resell the gas for distribution in the above towns and to other customers along the route of the line.

(2) Under section 7 (c) for a certificate of public convenience and necessity authorizing Applicant to operate the proposed pipeline under a lease agreement with the towns with an option to purchase the system at a later date. Applicant will also operate distribution systems in the towns, which are also to be owned and built by the towns.

Portland and Montrose propose to construct the transmission line extending from a tap on Tennessee's line to the two towns, consisting of approximately 18 miles of 3½ inch and 1.2 miles of 1-inch pipe together with distribution systems in each of the towns and distribution or service connections along the route of the line between the towns.

Applicant proposes to operate the said leased transmission line and distribution systems under a lease arrangement providing (a) for the payment of rentals by the Applicant sufficient to cover the principal and interest payments on gas revenue bonds of the municipalities, and (b) an option to purchase said leased properties from the municipalities.

The application recites that Applicant operates several distribution plants which are beyond the economic reach of its own integrated pipeline system. The towns of Portland and Montrose in Ashley County, Arkansas, are too far removed from Applicant's system to warrant construction or extension of a line to bring gas service to these towns. Tennessee's line is reasonably close to the towns and can serve them from a proposed tap on that line to the towns, a distance of about 19 miles.

The estimated gas requirements of the market area, based on Applicant's experience in other similar areas, are as follows:

Year	Vols. in Mcf @ 15,025 psia	
	Peak day	Annual
1st	1,315	67,634
2nd	1,342	69,826
3rd	1,367	71,923
4th	1,390	73,966
5th	1,415	76,063

The application further recites that the cost of the proposed transmission line is estimated at $177,126, which cost will be shared proportionately by the towns. The estimated costs of the distribution systems in each town including proportionate shares of the cost of the transmission line plus overheads, contingencies and other items are as follows: Portland $229,500; Montrose $120,500. The municipalities propose to issue 25-year 3½ percent revenue bonds for the above amounts to finance the cost of their respective systems, and portion of transmission line.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 3, 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 application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 26, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9387; Filed, Nov. 12, 1958; 8:51 a. m.]

[Docket No. G-16704]

JACK P. RAYZOR ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

NOVEMBER 5, 1958.

Jack P. Rayzor et al. (Rayzor) on October 6, 1958, tendered for filing proposed changes in its presently effective rate schedules for the sale 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 filing:

Description: Notices of Change, undated.
Purchaser: Tennessee Gas Transmission Company.
Rate schedule designation: Supplement No. 7 to Rayzor's FPC Gas Rate Schedule No. 3. Supplement No. 5 to Rayzor's FPC Gas Rate Schedule No. 4.
Effective date: January 1, 1959 (effective date is that proposed by Rayzor).

In support of the proposed redetermined rate increases, Rayzor cites a letter from the Tennessee Gas Transmission Company advising of the price redetermination and agreeing to pay the increased rate, states that the price provisions of the contract were negotiated at arm's-length and comments on the advancing costs of labor and supplies.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 7 to Rayzor's FPC Gas Rate Schedule No. 3 and Supplement No. 5 to Rayzor's FPC Gas Rate Schedule No. 4 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 Rayzor's FPC Gas Rate Schedule No. 3 and Supplement No. 5 to Rayzor's FPC Gas Rate Schedule No. 4.

(B) Pending such hearing and decision thereon, said supplements be and they are hereby suspended and the use thereof deferred until June 1, 1959, and until such further time as it is 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. 58-9388; Filed, Nov. 12, 1958; 8:51 a. m.]

[Docket No. G-16702]

JACK P. RAYZOR ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 5, 1958.

Jack P. Rayzor (Operator) et al. (Rayzor), on October 6, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Tennessee Gas Transmission Company.
Rate schedule designation: Supplement No. 1 to Rayzor's FPC Gas Rate Schedule No. 1.
Effective date: January 1, 1959 (effective date is that proposed by Rayzor).

In support of the proposed redetermined rate increase, Rayzor cites a letter from the Tennessee Gas Transmission Company advising of the price redetermination and agreeing to pay the increased rate, states that the price provisions of the contract were negotiated at arm's-length, and comments on the advancing costs of labor and supplies.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 1 to Rayzor's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 1 to Rayzor's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 1, 1959, 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. 58-9389; Filed, Nov. 12, 1958; 8:51 a. m.]

[Docket No. G-16703]

TEXAS GAS CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 5, 1958.

Texas Gas Corporation (Texas) on October 6, 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 October 1, 1958.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 4 to Texas' FPC Gas Rate Schedule No. 5.

Effective date: January 1, 1959 (effective date is that proposed by Texas).

In support of the proposed redetermined rate increase, Texas cites the contract provision and states that the redetermination clause, which was arrived at after arm's-length bargaining, was designed to achieve a fair and competitive price during the term of the contract.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Texas' 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. 4 to Texas' 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 June 1, 1959, 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. 58-9390; Filed, Nov. 12, 1958; 8:51 a. m.]

[Docket No. G-16795]

TEXAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

NOVEMBER 5, 1958.

The Texas Company (Texas) on October 10, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes increased rates and charges, is contained in the following designated filings:

Description: Notice of Change, Undated.

Purchaser: Permian Basin Pipeline Company.

Rate schedule designation: Supplement No. 2 to Texas' FPC Gas Rate Schedule No. 16.

Effective date: December 1, 1958 (effective date is that proposed by Texas).

In support of the proposed increased rate, Texas cites to the contract provisions and states that the proposed rates were agreed upon after arm's-length bargaining. Texas also states that the increase is one of a series of periodic adjustments, all comprising one overall contract price, to compensate for continuously increasing costs of development, operation, maintenance and exploration; and Texas' testimony, in Docket No. G-8969 involving Texas' Rate Schedule No. 102 shows that Applicant's investment and operating expenses per million Btu's of hydrocarbons increased substantially between 1947 and 1956 and are still increasing.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unresonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 2 to Texas' FPC Gas Rate Schedule No. 16 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 rates and charges contained in Supplement No. 2 to Texas' FPC Gas Rate Schedule No. 16.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until May 1, 1959, and thereafter until such further time as they are 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9391; Filed, Nov. 12 1958; 8:51 a. m.]

[Docket No. G-16796]

TEXAS CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

NOVEMBER 5, 1958.

The Texas Company (Operator) et al. (Texas) on October 10, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes increased rates and charges, is contained in the following designated filing:

Description: Notice of Change, Undated.

Purchaser: Kansas-Nebraska Natural Gas Company, Inc.

Rate schedule designation: Supplement No. 1 to Texas' FPC Gas Rate Schedule No. 166.

Effective date: November 10, 1958 (effective date is that proposed by Texas).

In support of the proposed increased rate, Texas cites the contract provisions and states that the proposed rates were agreed upon after arm's-length bargaining. Texas also states: that the increase is one of a series of periodic adjustments, all comprising one overall contract price, to compensate for continuously increasing costs of development, operation, maintenance and exploration; and Texas' testimony, in Docket No. G-8969 involving Texas' Rate Schedule No. 102 shows that Applicant's investment and operating expenses per million Btu's of hydrocarbons increased substantially between 1947 and 1956 and are still increasing.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 1 to Texas' FPC Gas Rate Schedule No. 166 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 rates and charges contained in Supplement No. 1 to Texas' FPC Gas Rate Schedule No. 166.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until April 10, 1958, and thereafter 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9392; Filed, Nov. 12, 1958; 8:51 a. m.]

[Docket No. G-16803]

ATLANTIC REFINING CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

NOVEMBER 5, 1958.

Atlantic Refining Company (Operator) et al. (Atlantic) on October 6, 1958, tendered for filing two proposed changes in its presently effective rate schedules 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: Notice of Change, dated October 3, 1958. Notice of Change, dated September 23, 1958.

Purchaser: Permian Basin Pipeline Company.

Rate schedule designations: Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 9. Supplement No. 2 to Atlantic's FPC Gas Rate Schedule No. 149.

Effective date: December 1, 1958 (effective is that proposed by Atlantic).

In support of the proposed periodic increases in rates Atlantic states that its contracts were negotiated at arm's-length and states that the periodic clause is necessary to permit initial delivery at a price lower than the contemplated average price for the life of the contract.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 9 and Supplement No. 2 to Atlantic's FPC Gas Rate Schedule No. 149 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. 4 to Atlantic's FPC Gas Rate Schedule No. 9 and Supplement No. 2 to Atlantic's FPC Gas Rate Schedule No. 149.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred until May 1, 1959, and thereafter 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9393; Filed, Nov. 12, 1958; 8:52 a. m.]

