THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 23 NUMBER 245

Washington, Wednesday, December 17, 1958

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10795

DESIGNATING THE INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION AS A PUBLIC INTERNATIONAL ORGANIZATION ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669), and having found that the United States participates in the Intergovernmental Maritime Consultative Organization pursuant to the authority of the Convention on the Intergovernmental Maritime Consultative Organization to which the United States Senate gave its advice and consent on June 27, 1950, and which the President ratified on July 11, 1950 (T. I. A. S. 4044), I hereby designate the Intergovernmental Maritime Consultative Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act.

The designation of the Intergovernmental Maritime Consultative Organization as a public international organization within the meaning of the International Organizations Immunities Act is not intended to abridge in any respect privileges, exemptions, and immunities which that organization may have acquired or may acquire by treaty or congressional action.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
December 13, 1958.

[F. R. Doc. 58-10467; Filed, Dec. 16, 1958; 11:36 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.385]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 *Designation of differential posts*, is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following December 13, 1958, paragraph (b) is amended by the deletion of the following:

India, all posts except Anand, Bangalore, Bhopal, Bombay, Calcutta, Chandigarh, Gwalior, Hazaribagh, Hyderabad, Izatnagar-Bareilly, Jodhpur, Lucknow, Ludhiana, Madras, Nabha, Nagpur, Nangal, New Delhi, Pipri, Poona, Rajkot, Sehore, Sindri, Tarai, Trivandrum, Udaipur and Vellore.

2. Effective as of the beginning of the first pay period following December 13, 1958, paragraph (c) is amended by the deletion of the following:

Calcutta, India.
Keflavik, Iceland.

3. Effective as of the beginning of the first pay period following March 22, 1958, paragraph (a) is amended by the addition of the following:

Rivas Province, Nicaragua.

4. Effective as of the beginning of the first pay period following December 13, 1958, paragraph (a) is amended by the addition of the following:

Banaras, India.

5. Effective as of the beginning of the first pay period following December 13, 1958, paragraph (b) is amended by the addition of the following:

India, all posts except Anand, Banaras, Bangalore, Bhopal, Bombay, Chandigarh, Gwalior, Hazaribagh, Hyderabad, Izatnagar-Bareilly, Jodhpur, Lucknow, Ludhiana, Madras, Nabha, Nagpur, Nangal, New Delhi, Pipri, Poona, Rajkot, Sehore, Sindri, Tarai, Trivandrum, Udaipur and Vellore.

6. Effective as of the beginning of the first pay period following December 13, 1958, paragraph (c) is amended by the addition of the following:

Brazzaville, French Equatorial Africa.
Keflavik-Grindavik, Iceland.

7. Effective as of the beginning of the first pay period following July 26, 1958, paragraph (d) is amended by the addition of the following:

Gaza Strip.

(Sec. 102, Part I, E. O. 10000, 13 F. R. 5453, 3 CFR, 1948 Supp.)

For the Secretary of State.

W. K. SCOTT,
Assistant Secretary.

DECEMBER 3, 1958.

[F. R. Doc. 58-10410; Filed, Dec. 16, 1958; 8:50 a. m.]

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

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

TITLE 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Docket No. R-171; Order 209]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

ELECTRIC UTILITIES AND LICENSEES (CLASSES C AND D); REVOKING REGULATIONS PRESCRIBING FORM OF ANNUAL REPORTS

DECEMBER 11, 1958.

The Commission has under consideration in this proceeding the revocation of §§ 141.2, 141.3 and 141.4 of Part 141 of the regulations under the Federal Power Act (18 CFR, Chapter I, Part 141, §§ 141.2, 141.3 and 141.4), which pro-

vide for the filing of annual reports, FPC Form Nos. 1-A, 1-B and 1-C, as applicable, by Classes C and D Electric Utilities and Licensees.

The electric utilities hereby exempted from the filing of annual reports currently include 420 Class C and 815 Class D privately and publicly owned utilities. Class C electric utilities are those classified by the Commission as having annual operating revenues of more than $100,000, but not more than $250,000. Class D electric utilities are those classified by the Commission as having annual operating revenues of more than $25,000, but not more than $100,000.

A recent reappraisal of the Commission's need for the information contained in these reports disclosed that there is currently no apparent pressing need for statistics of small electric utilities, which, in any event, are relatively unimportant in relation to the statistics of the industry as a whole. Considering the insignificant public interest in the reports and the unsatisfactory response in meeting the prescribed requirements, the reports do not warrant the expense of their continuance.

It appears that the proposed revocations represent a matter of procedure which does not require notice of hearing under section 4 (a) of the Administrative Procedure Act.

The Commission finds: It is appropriate in the public interest and necessary to carry out the provisions of the Federal Power Act to revoke the subject regulations.

The Commission, acting pursuant to the authority granted by the Federal Power Act, particularly section 309 of that act (49 Stat. 858; 16 U. S. C. 825h) orders:

(A) Sections 141.2, 141.3 and 141.4 of Part 141 of the regulations under the Federal Power Act (18 CFR, Chapter I, Part 141, §§ 141.2, 141.3 and 141.4) and the forms prescribed thereby are revoked.

(B) This order shall become effective 30 days after the date of the issuance thereof.

(C) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-10394; Filed, Dec. 16, 1958; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter E—Production Credit System

PART 50—PRODUCTION CREDIT ASSOCIATIONS

PAYMENT OF DIVIDENDS

Correction

In F. R. Doc. 58-10268, appearing at page 9629 of the issue for Friday, December 12, 1958, the following change should be made:

In the proviso in § 50.211, the word "loss" should read "less."

TITLE 21—FOOD AND DRUGS

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

Subchapter B—Food and Food Products

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

RESIDUES OF DICHLONE

A petition was filed with the Food and Drug Administration requesting the establishment of tolerances for residues of dichlone (2,3-dichloro-1,4-naphthoquinone) in or on beans, cherries, plums (fresh prunes), and strawberries.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (2), 68 Stat. 512, as amended 72 Stat. 948; 21 U. S. C. 346a (d) (2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7 (g); 23 F. R. 6403), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (23 F. R. 6403) are amended by changing § 120.118 to read as follows:

§ 120.118 *Tolerances for residues of dichlone.* Tolerances for residues of dichlone (2,3-dichloro-1,4-naphthoquinone) are established as follows:

(a) 15 parts per million in or on strawberries.

(b) 3 parts per million in or on apples, beans, celery, cherries, peaches, plums (fresh prunes), tomatoes.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, 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 this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and 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 be effective upon publication in the FEDERAL REGISTER.

(Sec. 408, 68 Stat. 512; 21 U. S. C. 346a)

Dated: December 10, 1958.

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

[F. R. Doc. 58-10379; Filed, Dec. 16, 1958; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1764]

[BLM-045273]

ARKANSAS

WITHDRAWING LANDS FOR USE OF DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS FOR FLOOD CONTROL PURPOSES

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

Subject to valid existing rights, the following-described public lands in Arkansas are hereby withdrawn from all forms of appropriation under the mining land laws, including the mining and mineral leasing laws but not disposals of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601-604) as amended, and reserved for use in connection with the construction of the Dardanelle Lock and Dam Project, under the supervision of the Department of the Army, Corps of Engineers, as authorized by the Act of July 24, 1946 (60 Stat. 634) as amended:

FIFTH PRINCIPAL MERIDIAN, ARKANSAS

T. 8 N., R. 23 W.,
Sec. 27, E½SE¼SW¼.

The area described contains 20 acres.

ROGER ERNST, *Assistant Secretary of the Interior.*

DECEMBER 11, 1958.

[F. R. Doc. 58-10380; Filed, Dec. 16, 1958; 8:45 a. m.]