[Docket No. G-16705]

T. J. AHERN, ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 6, 1958.

T. J. Ahern et al. (Ahern) on October 13, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 10 to Ahern's FPC Gas Rate Schedule No. 1.

Effective date: January 1, 1959 (effective date is that proposed by Ahern).

In support of the proposed redetermined rate increase, Ahern states that the increase is based on the contract provisions which provide that effective January 1, 1959, the rate shall be the average of the three highest prices, as determined by agreement or arbitration, payable for gas with Texas Railroad Commission District No. 2.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 10 to Ahern's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 10 to Ahern's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 1, 1959, 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. 58-9394; Filed, Nov. 12, 1958; 8:52 a. m.]

[Docket No. G-16706]

PAPALOTE CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 6, 1958.

Papalote Corporation (Papalote) on October 13, 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 October 8, 1958.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 8 to Papalote's FPC Gas Rate Schedule No. 1.

Effective date: January 1, 1959 (effective date is that proposed by Papalote).

In support of the proposed redetermined rate increase, Papalote states that the increase is based on the contract provisions which provide that effective January 1, 1959, the rate shall be average of the three highest prices, as determined by agreement or arbitration, payable for gas with Texas Railroad Commission District No. 2.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 8 to Papalote's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 8 to Papalote's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 1, 1959, 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. 58-9395; Filed, Nov. 12, 1958; 8:52 a. m.]

[Docket No. G-16807]

MONSANTO CHEMICAL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

NOVEMBER 5, 1958.

Monsanto Chemical Company (Monsanto) on October 6, 1958, tendered for filing proposed changes in its presently effective rate schedules 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 Change, dated October 1, 1958.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designations: Supplement No. 8 to Monsanto's FPC Gas Rate Schedule No. 1. Supplement No. 13 to Monsanto's FPC Gas Rate Schedule No. 2.

Effective date: November 6, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed increases in rates, Monsanto calls attention to the periodic pricing clause in its contract, to the higher prices in Monsanto's area, and to its arrival at the amount of the increases by arm's-length bargaining.

The increased rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes and that Supplement No. 8 to Monsanto's FPC Gas Rate Schedule No. 1 and Supplement No. 13 to Monsanto's FPC Gas Rate Schedule No. 2 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 shall 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. 8 to Monsanto's FPC Gas Rate Schedule No. 1 and Supplement No. 13 to Monsanto's FPC Gas Rate Schedule No. 2.

(B) Pending the hearing and decision thereon, these supplements are each hereby suspended and the use thereof deferred until April 6, 1959, 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 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-9396; Filed, Nov. 12, 1958; 8:52 a. m.]

[Docket No. G-16808]

MONSANTO CHEMICAL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 5, 1958.

Monsanto Chemical Company (Operator) et al. (Monsanto) on October 6, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales 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 October 1, 1958.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 4 to Monsanto's FPC Gas Rate Schedule No. 20.

Effective date: November 6, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic increase in rates, Monsanto calls attention to the periodic pricing clause in its contract, to the higher prices in Monsanto's area, and to its arrival at the amount of increase by arms-length bargaining.

The increased rate and charge so proposed has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 4 to Monsanto's FPC Gas Rate Schedule No. 20 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 shall 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. 4 to Monsanto's FPC Gas Rate Schedule No. 20.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until April 6, 1959, 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 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9397; Filed, Nov. 12, 1958; 8:52 a. m.]

[Docket No. G-16809]

MAYFAIR MINERALS, INC.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 6, 1958.

Mayfair Minerals, Inc. (Mayfair) on October 8, 1958, tendered for filing a proposed change in its presently effective rate schedules for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Texas Eastern Tranmission Corporation.
Rate schedule designation: Supplement No. 2 to Mayfair's FPC Gas Rate Schedule No. 2.
Effective date: November 8, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic increase in rates, Mayfair calls attention to the periodic pricing clause in its contract, to the higher prices in Mayfair's area, to its arrival at the amount of increase after arm's-length bargaining and to increasing costs.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 2 to Mayfair's FPC Gas Rate Schedule No. 2 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 shall 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. 2 to Mayfair's FPC Gas Rate Schedule No. 2.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until April 8, 1959, 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 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9398; Filed, Nov. 12, 1958; 8:52 a. m.]

[Docket No. G-16810]

SUN OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 6, 1958.

Sun Oil Company (Sun) on October 13, 1958, tendered for filing a proposed change in its presently effective rate schedules for sales 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 October 10, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 3 to Sun's FPC Gas Rate Schedule No. 91.
Effective date: November 13, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic increase in rates, Sun calls attention to the periodic pricing clause in its contract, to the higher prices in Sun's area, and to its arrival at the amount of increase by arms-length bargaining.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 3 to Sun's FPC Gas Rate Schedule No. 91 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 shall 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. 3 to Sun's FPC Gas Rate Schedule No. 91.

(B) Pending such hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until April 13, 1959, and until such further time as they are 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 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 (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-9399; Filed, Nov. 12, 1958; 8:53 a. m.]

[Project No. 2111]

PACIFIC POWER & LIGHT CO.

ORDER FIXING HEARING

NOVEMBER 6, 1958.

Article 35 of the license, issued October 29, 1956, to Pacific Power & Light Company for construction of a hydroelectric power Project (No. 2111) on the Lewis River in Skamania County, Washington, provides:

Article 35. The Licensee shall within 24 months from the date of issuance of this license enter into an agreement with the U. S. Forest Service as to provision for or reasonable cooperation in the construction by the U. S. Forest Service of a forest development road connecting the existing forest highway below the project development with the existing forest development road at the upper end of the reservoir near Pine Creek: *Provided,* That to assure no interruption of access to national forest lands, roads providing access equal to that now existing shall be made available before water storage in the reservoir affects existing transportation facilities: *Provided further*, That should the Licensee and the U. S. Forest Service fail to come to an agreement within the specified time, the Commission will make a final determination in this matter after notice and opportunity for hearing.

By letter received August 19, 1958, the Acting Secretary of Agriculture advised the Commission that Licensee and U. S. Forest Service had failed to come to an agreement within the time specified in Article 35 of the license, and requested a final determination by the Commission after an opportunity for hearing as provided for in said article.

Pacific Power & Light Company has informally advised the Commission that it joins the Department of Agriculture in the request for hearing and final determination by the Commission in this matter and has no objection to the date of hearing set herein.

The Commission finds: In view of the foregoing, it is necessary and desirable in the public interest that a hearing be held wherein the Commission may make a final determination in this matter within the meaning of Article 35.

The Commission orders: Pursuant to the mandate of Article 35 of the above-entitled license, and pursuant to the authority contained in and subject to the jurisdiction conferred upon it by the Federal Power Act, particularly sections 6, 10 (g) and 308 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held on November 24, 1958, commencing at 10:00 a. m., e. s. t., in a Commission Hearing Room, of the Federal Power Commission, 441 G Street, NW., Washington 25, D. C., for the purpose of making a final determination as provided in Article 35 of said license.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary*.

[F. R. Doc. 58-9400; Filed, Nov. 12, 1958; 8:53 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 242]

MOTOR CARRIER APPLICATIONS

NOVEMBER 7, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto.

All hearings will be called at 9:30 o'clock a. m., United States standard time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 1117 (Sub No. 4), filed October 23, 1958. Applicant: M. G. M. TRANSPORT CORPORATION, 790 Main Street, Paterson, N. J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, uncrated and crated, as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M. C. C. 209, and *rejected, refused, returned or used furniture*, between points in New Jersey in and north of Ocean and Mercer Counties, N. J., on the one hand, and, on the other, points in Orange, Rockland, Suffolk, Ulster, Dutchess, Nassau, Putnam, Sullivan, and Westchester Counties, N. Y., and New York, N. Y. Applicant is authorized to conduct regular route operations in New Jersey and New York, and irregular route operations in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE: Applicant is presently authorized to transport crated furniture from New York, N. Y., to all points in New Jersey sought herein and from a portion of the New Jersey points sought to New York, N. Y., as well as uncrated furniture from a portion of the New Jersey points sought to all points in New York sought herein, and from New York, N. Y., to a portion of the New Jersey points sought. In view of the above, applicant states that no duplicating authority is sought. Applicant proposes to transport rejected, refused, returned or used furniture on return movements.