[Public Land Order 1765]

[684812]

LOUISIANA

REVOKING EXECUTIVE ORDER NO. 3079 OF APRIL 22, 1919, WHICH RESERVED CERTAIN LANDS FOR LIGHTHOUSE PURPOSES (SABINE PASS LIGHT STATION)

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

1. Executive Order No. 3079 of April 22, 1919, which reserved the following-described lands in Louisiana for lighthouse purposes, is hereby revoked:

LOUISIANA MERIDIAN

T. 15 S., R. 15 W.,
Sec. 32, fractional.

The area described contains 45.56 acres.

2. The lands have been conveyed by the General Services Administration to the State of Louisiana, with a reservation of all minerals to the United States. The leasable minerals in such lands are hereby open to filing of applications and offers under the mineral-leasing laws. All such applications and offers presented prior to 10:00 a. m. on January 16, 1959,

will be considered simultaneously filed at that time. Those presented thereafter shall be considered in the order of filing.

ROGER ERNST,
Assistant Secretary of the Interior.

DECEMBER 11, 1958.

[F. R. Doc. 58-10381; Filed, Dec. 16, 1958; 8:45 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter B—Hunting and Possession of Wildlife

PART 6—MIGRATORY BIRDS

AUTHORITY TO ISSUE DEPREDATION ORDERS

By notice of proposed rule making published on November 5, 1958 (23 F. R. 8624), the public was notified of a proposed amendment to Part 6, Title 50, Code of Federal Regulations, which would authorize the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D. C., to issue depredation orders to permit the killing of migratory game birds when it has been determined that accumulations of such birds in a particular area are causing or are about to cause serious damage to agricultural, horticultural or fish cultural interests.

Interested persons were invited to submit their views, data, or arguments in writing with respect to the proposed amendment to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D. C., on or before the expiration of thirty days from the date of publication of the notice.

The only comment received in response to the Notice of Proposed Rule Making was one which indicated the desirability of permitting the destruction of American mergansers taken under depredation orders which cannot be utilized for food, scientific or educational purposes. An appropriate proviso to accomplish this purpose has been incorporated in the amendment.

Accordingly, to best serve the interests of agriculture, horticulture, and fish culture, Part 6, Title 50, is amended by adding a new § 6.65 reading as follows:

§ 6.65 *Authority to issue depredation orders to permit the killing of migratory game birds.* Upon receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D. C., is authorized to issue by publication in the FEDERAL REGISTER a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may be killed by shooting only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the particular area or areas being threatened;

(b) Such shooting shall be limited to a specific period of time to be fixed by the Director on the basis of all circumstances involved. If prior to the termination of the period fixed for such shooting the Director shall receive information that there is no longer a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

(c) Such birds as may be killed under the provisions of any such order may be used for food and they may be donated to public museums or public scientific and educational institutions for exhibition, scientific or educational purposes, but they may not be sold, offered for sale, bartered, or shipped for purposes of sale or barter, or be wantonly wasted or destroyed: *Provided*, That any American mergansers which cannot be utilized for the purposes stated in this paragraph may be destroyed in such manner as may be prescribed by the Director;

(d) Any order issued pursuant to this authority must clearly specify that the killing of the designated species of depredating birds is not permitted in violation of any State law or regulation. It must further specify that it is issued as an emergency measure designed to relieve depredations and is not for the purpose of reopening or extending any open hunting season prescribed by regulations promulgated under section 3 of the Migratory Bird Treaty Act.

(Sec. 3, 40 Stat. 755, as amended; 16 U. S. C. 704)

Since this amendment will serve to relieve restrictions which otherwise would preclude the killing of certain depredating migratory birds, the thirty-day advance publication requirement imposed by section 4 (c) of the Administrative Procedure Act of June 11, 1946, may be waived under the exceptions provided in such section.

Issued at Washington, D. C., and dated December 12, 1958.

ROSS LEFFLER,
Acting Secretary of the Interior.

[F. R. Doc. 58-10393; Filed, Dec. 16, 1958; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 912]

[Docket No. AO-29-A10]

MILK IN DUBUQUE, IOWA MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE 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 Dubuque, Iowa, on May 1-5, 1958, pursuant to notice thereof issued on April 9, 1958 (23 F. R. 2404).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on October 23, 1958 (23 F. R. 8302) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. Expansion of the marketing area.
2. Qualifications for attaining pool plant status.
3. Modification of the definitions for producer and producer milk.
4. The Class I price.
5. Reducing the Class I butterfat differential.
6. Class II and Class III milk: classification and pricing.
7. Application of location differentials on class prices and in paying producers.
8. Revising the producer butterfat differential.
9. Payments on unpriced milk disposed of in the marketing area from a nonpool plant.
10. Prescribing conditions under which transfers and diversions may be classified as Class II.
11. Allocation of packaged milk received from a plant regulated by another order.
12. Miscellaneous administrative and conforming changes.

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

1. The marketing area should be expanded to include the city of East Dubuque, Illinois. The marketing area is now the city of Dubuque and specified territory adjacent thereto in Dubuque County, Iowa. The 1950 population of the presently designated marketing area was 55,000 and that of East Dubuque 1700.

All fluid milk products distributed in East Dubuque are from handlers' plants regulated by the Dubuque order or other nearby Federal orders. The expanded marketing area will conform more closely with the sales territory of regulated handlers. There was no opposition to the handler proposal to expand the marketing area to include East Dubuque.

Grade A milk products sold for fluid consumption in Dubuque and East Dubuque must be approved by local or

State health authorities who are governed by health ordinances, practices and procedures patterned after the United States Public Health Service Ordinance and Code. Movement of Grade A milk, both in bulk and packaged form between such cities takes place through the reciprocal approval of the responsible health authorities. Ratings by the United States Public Health Service are recognized as a basis for approval of outside sources of milk.

In addition to East Dubuque it was proposed that the cities of Galena and Savanna, Illinois, be included in the marketing area. Although East Dubuque is adjacent to the present marketing area, Galena and Savanna, which are 20 and 52 miles, respectively, from Dubuque, are relatively far removed from the primary sales distribution area of Dubuque handlers. Expansion of the marketing area to include such cities would bring under regulation distributors who make a substantial portion of their sales outside the primary distribution area of regulated handlers. Moreover, there was no evidence at the hearing that present or prospective marketing conditions in these cities would justify the extension of regulation to them at this time. Accordingly, Galena and Savanna should not be included in the marketing area.

It is clearly intended that any territory within the boundaries of the designated marketing area which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions or other establishments should be considered as within the marketing area. However, so that there will be no doubt as to the intent of the revised marketing area definition, it should be indicated that the designated Dubuque, Iowa, marketing area should include territory within its boundaries which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions or other establishments.

2. The order should be revised to prescribe standards based on association with the market for qualifying a plant as a pool plant. As now provided in the order, any processing plant from which milk is distributed in the marketing area or a plant that furnishes milk to such a processing plant is fully regulated.

A plant distributing milk in the marketing area may now share in the marketwide pool under the Dubuque order regardless of the quantity of milk so distributed. Similarly, a supply plant may share in the pool by making a shipment of milk to a plant distributing milk in the marketing area. Thus, a plant may now qualify for pool plant status in any month by disposing of one quart of milk in the marketing area or by making one shipment to another pool plant.

Producers stated that reasonable pool plant qualifications should be incorporated in the order to insure that only those plants that are genuinely associated with the market will share in the marketwide pool. They argued that plants which are associated with other markets or which are predominantly manufacturing plants should not be permitted or required to equalize their sales with all handlers in the market.