HEARING: December 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Charles H. Riegner.

No. MC 8681 (Sub No. 70), filed October 27, 1958. Applicant: WESTERN AUTO TRANSPORTS, INC., 430 South Navajo Street, Denver, Colo. Applicant's attorney: Louis E. Smith, Suite 503, 1800 North Meridian Street, Indianapolis 2, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks*, and *buses*, as defined in descriptions in Motor Carrier Certificates, Ex Parte MC-45, in initial movements; and *automobiles, trucks* and *buses*, (imported from foreign countries), as defined in descriptions in Motor Carrier Certificates, Ex Parte MC-45, in secondary movements by the truckaway method, from South Bend, Ind., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington and *damaged shipments* of the above specified commodities on return. Applicant is authorized to conduct operations throughout the United States.

HEARING: December 16, 1958, Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Lacy W. Hinely.

No. MC 52657 (Sub No. 538), (CORRECTION) published in FEDERAL REGISTER issue October 29, 1958, at page 8372, filed September 22, 1958. Applicant: ARCO AUTO CARRIERS, INC., 7530 South Western Avenue, Chicago 20, Ill. Applicant's attorney: G. W. Stephens, 121 West Doty Street, Madison, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vac-U-Vators, including accessories and pipes* which are a part of and moving with above Vac-U-Vators, from Geneva, Ill., and points within 5 miles thereof to points in the United States. Applicant is authorized to conduct operations throughout the United States.

NOTE: The commodity description shown in the previous publication was in error and the above commodity description correctly reflects the proposed operations. Applicant states that the above authority is being filed as a precaution in view of a possible question as to whether the involved commodities are within the scope of applicant's existing authority from Geneva, Ill., as contained in MC 52657 Sub No. 432.

HEARING: Remains as assigned December 5, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Leo A. Riegel.

No. MC 52709 (Sub No. 84), (Amendment) filed July 22, 1958, published issue of September 18, 1958, and republished issue October 8, 1958. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver 5, Colo. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities in bulk*, and/or in special containers, except gasoline, natural; gasoline; gasoline, blended; crude oil, lubricating grease, lubricating oil, diesel oil and fuel oil, between points in the United States on and east of U. S. Highway 85, on the one hand, and, on the other, points in the United States on and west of U. S. Highway 85. Applicant is authorized to conduct operations in California, Colorado, Illinois, Iowa, Missouri, Nebraska, Nevada, Utah, and Wyoming.

NOTE: This republication reflects the broadening of the commodities applicant proposes to transport, and changes the date of assignment for pre-hearing conference.

PRE-HEARING CONFERENCE: December 15, 1958, at 9:30 o'clock a. m., United States standard time, at the Offices of the Interstate Commerce Commission, Washington, D. C., with Examiner Bertram E. Stillwell presiding. At the pre-hearing conference it is contemplated that the following matters will be discussed: (1) the issues generally with a view to their simplification, and possible amendments; (2) The possibility and desirability of agreeing upon special procedure to expedite and control the handling of this application, including the submission of the supporting and opposing shipper testimony by verified statements; (3) The time and place or places of such hearing or hearings as may be agreed upon; (4) The number of witnesses to be presented and the time required for such presentations by both applicant and protestants; (5) The practicability of both applicant and the opposing carriers submitting in written form their *direct* testimony with respect to: (a) Their present operating authority, (b) Their corporate organizations if any, ownership and control, (c) Their facilities; (6) The practicability and desirability of all parties exchanging exhibits covering the immediately above-listed matters in advance of any hearing; and (7) Any other matters by which the hearing can be expedited or simplified or the Commission's handling thereof aided.

No. MC 55811 (Sub No. 47), filed October 31, 1958. Applicant: CRAIG TRUCKING, INC., Albany, Ind. Applicant's attorney: Howell Ellis, 520 Illinois Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass, glassware, caps, and other closures, paper* and *fibreboard boxes, rubber jar rings, zinc dry battery shells, stripped zinc*, and *such materials, supplies and equipment* as are used in the manufacture, packing, and shipping of glass, glassware, closures, paper and fibreboard boxes, rubber jar rings, zinc dry battery shells and stripped zinc, between points in Armstrong, Clarion, Forest, and Warren Counties, Pa., and points in Ohio on and west of U. S. Highway 21 (except Cleveland, Ohio,) Indiana, Illinois, those in the lower peninsula of Michigan, those in Iowa within 10 miles of the Iowa-Illinois State line, those in Missouri within 10 miles of the Missouri-Illinois State line, those in Kentucky within 10 miles of the Kentucky-Illinois State line, the Kentucky-Indiana State line, and the Kentucky-Ohio State line, and those in West Virginia within 10 miles of the West Virginia-Ohio State line. Applicant is authorized to conduct operations in Indiana, Michigan, Kentucky, Missouri, Pennsylvania, Illinois, Ohio, and Wisconsin.

HEARING: December 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Harold P. Boss.

No. MC 95540 (Sub No. 296), filed October 29, 1958. Applicant: WATKINS MOTOR LINES, INC., Cassidy Road, Thomasville, Ga. Applicant's attorney: Joseph H. Blackshear, Gainesville, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Delaware, Maryland, New Jersey, and Virginia, and from Chambersburg, Pa., to points in Arizona, California, New Mexico, and Texas. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, New Jersey, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: December 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner C. Evans Brooks.

No. MC 105461 (Sub No. 11), (CORRECTION) published issue October 29, 1958, at page 8374, filed October 9, 1958. Applicant: BENJAMIN H. HERR, doing business as HERR'S MOTOR EXPRESS, Quarryville, Pa. Applicant's representative: Bernard N. Gingerich, Quarryville, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Allegheny, Washington and Cambria Counties, Pa., and Sparrows Point, Md., to points in New Jersey, New York (except the New York, N. Y., Commercial Zone, as defined by the Commission), and points in Erie, Crawford, Warren, McKean, Potter, Tioga, Bradford, Sullivan, Columbia, Luzerne, Wyoming, Susquehanna, Wayne, Pike, Monroe, Lackawanna, Lycoming, and Northampton Counties, Pa., *rejected and damaged shipments* of the above-specified commodities and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return. Applicant is authorized to conduct common carrier operations in Delaware, Maryland, New Jersey, Pennsylvania, Vermont, Virginia, Maine, New Hampshire, and the District of Columbia. Applicant is authorized to conduct contract carrier operations in Permit No. MC 68808 and Sub numbers thereunder. Dual operations under Section 210 may be involved.

NOTE: A proceeding has been instituted under section 212 (c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 68807 (Sub No. 25). (The purpose of this republication is to include the States of Maine and New Hampshire as additional States in which applicant is authorized to conduct operations.)

HEARING: Remains as assigned December 5, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Harold P. Boss.

No. MC 105461 (Sub No. 12), (CORRECTION) published issue October 29, 1958, at page 8374, filed October 10, 1958. Applicant: BENJAMIN H. HERR, doing business as HERR'S MOTOR EXPRESS, Quarryville, Pa. Applicant's attorney: Bernard N. Gingerich, Quarryville, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint, varnish, lacquers, wood preserving, wood treating, and wood bleaching compounds, paint, varnish and lacquer thinners, putty* and *wood fillers*, from Wilmington, Del., to points in Maryland, Delaware, Pennsylvania, Virginia, District of Columbia, and points in New Jersey on and south of U. S. Highway 22, and *rejected and damaged shipments* of the commodities specified in this application on return. Applicant is authorized to conduct common carrier operations in Delaware, Maryland, New Jersey, Pennsylvania, Vermont, Virginia, Maine, New Hampshire, and the District of Columbia. Applicant is authorized to conduct contract carrier operations in Permit No. MC 68807 and Sub Numbers thereunder. Dual operations under section 210 may be involved.

NOTE: A proceeding has been instituted under section 212 (c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 68807 (Sub No. 25). (The purpose of this republication is to include the States of Maine and New Hampshire as additional states in which applicant is authorized to conduct operations, also applicant's name and his representatives name were misspelled in the previous publication, they are correctly spelled herein.