They pointed out that at the present time a regulated plant receiving milk from approximately 70 producers has Class I sales of less than 15 percent of its total Grade A producer receipts. The remainder of its Grade A milk supply is manufactured into cheddar cheese and classified in the lowest price class under the order. Under these conditions this plant cannot reasonably be considered as associated with the fluid milk market. Moreover, since the order now contains meager performance standards for participation in the pool there is no assurance that the Grade A milk supply at such plant would be available for fluid use.

Since the production of high quality milk involves extra expenses, the amount of milk produced under Grade A inspection should not be abnormally more than that needed to provide the market with an adequate and dependable supply of quality milk. During 1956 and 1957 more than half of the pooled receipts of producer milk in the Dubuque market was utilized for manufacturing purposes. Encouraging more than enough production of Grade A milk represents an economic waste, since the expenditures involved in producing Grade A milk not needed on the market result in no extra value to consumers.

Essential to the operation of a marketwide pool is the establishment of performance standards to apply uniformly to all plants. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby to participate in the marketwide pool and have its producers share in the Class I sales of the market. Any producer who meets the necessary health department requirements should be permitted, under the order, to sell his milk to plants meeting the standards of qualification. Whether plants and producers choose to supply the Dubuque market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Performance standards should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the marketwide equalization. On the other hand, plants only casually, or incidentally, associated with the market should not be subject to complete regulation. Neither should they be permitted or required to equalize their sales with all handlers in the market. If a milk plant were to be permitted to share on a pro rata basis the Class I utilization of the entire market without being genuinely associated with the market, then the differentials paid by users of Class I milk would be dissipated without accomplishing their intended purpose. If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all regulated handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be compliance with the necessary health department standards.

Since reserve milk is an essential part of any fluid milk business there will always be some excess milk in the plants of handlers supplying other markets. This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the Dubuque market may depend. If such a plant, by selling a token quantity of Class I milk in the marketing area, were allowed to pool its surplus, the operator thereof could gain an unwarranted advantage in paying producers by receiving equalization payments from the Dubuque order pool. Such a distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

Because of the difference in marketing practices and functions between distributing plants and supply plants, two sets of performance standards have been provided. A "distributing plant" under the order would be defined as a plant in which milk is processed or packaged and from which any fluid milk product (as hereinafter defined) is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area. A "supply plant" would be defined to mean a plant (except a distributing plant) from which Grade A milk, skim milk or cream is shipped during the month to a pool plant.

In order to qualify as a pool plant, a distributing plant should be required to distribute at least 10 percent of its milk from producers and other plants during the month as Class I milk on retail or wholesale routes to outlets in the marketing area.

A distributing plant having more than 90 percent of its business outside the marketing area or in other outlets should not be considered as essentially associated with the market. It is not considered advisable to bring such a plant under full regulation because of the minor share of its business which is in the marketing area. Full regulation in such case would not be necessary to accomplish the purpose of the order, and might well place such plant at a competitive disadvantage in relation to its competitors in supplying the unregulated market.

Such a minimum is necessary to avoid the possibility that a plant otherwise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distribution of fluid milk products should be qualified

as pool plants under this definition. In order to preserve this distinction, a further condition is placed on distributing plants that their total distribution of Class I milk on routes to wholesale or retail outlets, both inside and outside the marketing area, must amount during the month to at least 35 percent of their receipts of Grade A milk from dairy farmers and from other plants.

A plant from which milk for Class I uses is distributed regularly in the marketing area under normal circumstances may be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum performance standards necessary to qualify as a pool plant. There may be from time to time plants supplying milk to the marketing area which would not qualify for pool status. Such plants would be subject to payments hereinafter discussed if they are not fully subject to regulation.

The performance standards for supply plants to qualify for pool plant status should reflect the fact that currently the quantity of milk produced for the Dubuque market is adequate for the needs of the market. At times, especially during the months of seasonally high production, distributors in the market have not needed all of the milk available from producers in order to keep their Class I outlets fully supplied. In order to assure that all the producers' milk which is pooled with the market will be available for Class I, supply plant standards should be set at levels which require that such milk will be available.

In order to qualify for pool plant status a supply plant should ship to distributing plants which are pool plants at least 35 percent of its receipts of milk from dairy farmers in any month in the form of fluid milk products. A supply plant from which a proportionately lesser quantity of milk is disposed of in this matter should not, under the present conditions in the Dubuque market, be considered as primarily associated with the regulated market.

A handler operating a distributing plant which does not meet the standards for a pool plant should be required to file reports for such plant and submit to audits by the market administrator to verify the status of such plant.

Some handlers in the market receive milk from both Grade A and ungraded producers. Where such an operation takes place, it is generally the practice of the handler to maintain the ungraded operation physically apart from that of his Grade A operation. The handler who operates an ungraded plant which is in the adjoining or same building as his Grade A plant should not be restricted in the operation of his ungraded plant to any greater degree than the operator of any other ungraded plant. However, proper safeguards should be provided in the order to insure that the ungraded and graded portions of a plant operated by the same handler are maintained as separate entities. It is concluded, therefore, that if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it should not be considered a part of a pool plant. However, if the graded and ungraded operations of a plant are not maintained separately, the entire operation of such plant would be considered as that of a pool plant, and all ungraded milk received at such plant would be considered as other source milk received at a pool plant.

The source of supply for the majority of the regulated plants under the order is from the Dubuque Cooperative Dairy Marketing Association. This producer organization proposed that a plant owned and operated by a cooperative association which is located in the marketing area be designated as a pool plant.

Although the cooperative association does not maintain facilities for processing producer milk in excess of handlers' requirements, it does assume the responsibility for marketing such excess milk. Producer milk not needed by handlers is received at the cooperative's plant where it is cooled and reloaded for shipment to other fluid milk markets or to manufacturing plants.

The cooperative association performs valuable services for the market in that it maintains an adequate supply of milk for the market's needs and assumes the responsibility of marketing all milk in excess of handlers' requirements. Permitting the cooperative association, under certain conditions, to pool the returns from the sale of producer milk which moves directly to the association's plant will contribute substantially to the orderly marketing of milk in the Dubuque market.

Exception was taken to the finding in the recommended decision for designating as a pool plant a plant operated by a cooperative whose members are the majority of the total number of producers on the market and whose shipments to pool plants are at least 50 percent of the receipts at all pool plants during the month. The basis for the exception is that the finding does not give adequate consideration to actual marketing conditions in the Dubuque market. The Dubuque Cooperative Dairy Marketing Association represents less than the majority of the total number of producers on the market and the shipments of its members are less than half of the milk in the pool. If the plant of the cooperative were not qualified as a pool plant, it would not be possible to market effectively the milk of producers that is not needed by regulated handlers who customarily receive such milk for Class I purposes. However, it would not be feasible or economically justifiable under present conditions in the Dubuque market to designate as a pool plant (as proposed by producers) any plant in the marketing area operated by a cooperative, irrespective of whether producer members of such cooperative ship any milk to the pool plants of other handlers.

In view of the above stated considerations, the order should provide for designating as a pool plant a plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month or during the 12-month period immediately preceding such month are more than the total pounds of Grade A milk received at its plant from dairy farmers during the respective corresponding period.

3. "Producer" should be defined as any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

"Producer milk" should be defined as all skim milk and butterfat (a) contained in milk received at a pool plant directly from producers; or (b) diverted from a pool plant to a nonpool plant for the account of the operator of a pool plant or a cooperative association (1) any day during the months of February through June, and (2) on not more than the number of days that milk was delivered to a pool plant during any of the other months.

As now provided in the order, to qualify as a producer a dairy farmer must ship to a pool plant and have the approval of the health authority of the city of Dubuque. Once a person has qualified as a producer his production may be diverted from a pool plant to a nonpool plant at any time during the year and for any period of time. In effect, it is now possible for a dairy farmer to be a producer under the order even though his milk is delivered continuously to a nonpool plant.