HEARING: Remains as assigned December 9, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Harold P. Boss.

No. MC 106965 (Sub No. 123), filed October 27, 1958. Applicant: M. I. O'BOYLE & SON, INC., doing business as O'BOYLE TANK LINES, 1825 Jefferson Place NW., Washington, D. C. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and feed mixtures*, the principal ingredient of which is molasses, in bulk, in tank vehicles, from York, Pa., to points in Delaware, Maryland, Virginia, and the District of Columbia. Applicant is authorized to conduct operations in Delaware, Illinois, Indiana, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia.

HEARING: December 12, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Mack Myers.

No. MC 107227 (Sub No. 66), (CORRECTION) filed August 15, 1958. Applicant: INSURED TRANSPORTERS, INC., 251 Park Street, San Leandro, Calif. Applicant's attorney: John G. Lyons, Mills Tower, San Francisco 4, Calif. Notice of the filing of the subject application appearing on page 8374 issue of the FEDERAL REGISTER of October 29, 1958, indicated the commodities proposed to be transported were *Used automobiles trucks*. This was in error. The correct commodity description reads: *Used automobiles and trucks*.

HEARING: Remains as assigned December 3, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 112893 (Sub No. 14) (Correction) filed September 22, 1958, published issue October 15, 1958 at page 7972. Applicant: BULK TRANSPORT COMPANY, a Corporation, Calumet Street, P. O. Box 391, Burlington, Wis. Applicant's attorney: Harold J. Weiler, Tichlofen Building, Burlington, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nu-soft base* (a mild detergent made up of isopropyl alcohol with a surface active agent and water added) in bulk, in tank vehicles, from Janesville, Wis., to Argo, Ill. Applicant is authorized to conduct operations in Illinois, Indiana, and Wisconsin.

NOTE: The effect of this amendment is to remove the plant site restrictions contained in the previous publication.

HEARING: Remains as assigned December 10, 1958, at the Wisconsin Public Service Commission, Madison, Wis., before Joint Board No. 13, or, if the Joint Board waives its right to participate, before Examiner William E. Messer.

No. MC 113681 (Sub No. 14), (CORRECTION) filed June 30, 1958, published in the FEDERAL REGISTER July 9, 1958 at page 5225. Applicant: BAKERY PRODUCTS DELIVERY, INC., 404 West Putnam Avenue, Greenwich, Conn. Applicant's attorney: Reubin Kamisky, 410 Asylum Street, Hartford 3, Conn. The previous publication showed the proposed operations as those of a common carrier, however, this was in error, and should have been shown as a *contract carrier*.

No. MC 117760, filed October 23, 1958. Applicant: FLOYD A. SCHEIB, doing business as FLOYD A. SCHEIB TRUCKING COMPANY, R. D. No. 2, Hegins, Pa. Applicant's attorney: Norman T. Petow, 43 North Duke Street, York, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand* and *gravel*, from points in Cecil County, Md., to points in York, Adams, Cumberland, and Dauphin Counties, Pa., and *empty containers or other such incidental facilities*, used in transporting sand and gravel, on return.

HEARING: December 12, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Charles H. Riegner.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 6150 (Sub No. 8), filed October 27, 1958. Applicant: GEORGE B. DUNN, 602 West Randolph, Enid, Okla. Applicant's attorney: J. William Townsend, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, including fruit jars, fruit jar tops, jelly glasses, caps and lids*, (1) from Sand Springs, Okla., and points within 10 miles thereof to Wichita, Kans., and points within 150 miles thereof in Kansas; (2) from Sand Springs, Okla., and points within 10 miles thereof to points in Kansas on and west of U. S. Highway 81, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return over the above routes. Applicant is authorized to conduct operations in Kansas, Oklahoma, Texas, Arkansas, and Louisiana.

NOTE: Applicant requests that all duplicating authority be eliminated.

No. MC 29955 (Sub No. 14), filed November 3, 1958. Applicant: ENGLAND BROS. TRUCK LINE, INC., 300 North Second Street, Fort Smith, Ark. Applicant's attorney: Leroy Hallman, 617 First National Bank Building, Dallas 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over an alternate route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Dallas, Tex., and Memphis, Tenn., from Dallas over U. S. Highway 67 to Texarkana, Tex.-Ark., thence over U. S. Highway 82 to Waldo, Ark., thence over Arkansas Highway 98 to McNeil, Ark., thence over U. S. Highway 79 to junction U. S. Highway 70, thence over U. S. Highway 70 to Memphis, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Fort Smith, Ark., and Memphis, Tenn., between Fort Smith, Ark., and Hugo, Okla., and between Dallas, Tex., and Broken Bow, Okla. Applicant is authorized to conduct operations in Arkansas, Missouri, Oklahoma, Tennessee, and Texas.

No. MC 35540 (Sub No. 7), filed October 27, 1958. Applicant: SCHRODER'S EXPRESS, INC., 1550 Perin, Cincinnati, Ohio. Applicant's attorney: Robert H. Kinker, Seventh Floor McClure Building, Frankfort, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Cincinnati, Ohio, and Louisville, Ky., over U. S. Highway 42, serving no intermediate points, as an alternate route for operating convenience only. Applicant is authorized to conduct operations in Kentucky, Ohio and Indiana.

No. MC 52917 (Sub No. 13), filed October 28, 1958. Applicant CHESAPEAKE MOTOR LINES, INC., 340 West North Avenue, Baltimore 17, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and dairy products*, as described in Section A and B, Appendix I to report in *Descriptions in Motor Carrier Certificates*, 61 M. C. C. 209, in vehicles equipped with meat rails and mechanical refrigeration, between Baltimore, Md., and Pottsville, Pa. Applicant is authorized to conduct operations in Maryland, Virginia, Delaware, Pennsylvania, New Jersey, New York, and the District of Columbia.

No. MC 75320 (Sub No. 86), filed October 31, 1958. Applicant: CAMPBELL SIXTY SIX EXPRESS, INCORPORATED, P. O. Box 390, Springfield, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Texarkana, Ark., and Tulsa, Okla., from Texarkana over U. S. Highway 59 to the junction of U. S. Highway 64, thence over U. S. Highway 64 to Tulsa, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. Applicant is authorized to conduct operations in Alabama, Arkansas, Illinois, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

NOTE: Applicant states that the use of the alternate route sought is restricted to traffic originating or destined to points beyond Texarkana.

No. MC 109749 (Sub No. 8), filed October 27, 1958. Applicant: GAIL W. DAHL AND FRED E. HAGEN, doing business as DAHL TRUCK LINES, 4120 Floyd Avenue, Sioux City, Iowa. Applicant's attorney: Wallace W. Huff, 310-314 Security Bank Building, Sioux City 1, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Packing house products* as defined by the Commission in Ex Parte No. MC-38, from Watertown, S. Dak., to points in North Dakota, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return.

NOTE: Common control may be involved. Applicant is authorized to conduct regular route operations in Iowa, Minnesota, and South Dakota, and irregular route operations in Iowa, Minnesota, Montana, Nebraska, and South Dakota.

No. MC 109761 (Sub No. 18), filed October 24, 1958. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio. Applicant's attorney: Jerome A. Selman, Investment Building, Washington, D. C. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Orange juice*, in bulk, in refrigerated tank vehicles, from Harlingen, Tex., to Lyons and Downer's Grove, Ill. Applicant is authorized to conduct operations in Ohio, Florida, Michigan, Wisconsin, Indiana, Georgia, Maine, New Hampshire, and Vermont.

No. MC 109761 (Sub No. 19), filed October 24, 1958. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio. Applicant's attorney: Jerome A. Selman, Investment Building, Washington, D. C. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Orange juice*, in bulk, in tank vehicles, equipped with mechanical refrigeration, from Fullerton and Anaheim, Calif., to Lyons and Downer's Grove, Ill. Applicant is authorized to conduct operations in Ohio, Florida, Michigan, Wisconsin, Indiana, Georgia, Maine, New Hampshire, and Vermont.