Findings are made elsewhere in this decision justifying the establishment of pool plant qualifications based on standards of association with the market and for requiring compensatory payments on unpriced milk received at a pool plant or distributed in the marketing area from a nonpool plant. Accordingly, the producer definition in the order should be revised and a definition of producer milk incorporated in the order so as to complement these other provisions.

Whether a farmer qualifies as a producer under the order is based on whether the plant to which he ships is qualified as a pool plant. Under the pool plant definition herein proposed whether a plant qualifies as a pool plant is determined on the basis of a minimum specified percentage of the milk received at such plant being distributed as Class I in the marketing area or, in the case of a supply plant, on the basis of a minimum specified percentage of its milk receipts having been shipped to a distributing plant that is a pool plant. If diversion of producer milk in any month and for any length of time to a nonpool plant were permitted, it would be extremely difficult, if not impossible, to effectuate properly the intent of the pool plant provisions and the provisions relative to payments on unpriced milk.

When producer milk is not needed in the market for Class I purposes the movement of such milk to nonpool plants for manufacturing purposes should be facilitated. Allowing for unlimited diversion during those months when reserve supplies of milk are heaviest will contribute to this end. Unlimited diversion is neither necessary nor desirable during the months of the year when milk

of producers regularly associated with the market might be needed for Class I purposes in the market. It is necessary, however, to provide for limited diversion during such months to enable handlers to divert producer milk on such occasions as week-ends or holidays when milk is not needed in the market for Class I purposes.

Provision should be made so that milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant any day during the months of flush production and on not more than the number of days that milk was delivered from a farm to a pool plant during any of the other months and still retain producer milk status under the order. As heretofore provided in the order, diverted milk shall be deemed to have been received at the plant from which it was diverted.

4. No change should be made in the Class I price at this time.

Producers proposed that the Class I price be increased 5 cents. They argued that such an increase is necessary to bring the Class I price in Dubuque in line with the Class I prices in other nearby Federal order markets.

Currently, supplies of milk for the Dubuque market in relation to its Class I needs are more than adequate. Producer deliveries of 55.7 million pounds during 1957 were 6 million pounds, or 13 percent above that for the year 1956. Class I disposition of 25.4 million pounds in 1957 increased by 1.3 million pounds, or 5 percent over the previous year.

The fact of increasing supplies in relation to Class I sales in the market is adequate proof that the Class I price should not be increased at this time. Moreover, producers failed to show that any difference between the Class I price in the Dubuque market and Class I prices in nearby Federal orders has caused any instability in the marketing of milk in the area. Accordingly, the proposal to increase the level of the Class I price is denied.

5. The rate of the Class I butterfat differential should be changed. The differential is now computed by multiplying the average of the daily quotations for 92-score butter at Chicago for the preceding month by 0.140. As provided herein, the factor of 0.140 would be replaced by 0.120.

The Class I butterfat differential in the Dubuque market is high in relation to the Class I butterfat differential in other markets. For example, in the Quad Cities market (with which market Dubuque handlers have overlapping supply and sales areas) handlers pay a butterfat differential on Class I milk of 0.125 times the Chicago 92-score butter price. Handlers regulated by the Chicago order pay a butterfat differential on Class I milk approximating the 92-score butter price times 0.120.

The high Class I butterfat differential, it is claimed, has been one of the principal reasons for the rapid and continuing decline in the proportion of butterfat contained in the Class I disposition in the market. This decrease of butterfat in Class I utilizations is reflected in the increasing sales of low butterfat products.

A high butterfat differential tends to be a deterrent to increasing the butterfat content of fluid milk products distributed by Dubuque handlers. The declining proportion of butterfat in the various products in the market is indicated by the average butterfat content of all Class I disposition of 3.96 percent in 1954, 3.88 percent in 1955, 3.78 percent in 1956 and 3.74 percent in 1957.

In the Dubuque market, as in other markets, whole milk in fluid form is the most significant item making up the Class I sales in the market. In March 1958 (the most recent month for which information was available at the hearing) 2.0 of the 2.3 million pounds of Class I disposition were in the form of whole milk. The average test of this whole milk disposition was 3.5 percent. Since the cost to handlers for Class I milk at this test (adjusted by the lower butterfat differential herein proposed) is unchanged no adjustment should be made in the Class I price because of the revised butterfat differential.

The change proposed herein gives recognition to the increasing value of the nonfat solids portion of the milk for fluid purposes in relation to the butterfat portion. The lower rate of the butterfat differential should give some encouragement to the sale of milk of a higher butterfat content and of cream.

6. Class II milk should include all the butterfat and skim milk heretofore defined as Class II and Class III milk.

Class II milk now includes all skim milk and butterfat (1) used to produce evaporated milk, condensed milk, ice cream, mixes for ice cream and frozen desserts, cottage cheese, and any milk product not specifically accounted for as Class I and Class III or (2) disposed of to wholesale manufacturers of food products. Class III is skim milk and butterfat (1) used to produce butter, American type cheddar cheese, animal feed, casein, and nonfat dry milk solids, (2) in shrinkage up to 2 percent of receipts from producers and (3) in shrinkage of other source milk.

The Class II price under the order is the higher of (1) the average of the prices paid by six manufacturing plants (five in Illinois and one in Iowa) for milk received from dairy farmers from the 16th day of the preceding month to the 15th day of the current month or (2) a price obtained from a formula which uses as its basis the Chicago 92-score butter price and the average of the weekly prices for cheddar cheese on the Wisconsin Cheese Exchange. The Class III price is the price for Class II milk minus 10 cents.

The skim milk and butterfat components of Class II and Class III milk are priced by adjusting the announced prices, which are on a 3.5 percent butterfat basis, by a butterfat differential which is obtained by multiplying the Chicago 92-score butter price for the month by 0.120.

The price which handlers regulated by the Dubuque order pay for skim milk in Class II and Class III is considerably below that provided in other nearby orders. For example, during the first three months of 1958 handlers regulated by the Quad Cities order paid an average price for skim milk in Class II (which class includes all of the dispositions included in Class II and Class III milk under the Dubuque order) of $0.724. The Class II and Class III skim milk prices for the same period under the Dubuque order were $0.618 and $0.518, respectively.

It is recognized that some milk in excess of Class I requirements is necessary to maintain an adequate supply of fluid milk for the market on an annual basis. The price for such milk should be maintained at the highest level consistent with facilitating its movement to manufacturing outlets when it is not needed in the market for Class I purposes. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into manufactured products. Moreover, the price for such excess milk should not be so unreasonably high as to impede or preclude its acceptance at the usually available outlets or so as not to be competitive with milk for manufacturing purposes from alternative sources of supply.

Health authorities in the marketing area do not require that skim milk utilized in other than Class I products be obtained from milk or milk products from approved Grade A sources. Skim milk from any source may be used in the various dispositions heretofore contained in Class II or Class III. Grade A skim milk not needed for fluid disposition in the Dubuque market must compete for sales with skim milk from ungraded sources. It is concluded, therefore, that the price of skim milk in all such dispositions should be fixed at the same level and be classified in Class II.

In reapportioning the Class II price between the skim milk and butterfat thus classified, in conjunction with combining Class II and Class III milk into one class, it is necessary to fix a price for butterfat which will insofar as is practicable return the highest price obtainable to producers for such butterfat and at the same time be sufficiently competitive with butterfat from alternative sources of supply so as to maintain a ready and dependable market for excess butterfat throughout the year. This will be best effectuated by pricing butterfat in producer milk classified in Class II at 110 percent of the Chicago butter price.

The butterfat differential herein provided (about 6.0 cents per pound of butterfat below the Class III price for butterfat now in the order) will facilitate the movement of butterfat in the reserve supplies of milk to manufacturing outlets and thereby eliminate the potentialities of unstable marketing conditions that milk without a market tends to create. On the other hand, the Class II butterfat differential here proposed is sufficiently high so as not to give an undue incentive to the movement of butterfat for manufacturing purposes at the expense of available Class I outlets.

The pricing of skim milk that would be obtained in reapportionment of the

Class II price between skim milk and butterfat as herein recommended would be 21 and 31 cents per hundredweight above the Class II and Class III prices, respectively, for skim milk now provided in the order. This change together with that applicable to the assignment of a lower proportionate value of the Class II price to the butterfat classified therein gives recognition to the value of skim milk and butterfat for manufacturing purposes in the Dubuque area and will be helpful in maintaining stability in the market. Moreover, the pricing of skim milk and butterfat for manufacturing uses as herein provided approximates that in the nearby Federal order markets of Quad Cities and Cedar Rapids-Iowa City, handlers under which orders are in substantial competition with handlers regulated by the Dubuque order in both procurement and sales.

The Class II price is now the higher of the prices obtained from a formula which uses the Chicago 92-score butter price and the prices for cheddar cheese or the average of the prices paid by six local manufacturing plants from the 16th day of the preceding month through the 15th day of the current month. The price obtained from the butter-cheddar cheese formula has been consistently below the average of the prices paid by the six local manufacturing plants since March 1954 and no longer represents the value of milk for manufacturing purposes in the Dubuque market. It should, therefore, be deleted from the order as an alternative price to be used in determining the Class II price.

Payments to dairy farmers at the six local manufacturing plants for ungraded milk are made twice monthly. Under present conditions there is a lag of a half month in using the prices paid at these manufacturing plants in computing the Class II price. It was indicated that it is now possible to obtain these prices promptly enough so that the prices paid for both halves of the same month can be used in computing the Class II price for such month. Accordingly, provision should be made to effectuate this more practical procedure.

7. A schedule of location differentials should be incorporated in the order to provide an appropriate adjustment of order prices at the location of any plant from which milk is moved to the marketing area. With the same class prices applicable, milk received at a plant outside the marketing area and moved to the marketing area for processing and packaging may be expected to be more costly to a handler than milk received directly from producers at his processing plant in the marketing area. In the same manner, additional transportation costs would be incurred by the operator of a plant from which packaged milk is moved a relatively long distance to the marketing area. Unless provision is made in the order for the application of location differentials, producers delivering milk to plants located at some distance from the marketing area would be paid the same uniform prices as producers delivering to plants in the marketing area.

It is economically more feasible to meet the needs of the market for fluid purposes from those farms or plants nearest the market before bringing in milk from more distant plants. The value of milk to the market for fluid purposes is greater at the location of a plant in the marketing area which packages it for distribution than at a plant from which milk must be moved to the marketing area for Class I uses. Recognition in the order through the medium of a location differential should be given to this difference in value.

So as to be equitable to all handlers, the minimum Class I price to be paid for producer milk should not be dependent upon the type of plant receiving the milk. However, to the extent that milk is received elsewhere from producers and brought to the marketing area by a handler, the handler has assumed a transportation cost which might otherwise be borne by producers. Under these circumstances, the Class I price should be adjusted downward to give consideration to the cost of hauling milk to the marketing area.

It is customary, in both regulated and unregulated markets, for handlers to pay producers delivering milk to plants farther removed from the market a lesser price per hundredweight than is paid producers delivering directly to plants in the marketing area. To the extent that this represents a lower price because of the location of the milk, such difference in value should be recognized under the order.

Official notice is here taken of Order No. 44, regulating the handling of milk in the Quad Cities marketing area. The location differential in that order reduces the price for Class I milk received from producers at a pool plant located more than 50 miles from one of the principal cities in the marketing area by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is distant from the post office in such city.

Dubuque is the principal city in the marketing area and is so situated with respect to the overall sales area of regulated handlers that basing location differential mileage zones from such city would be equitable to all handlers. The post office in Dubuque would be an appropriate point from which the mileage used in applying the location differentials might be measured.

It is concluded that the Class I price under the Dubuque order should be reduced by 10 cents for the first 65 miles and 1.5 cents for each additional 10 miles or fraction thereof with respect to producer milk received at a plant which is not less than 50 miles from the post office of Dubuque, Iowa.

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

Prices paid producers supplying plants at which location differentials apply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered.

No adjustment should be made in the Class II price because of the location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with location of the plant receiving the milk. This is because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk by the most advantageous possible method. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk. To do otherwise would remove part of the incentive for keeping handling costs at a minimum.

To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that for the purpose of calculating such location differential credit the skim milk and butterfat in fluid milk products transferred in bulk form be assigned to the available skim milk and butterfat classified in Class II in the transferee plant before being allocated to Class I milk at such plant.

8. The butterfat differential used in making payments to producers should be calculated at the average of the return 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, producers' returns for butterfat will reflect the actual sale value of their butterfat at the class prices provided in the order.

The producer butterfat differential in no way affects a handler's cost of milk, but merely prorates returns among producers whose milk differs in butterfat test.

The producer butterfat differential is now calculated by multiplying the Chicago 92-score butter price by 0.120. The method for arriving at the producer differential herein recommended, and proposed by producers, will more equitably adjust payments to producers for butterfat in the milk above or below 3.5 percent on the basis of what handlers pay for such butterfat.

9. The order should provide that payment be made into the producer-settlement fund with respect to unpriced milk which is allocated to Class I milk in a pool plant.

Receipt of milk in excess of Class I disposition is necessary to operate a fluid milk business. Because of seasonal fluctuations in production without corresponding changes in demand, this excess or reserve milk must be marketed in manufactured form in competition with

products made from ungraded milk. The existence of this reserve Grade A milk, which must be marketed at a lower price, is the primary cause of the instability which may affect fluid milk markets.

Considerable volumes of Grade A milk must be disposed of as surplus by various unregulated plants from which Dubuque order handlers may obtain milk. When milk is available in substantial volumes from nonpool sources, handlers under the order could obtain such milk at prices reflecting its value as surplus milk, which prices would approximate the Class II price under the order. During the months of December through July, the compensation payment on other source milk allocated to Class I milk should be the difference between the minimum price of producer milk used for surplus (Class II) 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 the value between unregulated and regulated milk for Class I use at that time.

During the months of August through November, when milk supplies tend to be shorter than in other months, it is not likely that other source fluid milk products will be available to the market at surplus prices. It may reasonably be expected that during such months milk would be available from unregulated sources at prices more nearly at the level of the uniform price under the order. The compensation payment during these months should be the difference between the marketing area uniform price to producers and the Class I price adjusted to the location of the plant from which such fluid milk products are supplied. The relationship between the supply of and demand for milk in the market in the August through November period tends to fluctuate from year to year according to marketing conditions. These conditions will generally prevail also in surrounding markets that are potential sources of supply for unpriced milk. Thus, the rate of compensation payment based on the difference between Class I and uniform prices will adjust itself automatically in these months in accordance with the proportion of Class I milk to the total milk pooled.

The rates which are here found to be appropriate for the Dubuque marketing area give recognition to general competitive conditions in the purchase and sale of fluid milk products. However, since such conditions do not prevail uniformly in all instances and since all transactions are not made under the same circumstances, it would not be administratively feasible to adjust prices or payments to individual transactions.

It is therefore necessary to have definite and specified rates applicable to all handlers similarly situated. The rates herein provided were proposed by producers and are those which will best effectuate the intent of the act under current marketing conditions in the area. No other rates were proposed at the hearing with respect to compensatory payments on unpriced milk.