No. MC 113996 (Sub No. 4), filed October 27, 1958. Applicant: T. C. DUNLEVY, 532 Calhoun Street, Johnston, S. C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used auto parts*, unpacked, (1) between the rebuilding plant site (Rayloc) in Atlanta, Ga., and the rebuilding plant site (Rayloc) in Memphis, Tenn.; (2) from the rebuilding plant sites (Rayloc) in Atlanta, Ga., and Memphis, Tenn., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, and *empty containers or other such incidental facilities* (not specified) used in transporting used auto parts on return. Applicant is authorized to conduct operations in Alabama, South Carolina, Florida, Tennessee, Mississippi, and Georgia.

No. MC 114905 (Sub No. 3), filed September 19, 1958. Applicant: REGINALD L. McDEVITT, AUSTIN R. McDEVITT AND PAULINE A. McDEVITT, doing business as R. L. McDEVITT AND SON, High Street, Ellsworth, Maine. Applicant's attorney: William D. Pinansky, 403-4-5 Clapp Memorial Building, 443 Congress Street, Portland, Maine. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, including Class A and B explosives, moving in express service, between Bangor, Maine and Calais, Maine, from Bangor over Alternate U. S. Highway 1 to Ellsworth, Maine, thence over U. S. Highway 1 to Calais, and return over the same route, serving the intermediate points of Ellsworth, Hancock, Waukeag Station, Cherryfield, Columbia Falls, Machias, East Machias, and Dennysville, Maine, and the off-route points of Bar Harbor, Franklin, and Eastport, Maine. Applicant indicates the proposed operation is to be limited to express service for the account of the Railway Express, Inc. and that this operation is to replace a discontinued rail service in this area. Applicant is authorized to conduct contract carrier operations under Permit No. MC 18630. Dual operations under section 210 may be involved.

No. MC 117759, filed September 4, 1958. Applicant: HOWARD McMASTER, doing business as MAC & BOBS SERVICE GARAGE, 229 East Front Street, Findlay, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles*, between Findlay, Ohio and points in Wayne County, Mich.

MOTOR CARRIERS OF PASSENGERS

No. MC 109802 (Sub No. 12), filed October 27, 1958. Applicant: LAKELAND BUS LINES, INC., 1060 Broad Street, Newark 2, N. J. Applicant's attorney: Bernard F. Flynn, Jr., Industrial Building, 1060 Broad Street, Newark 2, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, and *express*, in the same vehicle with passengers, with express limited to the transportation of shipments delivered to or picked up from carrier's busses or regularly established passenger terminals, between Denville, N. J., and Netcong, N. J., from the junction of U. S. Highways 101 and 46 in Denville over U. S. Highway 101 to junction of U. S. Highways 101 and 46 in Netcong, and return over the same route, serving all intermediate points, as a part of and in conjunction with applicant's presently certificated routes between the Borough of Manhattan, New York City, N. Y., and Denville, N. J. Applicant is authorized to conduct operations in New York and New Jersey.

No. MC 109802 (Sub No. 13), filed October 30, 1958. Applicant: LAKELAND BUS LINES, INC., 1060 Broad Street, Newark 2, N. J. Applicant's attorney: William Ryan, 1060 Broad Street, Newark 2, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express*, in the same vehicle with passengers, with express limited to the transportation of shipments delivered to or picked up from carrier's busses or regularly established passenger terminals, (1) between Dover, N. J., and Rockaway Township, N. J., from junction of Blackwell and Bergen Sts., in Dover, along Blackwell Street to junction West Main Street in the Township of Rockaway, and return over the same route, serving all intermediate points; (2) between Dover, N. J., and the Township of Randolph, N. J., from the junction of Salem and Blackwell Streets in Dover along Salem Street to junction New Jersey Highway 10 in the Township of Randolph, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in New Jersey and New York.

No. MC 117773, filed October 31, 1958. Applicant: RAWSON BUS CO., LTD., 144 Bleecker Avenue, Belleville, Ontario, Canada. Applicant's attorney: Richard W. Kurrus, 423 Washington Building, Washington 5, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points on the International Boundary line between the United States and Canada and extending to points in New York, Michigan, Ohio, Pennsylvania, and Illinois.

PETITIONS

No. MC 30319 and Sub Nos. thereunder, PETITION TO REOPEN FOR REMOVAL OF RESTRICTIONS, dated October 15, 1958, SOUTHERN PACIFIC TRANSPORT COMPANY, 810 North San Jacinto Street, P. O. Box 4054, Houston, Tex. Petitioner's attorney: Edwin N. Bell, Esperson Building, Houston 2, Tex. Southern Pacific Transport Company, petitioner, seeks reopening of the above-numbered proceedings for the purpose of (1) eliminating Beaumont from the restriction described at Page 8 of petitioner's consolidated certificate No. MC 30319 dated February 13, 1956 (and from any and all other certificates of petitioner where it may appear), as follows: "No shipment shall be transported by said carrier between any of the following points, or through, or to, or from, more than one of said points: Dallas, Austin, Houston, San Antonio, Beaumont, and Corpus Christi, Tex., except that Houston shall not be considered as a keypoint in respect of shipments which have an immediately prior or immediately subsequent movement by rail or water and which are transported from Beaumont or from Corpus Christi"; (2) removing in its entirety the restriction appearing in petitioner's certificate MC 30319 Sub No. 37 dated May 25, 1954, which states: "Shipments transported by said carrier shall be limited to those which it receives from, and delivers to, the railroad, under a through bill of lading, covering, in addition to a movement by said carrier, an immediately prior or subsequent movement by rail"; and (3) modifying the restriction appearing in Docket No. MC 30319 Sub 63 (and any and all other certificates where it may appear), so as to permit petitioner to transport shipments, in substituted truck-for-rail service, to and from intermediate points on its present certificated routes (a) between New Orleans, La., and Houston, Tex., (b) between New Orleans, La., and Dallas, Tex., via Ennis, Corsicana, Palestine, Rusk, Lufkin, Woodville, and Beaumont, Tex., (c) between New Orleans, La., and Fort Worth, Tex., via Ennis, Corsicana, Palestine, Rusk, Lufkin, Woodville, and Beaumont, Tex., and (d) between New Orleans and Shreveport, La., via Lufkin, Woodville, and Beaumont, Tex., which restriction provided: "No shipment shall be transported by the carrier between New Orleans and Lafayette, La., or through, or to, or from more than one of said points or between New Orleans, on the one hand, and, on the other, points west of Lafayette, via Kaplan or Gueydan, La.". For the reasons set forth in its petition, petitioner prays that the Commission reopen Docket No. MC 30319 and sub numbered proceedings thereunder, eliminating and revising restrictions in the certificates as hereinabove indicated. Petitioner further prays that this case be set for handling under modified procedure.

No. MC 40861 (Sub No. 3), PETITION dated July 17, 1958, FOR CORRECTION OF ORDER, SLOAN'S MOVING AND STORAGE CO., a Corporation, 5619 Delmar Blvd., St. Louis, Mo. Petitioner's attorneys: G. D. Gunn, Jr., LaTourette & Rebman, 1230 Boatmen's Bank Building, St. Louis 2, Mo. Sloan's Moving and Storage Co., petitioner, in its application in the above-titled proceeding, sought a certificate authorizing the transportation of general commodities, with the usual exceptions, restricted to parcels not exceeding 100 pounds, between St. Louis, Mo., on the one hand, and, on the other, points in St. Louis and St. Charles Counties, Mo. and points in Illinois within the following described territory: from Chester, Ill. over Illinois Highway 150 to junction Illinois Highway 43, thence over Illinois Highway 43 to junction Illinois Highway 150, thence over Illinois Highway 150 to junction Illinois Highway 154, thence over Illinois Highway 154 to junction Illinois Highway 127, thence over Illinois Highway 127 to junction Illinois Highway 16, thence over Illinois Highway 16 to junction U. S. Highway 66, thence over U. S. Highway 66 to junction Illinois Highway 108, thence over Illinois Highway 108 to junction Illinois Highways 100 and 96, thence over Illinois Highway 96 to the Mississippi River, including points on the indicated portions of the highways specified (an area within an approximate radius of 50 miles of St. Louis). In the Commission's Report and Order granting petitioner's request for a certificate, the Joint Board found that the present and future public convenience and necessity required operation by petitioner as a common carrier by motor vehicle of general commodities, etc., restricted to *retail* delivery service of parcels not exceeding 100 pounds. Petitioner claims there was a need for both wholesale and retail delivery service and that the testimony of supporting shippers, which was the basis for granting the application, comprised both wholesalers and retailers. Wherefore, petitioner requests that the Order entered herein be amended to authorize common carrier operations by petitioner of general commodities with usual exceptions, restricted to retail *and* wholesale delivery service, in the territory hereinabove described.

No. MC 67916 (Sub No. 14), PETITION dated October 29, 1958 FOR REOPENING, RECONSIDERATION AND MODIFICATION OF ORDER DATED DECEMBER 19, 1956, THE NEW YORK CENTRAL RAILROAD COMPANY, 466 Lexington Avenue, New York, N. Y. Petitioner's attorney: Kenneth H. Lundmark, 466 Lexington Avenue, New York 17, N. Y. The New York Central Railroad Company, petitioner, was issued a Certificate dated December 19, 1956 authorizing operations as a common carrier by motor vehicle of general commodities, with certain exceptions, between specified points, and with certain restrictions, among which is Elkhart, Ind.-Niles, Mich. Petitioner here seeks reopening of the above-entitled proceeding and that the order of the Commission therein dated December 19, 1956 be reconsidered and modified by the elimination of Elkhart, Ind.-Niles, Mich., as a keypoint restriction insofar as such keypoint is applicable to express traffic. Petitioner states that it is not seeking authority to perform a new service; that by reason of changed circumstances, the keypoint restriction at Elkhart, Ind.-Niles, Mich., has become unduly restrictive with respect to express traffic; and that wherefore, petitioner requests that this proceeding be reopened and that the order of the Commission dated December 19, 1956 be reconsidered and modified so as to enable it to provide substitute motor-for-rail service in connection with express traffic free from the restrictive keypoint condition at Elkhart, Ind.-Niles, Mich.

APPLICATION UNDER 212 (c) CONVERSION PROCEEDING

No. MC 29714 (Sub No. 1). Applicant: JOSEPH FRANCIS TRIMMER, doing business as TRIMMERS PETROLEUM COMPANY, McCook, Nebraska. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. It has now been determined that the carrier's operations are in conformance with definition of a contract carrier set forth in section 203 (a) (15) of the Interstate Commerce Act, amended August 22, 1957. On September 27, 1958, the carrier requested discontinuance of the above-numbered proceeding, and an order was entered October 23, 1958, effective December 8, 1958, vacating and setting aside the proceeding.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5, GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

MOTOR CARRIERS OF PROPERTY

No. MC 2078 (Sub No. 1), filed October 27, 1958. Applicant: McLAREN TRUCK LINES, INC., 2 Ohio Street, Terre Haute, Ind. Applicant's attorney: Ferdinand Born, 1017-19 Chamber of Commerce Building, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, commodities in bulk, and those requiring special equipment, between Terre Haute, Ind., and Lyford, Ind., over U. S. Highway 41, serving all intermediate points. Applicant is authorized to conduct operations in Illinois and Indiana.

NOTE: This matter is directly related to MC-F 6936 which was published in the FEDERAL REGISTER June 25, 1958.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under section 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto. (49 CFR 1.240)

MOTOR CARRIERS OF PROPERTY

No. MC-F 6731 (SEWELL'S MOTOR EXPRESS, INC.—PURCHASE (PORTION)—CHURN'S TRUCK LINE, INC.), published in the October 30, 1957, issue of the FEDERAL REGISTER on page 8767. Application filed October 31, 1958, for temporary authority under section 210a (b).

No. MC-F 6936 (LOVELACE TRUCK SERVICE, INC.—PURCHASE (PORTION)—McLAREN TRUCK LINES, INC.), published in the June 25, 1958, issue of the FEDERAL REGISTER on page 4664. Application filed November 3, 1958, for temporary authority under section 210a (b).

No. MC-F 7029. Authority sought for purchase by ATLAS TRUCK LINE, INC., 9520 Easthaven Boulevard, Houston 17, Tex., of the operating rights of J. BONNIE MOORE, (RUBY JONES MOORE, ADMINISTRATRIX), doing business as J. B. "BONNIE" MOORE TRUCKING COMPANY, 2565 East Texas Avenue, Bossier City, La. (mail address P. O. Box 1393, Shreveport, La.). Applicants' attorney: Harry W. Patterson, 411 San Jacinto Building, Houston 2, Tex. Operating rights sought to be transferred: *Oilfield commodities*, as a *common carrier* over irregular routes, between points in Louisiana, Arkansas, Texas, and Mississippi. Vendee is authorized to operate as a *common carrier* in Oklahoma, Kansas, Texas, and Louisiana. Application has been filed for temporary authority under section 210a (b).

No. MC-F 7030. Authority sought for control by STRICKLAND TRANSPORTATION CO., INC., P. O. Box 5689, 2917 Gulden Lane, Dallas, Tex., of ENGLAND TRANSPORTATION CO., INC., 1731 Lafayette Street, P. O. Box 1068, New Orleans, La., and for acquisition by L. R. STRICKLAND, also of Dallas, of control of ENGLAND TRANSPORTATION CO., INC., through the acquisition by STRICKLAND TRANSPORTATION CO., INC. Applicant's attorneys: W. T. Brunson, 508 Leonhardt Building, Oklahoma City, Okla., and Harold R. Ainsworth, 1650 National Bank of Commerce Building, New Orleans, La. Operating rights sought to be controlled: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over irregular routes, from New Orleans and Plaquemine, La., to Baton Rouge and Thibodaux, La., from New Orleans and Plaquemine, La., to Ponchatoula, Hammond, Kentwood, Amite and Clinton, La., between New Orleans, La., and Plaquemine, La., and between New Orleans, La., and points within ten miles of the corporate limits of New Orleans, on the one hand, and, on the other, certain points in Louisiana; *composition pipe*, and *connections* and *fittings* therefor, from Marrero, La., to points in Mississippi on and south of U. S. Highway 80. STRICKLAND TRANSPORTATION CO., INC., is authorized to operate as a *common carrier* in Texas, Arkansas, Tennessee, Mississippi, Missouri, Illinois, Oklahoma, Louisiana, and Indiana. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 7031. Authority sought for purchase by RED STAR EXPRESS LINES OF AUBURN, INCORPORATED, doing business as RED STAR EXPRESS LINES, 24 Wright Avenue, Auburn, N. Y., of the operating rights of ROY B. SCHIESSER, doing business as RELIABLE MOTOR EXPRESS, 318 Sixth North Street, Syracuse, N. Y. (mail address R. D. No. 1, Liverpool, N. Y.), and for acquisition by JOHN BISGROVE, also of Auburn, of control of such rights through the purchase. Applicants' attorney: P. Bateman Ennis, 417 Southern Building, Washington, D. C. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Syracuse, N. Y., and Oswego, N. Y., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, and Pennsylvania. Application has been filed for temporary authority under section 210a (b).

No. MC-F 7032. Authority sought for control by HEMINGWAY BROTHERS INTERSTATE TRUCKING COMPANY, 438 Dartmouth Street, New Bedford, Mass., of BROOKS TRANSPORTATION COMPANY, INCORPORATED, 1301 North Boulevard, Richmond, Va., and for acquisition by PHILIP HEMINGWAY also of New Bedford, of control of BROOKS TRANSPORTATION COMPANY, INCORPORATED, through the acquisition by HEMINGWAY BROTHERS INTERSTATE TRUCKING COMPANY. Applicant's attorney: David G. Macdonald, 1625 K Street NW., Washington 6, D. C. Operating rights sought to be controlled: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Richmond, Va., and New York, N. Y., between Charlottesville, Va., and Lynchburg, Va., between Staunton, Va., and Roanoke, Va., between Richmond, Va., and Roanoke, Va., between Washington, D. C., and Front Royal, Va., between Washington, D. C., and Staunton, Va., between Lynchburg, Va., and Greensboro, N. C., and between Richmond, Va., and Winston-Salem, N. C., serving certain intermediate and off-route points; several alternate routes for operating convenience only; *general commodities*, with certain exceptions including household goods and commodities in bulk, over irregular routes, between Danville, Va., on the one hand, and, on the other, Anderson and Greenville, S. C., and points in North Carolina; *textiles, textile machinery, tire chains* and *chemicals* used in the manufacture of textiles, between Washington, D. C., and those points on the above-specified regular routes (including off-route points) between Richmond, Va., and New York, N. Y.; Richmond, Va., and Roanoke, Va.; Washington, D. C., and Front Royal, Va.; and Washington, D. C., and Staunton, Va., which are south of Washington, on the one hand, and, on the other, certain points in Maryland, Pennsylvania, and New Jersey; *floor coverings*, from Lancaster, Pa., to those points including the off-route points which are south of Washington, D. C., other than Richmond, Va., on the above-specified regular routes between Richmond, Va., and New York, N. Y.; Richmond, Va., and Roanoke, Va.; Washington, D. C., and Front Royal, Va.; and Washington, D. C., and Staunton, Va. HEMINGWAY BROTHERS INTERSTATE TRUCKING COMPANY is authorized to operate as a *common carrier* in Maine, Delaware, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