Other source milk used in the form of nonfat dry milk 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 other cases insignificant transportation charges per hundredweight experienced by handlers on such other source milk. By following this procedure, the compensation payment on other source milk derived from nonfat dry milk will be comparable to that on any other unpriced milk which is allocated to Class I milk.

In the case of a handler whose distributing plant fails to qualify as a pool plant but who has sales of fluid milk products on routes in the marketing area, such handler should under certain conditions be required to make payments to the producer-settlement fund. It would not be possible to stabilize the Dubuque market under the classified pricing program if distribution in the marketing area of unpriced milk from nonpool plants without compensation payments were allowed. Since such milk may be procured for distribution in the Dubuque marketing area on the same basis as other source milk at pool plants it should be classified and priced the same as unpriced milk distributed through any other channels.

No compensation payment should be required on milk classified and priced as Class I under another Federal milk marketing order. The minimum prices for Class I milk under other Federal orders where Dubuque order handlers might obtain supplemental supplies approximate the Dubuque order Class I price as adjusted for location of the supplying plants. Since handlers operating plants under other Federal orders must pay for producer milk on a utilization basis, they would not be in a position to dispose of their surplus producer milk in the Dubuque marketing area for Class I use at less than Class I prices.

10. Skim milk and butterfat should be classified as Class I if transferred or diverted in the form of a fluid milk product to nonpool plants located more than 300 miles from Dubuque. Fluid milk products transferred or diverted to a nonpool plant located not more than 300 miles from Dubuque should be classified as Class I unless certain conditions are met.

When skim milk or butterfat is transferred or diverted to a nonpool plant the market administrator is required to verify the utilization claimed by such nonpool handler. It may be expected that the market administrator is able to make verification within a reasonable "surplus disposal area" without incurring undue expenses. It would not, however, be administratively feasible or otherwise justifiable to have a surplus disposal area of unlimited expanse or to cover a geographical area which is larger than that within the 300 mile radius from the marketing area as provided herein.

Failing to provide for such a mileage limitation at this time might well make unreasonable demands on the market administrator in connection with the verification of occasional or irregular shipments to nonpool plants located beyond 300 miles from the marketing area. There are adequate facilities within 300 miles of Dubuque to handle seasonal and daily reserve supplies of producer milk. Accordingly, the order should provide that skim milk and butterfat shall be classified as Class I milk if transferred or diverted from a pool plant in the form of a fluid milk product to a nonpool plant located more than 300 miles by the shortest highway distance as determined by the market administrator from the Dubuque, Iowa, Post Office.

The order now provides that transfers of fluid milk products in bulk to nonpool plants may be assigned to any available Class II and Class III milk in the receiving nonpool plant. Thus, such transfers now have no priority in the assignment of available Class I milk at the nonpool plant even though they may have been used solely for Class I purposes. The present transfer provisions in this regard give inequitable consideration to the classification of pooled milk that is moved to nonpool plants.

Before transfers or diversions (to nonpool plants located within 300 miles from Dubuque) may be classified as Class II milk, it should be ascertained that the fluid milk products disposed of from the receiving nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month from Grade A dairy farms directly supplying such plant. However, if the fluid milk products disposed of from the receiving nonpool plant exceed the receipts of skim milk and butterfat from Grade A dairy farms regularly supplying such plant, the difference should be assigned to the fluid milk products transferred or diverted from a pool plant and classified as Class I milk. If the transfers and diversions to the nonpool plant during the month are from two or more plants subject to the provisions of this and other orders issued pursuant to the act, the skim milk and butterfat assigned to Class I milk at each such pool plant under the Dubuque order should be not less than that obtained by prorating the assignable Class I milk at the nonpool plant over the receipts from all plants subject to the provisions of this and other orders issued pursuant to the act.

The method herein recommended for classifying transfers and diversions from pool plants to nonpool plants accords equitable treatment to Dubuque order handlers and gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving priority to the graded dairy farms directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

11. Fluid milk products in packaged form received at a pool plant from a plant subject to the classification and pricing provisions of another order should be allocated to Class I milk at the

pool plant if disposed of as Class I in the same form as received.

Fluid milk products received at a pool plant from a plant under another order are now first allocated to the available Class II milk in the receiving plant before being allocated to Class I unless an equivalent amount of packaged milk is returned to the plant under the other order. The handler who proposed a change in this provision, with respect to receipts of packaged milk products from a plant under another order, operates a plant regulated by another order from which packaged products could conveniently be moved to his Dubuque plant. This handler claims that he is at a disadvantage because when milk is distributed in the marketing area directly from a plant regulated by another order, it is allocated to Class I milk at that distributing plant. However, if such packaged milk is moved to a pool plant under the Dubuque order before being distributed, it must be allocated to the available Class II classification at the receiving plant before any allocation is made to Class I milk. The change herein proposed would have the effect of giving equal consideration to the classification and pricing of packaged milk moved from a plant under another order whether such milk is distributed in the marketing area directly from such plant or is delivered to a pool plant under the Dubuque order.

The order should not impede the movement of packaged milk from a plant regulated by another order because such packaged milk moves through a Dubuque order pool. Accordingly, the Dubuque order should be amended to provide for allocating to Class I milk at a pool plant fluid milk products packaged in containers not exceeding one gallon capacity that are received from plants subject to the classification and pricing provisions of another Federal milk marketing order.

12. The entire order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

(a) In designating which persons would be subject to regulation and the application of order provisions to them, new or revised definitions are provided in the attached order, including those for "fluid milk product", "other source milk", "nonpool plant", and "handler". The definitions for "producer", "producer milk", "pool plant", "distributing plant", and "supply plant" are discussed elsewhere in this decision.

"Fluid milk product" would mean milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except frozen cream, aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers). The items defined as fluid milk products pursuant to this definition are those products which when disposed of by handlers are considered as Class I milk.

"Other source milk" would be defined as all skim milk and butterfat contained in fluid milk products utilized by the handler in his operations except milk received from producers, fluid milk products received from other plants, and inventory at the beginning of the month. Thus, other source milk would represent skim milk and butterfat which may not be subject to the pricing provisions of this order. It would include all milk products from plants other than pool plants and all manufactured dairy products from any source which are reprocessed or converted into another product during the month. It would include those manufactured products from a plants' own production which are reprocessed or converted into another product during the same or a later month.

"Nonpool plant" would mean any plant other than a pool plant that receives milk from dairy farmers or is a milk manufacturing, processing, or bottling plant.

"Handler" would be defined as any person in his capacity as the operator of one or more pool plants or in his capacity as the operator of a distributing plant that is not a pool plant. The definition would also include a cooperative association with respect to milk from producers diverted for its account from a pool plant to a nonpool plant.

(b) Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. It has been the practice under the Dubuque order to classify in the lowest class the difference by which the pounds of butterfat and skim milk in fluid milk products at the end of the month exceed the inventories at the beginning of the month.

Inventories should include all the skim milk and butterfat in fluid milk products, whether in bulk or in packages. However, since the disposition of skim milk and butterfat in non-fluid milk products had been accounted for when used to produce a manufactured dairy product (and classified as Class II), such skim milk and butterfat should not be included in inventories.

The accounting procedure will be facilitated by providing specifically that month-end inventories of all fluid milk products be classified in Class II milk. Such inventories would be subtracted, under the allocation procedure prescribed in the order, from any available Class II milk in the following month. The higher use value of any fluid milk products in inventory which are allocated to Class I milk in the following month should be reflected in returns to producers. The mechanics of the attached order provide for the reclassification of inventories on that basis.