No. MC-F 7033. Authority sought for control by ASHWORTH TRANSFER, INC., 1526 South Sixth West Street, Salt Lake City 10, Utah, of HAWKES TRANSPORTATION CO., INC., 1105 La Point Street, P. O. Box 852, Boise, Idaho, and for acquisition by RULON C. ASHWORTH, JOSEPHINE G. ASHWORTH, RALPH GLEN ASHWORTH and RULON CLYDE ASHWORTH, JR., all of Salt Lake City, of control of HAWKES TRANSPORTATION CO., INC., through the acquistion by ASHWORTH TRANSFER, INC. Applicant's attorney: Jones & Meiklejohn, 526 Denham Building, Denver 2, Colo. Operating rights sought to be controlled: *Building Materials, Class A and B explosives, and heavy machinery*, as a *common carrier* over irregular routes, between points in Idaho, on the one hand, and, on the other, points in Montana and Washington; *Class A and Class B explosives* and *blasting materials*, between the site of the plant of the E. I. Du Pont de Nemours & Company, at or near DuPont, Wash., and the magazine site of Peter Kiewit & Sons Company, at or near Ravensdale, Wash., on the one hand, and, on the other, certain points in Montana and Oregon. (RESTRICTION: The service authorized herein is subject to the following conditions: (1) The authority granted herein is restricted insofar as concerns traffic moving to or from points in Oregon, against the transportation of the commodities described when moving on government bills-of-lading; (2) the authority granted herein, to the extent it authorizes the transportation of Class A and B explosives, shall be limited, in point of time, to a period expiring five years after June 10, 1958.) ASHWORTH TRANSFER, INC., is authorized to operate as a *common carrier* in Utah, Nevada, Wyoming, Idaho, Montana, Arizona, Colorado, New Mexico, California, and Oregon. Application has been filed for temporary authority under section 210a (b).

No. MC-F 7034. Authority sought for purchase by BLANTON TRUCKING COMPANY, INCORPORATED, Milford, Va., of a portion of the operating rights of H. E. HUDGINS AND C. DOUGLAS THOMAS, doing business as M. & G. TRANSPORTATION COMPANY, Gloucester, Va., and for acquisition by JULIAN J. BLANTON, LEWIS P. BLANTON, and LILLIAN B. JONES, all of Milford, of control of such rights through the purchase. Applicants' attorney: S. Harrison Kahn, 726-734 Investment Building, Washington 5, D. C. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over irregular routes, between Richmond, Va., on the one hand, and, on the other, points in Middlesex, King William, and King and Queen Counties, Va., southeast of U. S. Highway 360, except those within one mile of such highway. Vendee is authorized to operate as a *common carrier* in Virginia, New York, Maryland, Delaware, Pennsylvania, New Jersey, and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 7035. Authority sought for purchase by FEUER TRANSPORTATION, INC., Federal and Knowles Streets, Yonkers, N. Y., of the operating rights of EAGLE MESSENGER EXPRESS, INC., (GEORGE L. FEASTER, ESQ., TRUSTEE), 711 Ramsey Avenue, Hillside, N. J., and for acquisition by JORDAN LIPPNER, also of Yonkers, of control of such rights through the purchase. Applicants' attorneys: Bowes & Millner, 1060 Broad Street, Newark, N. J., and Joseph J. Clarick, 1143 East Jersey Street, Elizabeth, N. J. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier*, over irregular routes, between New York, N. Y., on the one hand, and, on the other, points in Hudson, Essex, Bergen, Union, Passaic, Middlesex, Monmouth, Somerset and Morris Counties, N. J. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, and Connecticut. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-9368; Filed, Nov. 12, 1958; 8:47 a. m.]

[Notice 46]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 7, 1958.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Commerce 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 61322. By order of October 31, 1958, the Transfer Board approved the transfer to Warren L. Bader, doing business as Bader Truck Line, New Richmond, Wisconsin, of a certificate in No. MC 35602, issued March 11, 1941, to Alfred H. Bader, New Richmond, Wisconsin, authorizing the transportation of livestock, over irregular routes, from points in the Towns of Richmond, Somerset, Saint Joseph, Warren, Erin, and Hudson, St. Croix County, Wis., to South St. Paul, Minn., and farm machinery, farm supplies, books, school supplies, and furniture, over irregular routes, from South St. Paul, St. Paul, Minneapolis, and Stillwater, Minn., to points in the above-specified Wisconsin Towns. A. R. Fowler, Associated Motor Carriers Tariff Bureau, 2288 University Avenue, Saint Paul 14, Minnesota, for applicants.

No. MC-FC 61545. By order of October 31, 1958, the Transfer Board approved the transfer to Philip's Garment Delivery, South River, N. J., of Certificate No. MC 36843, issued June 15, 1949, to Jack Golden, doing business as Golden's Express, South River, N. J., authorizing the transportation of: Wearing apparel and cut goods, trimmings, and buttons, when such articles are used in the manufacture of wearing apparel, between South River, N. J., and New York, N. Y., serving all intermediate points on the designated regular routes and the off-route points of Jamesburg and Englishtown, N. J. Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N. J., for applicants.

No. MC-FC 61556. By order of October 31, 1958, the Transfer Board approved the transfer to John Herbert Crawford, doing business as Crawford Truck Lines, Winnemucca, Nev., of certificate in No. MC 101666, issued June 27, 1941, to John H. Crawford, Winnemucca, Nev., authorizing the transportation of *General commodities*, including heavy machinery and household goods between points in a specified territory in Oregon and points in a specified territory in Nevada. James A. Callahan, Winnemucca, Nevada, for applicants.

No. MC-FC 61564. By order of October 31, 1958, the Transfer Board approved the transfer to Lucille S. Collier, doing business as Collier Transfer & Storage, 114-120 East Joy Avenue, Pauls Valley, Okla., of certificate in No. MC 114460, issued March 31, 1954, to J. D. Collier, doing business as Collier Transfer & Storage, Pauls Valley, Okla., authorizing the transportation of: *Household goods* and *imigrant* movables, in truckloads, between points in Garvin County, Okla., on the one hand, and, on the other, points in Texas.

No. MC-FC 61577. By order of October 31, 1958, the Transfer Board approved the transfer to Robert L. Magneson and Raymond Jerrell, a Partnership, doing business as Northeastern Montana Freight Line, Glendive, Mont., of certificate in No. MC 35672, issued April 21, 1954, to Floyd T. Ewing, doing business as Ewing Truck Line, Glendive, Mont., authorizing the transportation of: *General commodities* with the usual exceptions including household goods, between Glendive, Mont. and Brockway, Mont. Kenneth L. Haag, First National Bank, Glendive, Montana, for applicants.

Nos. MC-FC 61582 and MC-FC 61583. By order of October 31, 1958, the Transfer Board approved the transfers to I-V Coaches, Inc., Vincennes, Indiana, of Certificates Nos. MC 28657 and MC 37700, issued May 30, 1942, and November 19, 1942, to Indianapolis-Vincennes Coach Company, Inc., Vincennes, Indiana, and Indianapolis-Martinsville Transit Lines, Inc., Indianapolis, Indiana, authorizing the transportation of passengers and their baggage, and express, and newspapers, over a regular route, between Indianapolis, Ind., and Martinsville, Ind., serving all intermediate points, and passengers and their baggage, restricted to traffic originating in the territory indicated above, in charter operations, over irregular routes, from points in Marion County, Ind., to Chicago, Ill., and Cincinnati, Ohio, and return, and passengers and their baggage, and express, newspapers, and mail, over a regular route, between Indianapolis, Ind., and Vincennes, Ind., serving intermediate points and off-route point of Linton, Ind., and passengers and their baggage, restricted to traffic originating at the points in the territory immediately described above, in charter operations, over irregular routes, from Vincennes, Ind., and points within 50 miles of Vincennes, to points in Illinois, Indiana, Missouri, and Kentucky, and return. Harry J. Harman, 219 Bankers Trust Building, Indianapolis, Ind.