Inventories of fluid milk products at a pool plant at the beginning of any month during which such plant becomes a pool plant for the first time should likewise be allocated to any available Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

(c) The order now provides for the payment of interest on any unpaid obligation of a handler or of the market administrator. This charge is assessed on payments to producers, obligations for administration expenses and marketing services, and on payments due to and from the producer-settlement fund. The interest charge is at the rate of one-half of one percent per month and is computed from the first day of the month following the due date of the obligation. It was argued that the interest charge on overdue accounts should be eliminated from the order except as a device for obtaining prompt payment to the producer-settlement fund to insure the clearing of the pool each month.

Except for payments due the producer-settlement fund, obligations on which interest on overdue accounts is now charged are relatively small and it is neither administratively necessary nor practicable to require the market administrator to collect interest payments on such obligations. Accordingly, the revised order should provide for interest payments only on overdue obligations to the producer-settlement fund to insure the monthly clearing of that fund. This would be accomplished by adding one-half of one percent to any payment due the producer-settlement fund for each month or any portion thereof that such payment is overdue.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will

be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

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 the Dubuque, Iowa, Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Dubuque, Iowa, 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 order as hereby proposed to be amended by 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 to determine whether the issuance of the attached order amending the order regulating the handling of milk in the Dubuque, Iowa, marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

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

E. H. McGuire 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 12th day of December 1958.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Dubuque, Iowa, Marketing Area

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AUTHORITY: §§ 912.0 to 912.101 issued under sec. 5, 49 Stat. 753 as amended; 7 U. S. C. 608c.

§ 912.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *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 certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Dubuque, Iowa, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, 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 as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, 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 the order as hereby amended, 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, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant that is allocated to Class I milk pursuant to § 912.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Dubuque, Iowa, marketing

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

area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 912.1 *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.).

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

§ 912.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

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

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

§ 912.6 *Dubuque, Iowa, marketing area.* "Dubuque, Iowa, marketing area", hereinafter called the "marketing area", means the territory within the boundaries of the city of Dubuque, the township of Dubuque, sections 1, 2, 3, 11, and 12 of the township of Table Mound, and sections 5 and 6 of the township of Mosalem, all in Dubuque County, Iowa, and the city of East Dubuque, Illinois, including territory within such boundaries that is occupied by government (Municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 912.7 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

§ 912.8 *Distributing plant.* "Distributing plant" means a plant in which any Grade A fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 912.9 *Supply plant.* "Supply plant" means a plant from which Grade A milk, skim milk or cream is shipped during the month to a pool plant.

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

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 10 percent of such receipts are so disposed of to such outlets in the marketing area: *Provided*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month or during the 12-month period immediately preceding such month are more than the total pounds of Grade A milk received at its plant from dairy farmers during the respective corresponding period: *Provided*, That if written application is filed with the market administrator on or before the 5th day of any month such plant may be designated a nonpool plant for such month and for any subsequent months: *And provided further*, That such plant shall be a nonpool plant during any month in which it would be subject to the classification and pricing provisions of another order issued pursuant to the act unless a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and pool plants in the Dubuque marketing area than in the marketing area regulated pursuant to such other order.

§ 912.11 *Nonpool plant.* "Nonpool plant" means any plant other than a pool plant that receives milk from dairy farmers or is a milk manufacturing, processing or bottling plant.

§ 912.12 *Handler.* "Handler" means: (a) Any person in his capacity as the operator of one or more pool plants or in his capacity as the operator of a distributing plant that is not a pool plant, or (b) any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

§ 912.13 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers or from sources other than pool plants.

§ 912.14 *Producer milk.* "Producer milk" means the skim milk and butterfat contained in milk received at a pool plant directly from producers: *Provided*, That milk diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association shall be deemed to have been received by the diverting handler at the plant from which diverted: *And provided further*, That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler at the plant from which diverted on such days.

§ 912.15 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except frozen cream, aerated cream products, ice cream mix, exaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 912.16 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory of fluid milk products at the beginning of the month; 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.

§ 912.17 *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 Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 912.25 *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.

§ 912.26 *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.

§ 912.27 *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 30 days following the date on which he enters upon his duties, or

such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his 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 § 912.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses except those incurred under § 912.87, 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) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 912.30 and 912.31, or payments pursuant to §§ 912.62, 912.80, 912.84, 912.86, 912.87 and 912.88;

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

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

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

(j) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 912.50 (a) and the Class I butterfat differential pursuant to § 912.51 (a), both for the current month; and the minimum price for Class II milk pursuant to § 912.50 (b) and the Class II butterfat differential pursuant to § 912.51 (b), both for the preceding month; and

(2) The 10th day after the end of each month, the uniform price pursuant to § 912.71 and the producer butterfat differential pursuant to § 912.81; and

(k) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

REPORTS, RECORDS AND FACILITIES

§ 912.30 *Report of receipts and utilization.* On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for such month in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in or represented by receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in or represented by fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in or represented by other source milk;

(d) The quantities of skim milk and butterfat contained in or represented by producer milk diverted to nonpool plants pursuant to § 912.14;

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

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area; and

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

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

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(1) His name and address,

(2) The total pounds of milk received from such producer,

(3) The number of days, if less than the entire month, for which milk was received from such producer,

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

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

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

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

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

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

(d) Payments to producers and cooperative associations including the amount and nature of any deductions and the disbursement of money so deducted.

§ 912.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such 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

§ 912.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat which are required to be reported pursuant to § 912.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 912.41 through 912.46.

§ 912.41 *Classes of utilization.* Subject to the conditions set forth in § 912.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) (2) of this section) and (2) not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be (1) skim milk and butterfat used to produce any product other than a fluid milk product; (2) skim milk disposed of for livestock feed or dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping; (3) skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month; and (4) skim milk and butterfat in shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 912.14) and other source milk but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively.

§ 912.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and other source milk.

§ 912.43 *Responsibility of handlers and reclassification of milk.* 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.

§ 912.44 *Transfers.* Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to another pool plant unless utilization as Class II milk is claimed for both plants on the reports submitted for the month to the market administrator pursuant to § 912.30; *Provided:* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after making the calculations prescribed in § 912.46 (a) (6) and the corresponding step in (b) for such plant and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further,* That if other source milk was received at either or both plants the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk at both plants;

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

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 300 miles, by the shortest highway distance as determined by the market administrator, from the Dubuque, Iowa, Post Office; and

(d) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the Dubuque, Iowa, Post Office, unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 912.30 for the month within which such transactions occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant that are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat in the fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month directly from Grade A farms that the market administrator determines constitute the regular source of supply for such plant: *Provided,* That any skim milk or butterfat in fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from the nonpool plant which is in excess of receipts from such dairy farms shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further,* That if the total skim milk and butterfat which were transferred or diverted during the month to such nonpool plant from all plants subject to the classification and pricing provisions of this order and other orders issued pursuant to the Act is more than the skim milk and butterfat available for assignment to Class I milk pursuant to the preceding proviso hereof, the skim milk and butterfat assigned to Class I milk at a pool plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over the receipts at such plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the Act.

§ 912.45 *Computation of the skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for each pool plant and shall compute the pounds of butterfat and skim milk in each class at each such plant: *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 reasonably associated with such solids in the form of whole milk.

§ 912.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 912.45, the market administrator shall determine the classification of producer milk received at the pool plants of each handler each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 912.41 (b) (4);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk that were received in the form of fluid milk products in containers not larger than a gallon, that are subject to the Class I pricing provisions of another order issued pursuant to the Act, and that are disposed of as Class I in the same form as received.

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products that are not subject to the Class I pricing provisions of an order issued pursuant to the act;

(5) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, the pounds of skim milk in other source milk that were received in the form of fluid milk products that are subject to the Class I pricing provisions of another order issued pursuant to the act and that were not subtracted pursuant to subparagraph (2) of this paragraph;

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

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from other pool plants according to the classification of such products as determined pursuant to § 912.44 (a); and

(8) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph and if the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds in skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage."