No. MC-FC 61584. By order of October 31, 1958, the Transfer Board approved the transfer to Edmund Schroeder, Carroll, Iowa, of certificate No. MC 62007, issued April 29, 1957, to Merlin J. Loneman, Maple River, Iowa, authorizing the transportation of *Livestock* and agricultural commodities from Maple River, Iowa to Omaha, Nebr., and *Livestock, feed, agricultural implements and parts thereof, lubricating oil* and *grease* in containers, and *building materials*, from Omaha, Nebr., to Maple River, Iowa. Joseph N. Wittry, Carroll, Iowa, for applicants.

No. MC-FC 61648. By order of October 31, 1958, the Transfer Board approved the transfer to Great Coastal Express, Incorporated of Richmond (a Virginia corporation), Richmond, Va., of certificate No. MC 4491, issued September 11, 1958, to Great Coastal Express, Incorporated (a New Jersey corporation), Newark, N. J., authorizing the transportation of: Poultry and eggs, from points in Louisa, Albemarle, Orange, Fluvanna, and Goochland Counties, Va., to Washington, D. C., Baltimore, Md., Philadelphia, Pa., and New York, N. Y., and empty egg and poultry crates on return; clothing, from Louisa, Va., to Baltimore, Md.; fertilizer and material used in the manufacture of clothing, from Baltimore, Md., to Louisa, Va.; blue stone and spray materials, from New York, N. Y., to Charlottesville, Va.; paint, from Newark, N. J., to Charlottesville, Va.; enamelware, from Philadelphia, Pa., to Charlottesville, Va.; meat scrap, from Long Island City, N. Y., and Philadelphia, Pa., to Madison Mills, Mineral, Louisa, and Charlottesville, Va.; such general merchandise as is dealt in by wholesale hardware establishments, from Baltimore, Md., to Charlottesville, Va.; roofing, from Baltimore, Md., to Louisa, Pendleton, Warrenton, and Charlottesville, Va., and points in Virginia on U. S. Highway 29 between Warrenton, and Charlottesville, Va.; petroleum products in containers, from Philadelphia, Holmesburg, and Marcus Hook, Pa., to points in Virginia; and empty petroleum products containers on return; heating equipment and parts thereof, from Richmond, Va., to points in North Carolina; general commodities, excluding household goods and other specified commodities, between Quantico, Va., and points in Richmond, Louisa, Hanover, King and Queen, Mathews, Gloucester, James City, New Kent, King William, Charles City, Henrico,, Goochland, Buckingham, Cumberland, Powhatan, Chesterfield, Prince Edward, Spotsylvania, Caroline, Essex, Northumberland, Lancaster, Middlesex, Stafford, King George, Westmoreland, Fluvanna, and Amelia Counties, Va., on the one hand, and, on the other, points on designated highways in New Jersey within 20 miles of Newark, N. J., the New York, N. Y., commercial zone, New York, New Jersey, Pennsylvania, Delaware, and Maryland, north of Baltimore; service to and from Richmond Deep Water Terminal, Va., as an extension of operations to and from Richmond, Va.; between points in Essex, Hudson, Bergen, Passaic, Union, Middlesex, Morris, Hunterdon, and Somerset Counties, N. J., on the one hand, and, on the other, points in Orange, and Rockland Counties, N. Y.; between points in the New Jersey and New York Counties specified immediately above, on the one hand, and, on the other, New York, N. Y., points in Westchester County, N. Y., and points in Fairfield County, Conn.; between points in Union, Essex, Hudson, Somerset, Bergen, Passaic, and Middlesex Counties, N. J., on the one hand, and, on the other, points in Essex, and Hudson Counties, N. J.; petroleum products, in truckloads, from Marcus Hook, Pa., to points in New Jersey; and empty petroleum products containers on return; general commodities, unrestricted, between Ardmore, and Lansdowne, Pa., points in the New York, N. Y., commercial zone, points in the Philadelphia, Pa., commercial zone, and points in a designated territory in New Jersey and Pennsylvania; clothing and dry goods in truckloads, between points in New Jersey, on the one hand, and, on the other, Cambridge, Md.; household goods as defined and new furniture in truckloads, between points in New Jersey, on the one hand, and, on the other, points in New York, and Pennsylvania within 50 miles of New York, N. Y., and Philadelphia, Pa., respectively. Jno. C. Goddin, 1304 State Planters Bank Building, Richmond, Va., for applicants.

No. MC-FC 61656. By order of October 31, 1958, the Transfer Board approved the transfer to Steve Kester, Toronto, Kansas, of Certificate No. MC 1808, issued February 3, 1955, to Richard Wharry, Yates Center, Kansas, authorizing the transportation, over regular routes, of livestock, between Toronto, Kans., and Kansas City, Mo., serving the intermediate and off-route points within ten miles of Toronto; and feed, building materials, and farm machinery, from Kansas City, Mo., over the above specified route to Toronto, serving the intermediate and off-route points within ten miles of Toronto. Floyd D. Strong, 214 Insurance Building, 701 Jackson Street, Topeka, Kansas, for applicants.

No. MC-FC 61657. By order of October 31, 1958, the Transfer Board approved the transfer to Community Van Service, Inc., Westwood, New Jersey, of a certificate in No. MC 92224, issued July 14, 1942, to Herbert F. Roll, doing business as H. & W. Roll Vans, Jersey City, New Jersey, authorizing the transportation of household goods, as defined by the Commission, between points in Bergen and Hudson Counties, N. J., on the one hand, and, on the other, points in New York and Pennsylvania. David Brodsky, Brodsky and Lieberman, 1776 Broadway, New York 19, New York.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-9369; Filed, Nov. 12, 1958; 8:47 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 7, 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. 35074: *Caustic soda from Natrium, W. Va., to Deep Run Spur, Va.* Filed by O. E. Schultz, Agent (ER No. 2470), for interested rail carriers. Rates on liquid caustic soda, tank-car loads from Natrium, W. Va., to Deep Run Spur, Va.

Grounds for relief: Market competition.

Tariff: Supplement 5 to Baltimore and Ohio Railroad tariff I. C. C. 24389.

FSA No. 35075: *Fine coal from the southwest to Corn Belt, Iowa.* Filed by

Southwestern Freight Bureau, Agent (No. B-7413), for interested rail carriers. Rates on bituminous fine coal, carloads from points in Arkansas, Kansas, Missouri, and Oklahoma to Corn Belt, Iowa.

Grounds for relief: Market competition.

Tariffs: Supplement 43 to Southwestern Lines tariff I. C. C. 4270. Supplement 72 to Western Trunk Line Committee tariff I. C. C. A-3969.

FSA No. 35076: *Cinders from Fort Smith, Ark., to Kansas.* Filed by Southwestern Freight Bureau, Agent (No. B-7410), for interested rail carriers. Rates on cinders, clay or shale, ground or not ground, carloads from Fort Smith, Ark., to points in Kansas.

Grounds for relief: Grouping.

Tariff: Supplement 177 to Southwestern Lines tariff I. C. C. 4135.

By the Commission.

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

[F. R. Doc. 58-9367; Filed, Nov. 12, 1958; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-9144]

FOOD MACHINERY & CHEMICAL CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

NOVEMBER 6, 1958.

In the matter of application by the Philadelphia-Baltimore Stock Exchange for unlisted trading privileges in Food Machinery & Chemical Corporation Common Stock; File No. 7-1944.

The above named stock exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York and Pacific Coast Stock Exchanges.

Upon receipt of a request, on or before November 25, 1958, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 58-9364; Filed, Nov. 12, 1958; 8:46 a. m.]

[File No. 7-1945]

UNITED MERCHANTS & MANUFACTURERS, INC.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

NOVEMBER 6, 1958.

In the matter of application by the Philadelphia-Baltimore Stock Exchange for unlisted trading privileges in United Merchants & Manufacturers, Inc. Common Stock; File No. 7-1945.

The above named stock exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 25, 1958, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 58-9365; Filed, Nov. 12, 1958; 8:46 a. m.]