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

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

MINIMUM PRICES

§ 912.50 *Class prices.* Subject to the provisions of §§ 912.51 and 912.52 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the price for Class I milk established under Federal Order No. 44, as amended, regulating the handling of milk in the Quad Cities marketing area, minus 10 cents.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Co., Amboy, Ill.
Borden Company, Dixon, Ill.
Carnation Company, Morrison, Ill.
Carnation Company, Oregon, Ill.
Carnation Company, Waverly, Iowa.
United Milk Products Co., Argo Fay, Ill.

§ 912.51 *Butterfat differentials to handlers.* For milk containing more or less than 3.5 percent butterfat, the class prices for the month pursuant to § 912.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to

the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120.

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.110.

§ 912.52 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 50 miles or more from the Dubuque, Iowa, Post Office, by the shortest hard surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 912.50 (a) shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the Dubuque, Iowa, Post Office: *Provided,* That for the purpose of calculating the location differential adjustment applicable pursuant to this section, fluid milk products which are transferred in bulk between pool plants shall be assigned to any remainder of Class II milk in the transferee plant after making the calculations prescribed in § 912.46 (a) (6) and the comparable step in (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable to each plant, beginning with the plant having the largest differential.

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

APPLICATION OF PROVISIONS

§ 912.60 *Producer-handler.* Sections 912.40 through 912.46, 912.50 through 912.52, 912.70, 912.71 and 912.80 through 912.88 shall not apply to a producer-handler.

§ 912.61 *Plants subject to other Federal orders.* The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 912.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Dubuque, Iowa marketing area than in the marketing area regulated pursuant to such other order: *Provided,* That the operator of a distributing plant, or a supply plant that is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 912.30) and allow verification of such reports by the market administrator.

§ 912.62 *Handlers operating nonpool plants.* Each handler in his capacity as the operator of a nonpool plant shall, on or before the 12th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount obtained by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month by the rate determined pursuant to § 912.63.

§ 912.63 *Rate of payment on unpriced milk.* The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I shall be any plus amount obtained by subtracting from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk;

(a) During the months of December through July, the Class II price adjusted by the Class II butterfat differential; and

(b) During the months of August through November, the uniform price pursuant to § 912.71 adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICE

§ 912.70 *Computation of value of milk for each handler.* The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows:

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

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 912.46 (a) (8) and the corresponding step of (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of (1) the hundredweight of producer milk classified in Class II less shrinkage during the preceding month or (2) the hundredweight of milk subtracted from Class I pursuant to § 912.46 (a) (6) and the corresponding step of (b); and

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 912.46 (a) (3) and (4) and the corresponding step of (b) by the rate of payment on unpriced milk determined pursuant to § 912.63 at the nearest nonpool plant(s) from which an equivalent amount of such other source skim milk or butterfat was received: *Provided,* That if the source of any Class I products at a pool plant is not clearly established or if such skim milk is in the form of nonfat dry milk, they shall be considered to have been received from a source at the location of the pool plant where they are classified.

§ 912.71 *Computation of uniform price.* For each month the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content, f. o. b. pool plants located within 50 miles of the Dubuque, Iowa, Post Office, as follows:

(a) Combine into one total the values computed pursuant to § 912.70 for all handlers who made the reports prescribed in § 912.30 for such month, except those in default of payments required pursuant to § 912.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the total hundredweight of such producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 912.82;

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

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

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section.

§ 912.72 *Notification of handlers.* On or before the 10th day of each month the market administrator shall notify each handler with respect to his pool plants:

(a) The amount and value of milk in each class computed pursuant to §§ 912.46 and 912.70 and the totals of such amounts and values;

(b) The uniform price computed pursuant to § 912.71;

(c) The amount due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 912.80 and 912.84; and

(e) The amounts to be paid by such handler pursuant to §§ 912.87 and 912.88.

PAYMENT FOR MILK

§ 912.80 *Time and method of payment for producer milk.* (a) On or before the 15th day after the end of each month each handler shall pay to each producer for producer milk received from him during such month for which payment is not made to a cooperative association pursuant to paragraph (b) of this section an amount computed at not less than the uniform price adjusted pursuant to §§ 912.81, 912.82 and 912.87.

(b) On or before the 12th day after the end of each month each handler shall make payment to a cooperative association for producer milk that it caused to be delivered to such handler during such month, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk.

(c) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, that shall show:

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

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

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

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

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

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

§ 912.81 *Butterfat differentials to producers.* The uniform prices for producer milk shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the total pounds of butterfat in the producer milk allocated to Class I and Class II milk during the month pursuant to § 912.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 912.82 *Location differentials to producers.* The uniform price pursuant to § 912.71 for producer milk received at a pool plant located 50 miles or more from the Dubuque, Iowa, Post Office, by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the Dubuque, Iowa, Post Office.

§ 912.83 *Producer-settlement fund.* The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund and out of which he shall make all payments from such fund pursuant to §§ 912.62, 912.84, 912.85, and 912.86: *Provided,* That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 912.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month each handler shall pay to the market administrator the amount by which the obligation pursuant to § 912.80 of such handler to producers for milk received at a pool plant during the month is less than the value of such producer milk pursuant to § 912.70: *Provided,* That to this amount shall be added one-half of 1 percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue.

§ 912.85 *Payments out of the producer-settlement fund.* On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation pursuant to § 912.80 of such handler for producer milk received during the month exceeds the value of such producer milk pursuant to § 912.70: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 912.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 912.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

§ 912.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 912.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 12th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 12th day after the end of each month, pay over such deductions to the association rendering such services.

§ 912.88 *Expense of administration.* As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant that is allocated to Class I milk pursuant to § 912.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 912.89 *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 be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

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

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

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

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

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

§ 912.92 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbusements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 912.93 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 912.100 *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.

§ 912.101 *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.

[F. R. Doc. 58-10413; Filed, Dec. 16, 1958; 8:51 a. m.]

[7 CFR Part 961]

[Docket No. AO-160-A-20]

MILK IN PHILADELPHIA, PA., MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice hereby is given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Philadelphia, Pennsylvania on September 18, 1958, pursuant to notices thereof which were issued August 19, 1958 (23 F. R. 6510; F. R. Doc. 58-6782), August 22, 1958 (23 F. R. 6628; F. R. Doc. 58-6940) and September 11, 1958 (23 F. R. 7144; F. R. Doc. 58-7499).

The material issues on the record of hearing relate to:

1. Revision of the producer definition to provide for diversion from:

(a) A producer milk plant to a producer milk plant of another handler;

(b) A producer milk plant to a nonproducer milk plant; and

(c) A nonproducer milk plant to a producer milk plant.

2. A provision to permit under specified conditions recognition of a contractual arrangement between a cooperative association which operates a producer milk plant and a proprietary handler as the operator of a producer milk plant and to treat the amount of milk specified in such contract for accounting and classification purposes as a receipt at the plant of the proprietary handler, regardless of where the milk was actually received.

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

1. *Diversion provisions.* The present provisions of the order should be amended to permit unlimited diversions of milk between producer milk plants and diversions to and from nonproducer milk plants under specified circumstances.

Diversions presently are not permitted under the order. The handler who first receives milk is held as the responsible handler for accounting and payment purposes. Movements between plants are recognized only on the basis of physical receipt and subsequent transfer.

Prior to the advent of farm bulk tanks, it was generally necessary that milk of dairy farmers intended for disposition to outlets other than its plant of normal receipt first be received for cooling and assembly before disposition to its ultimate destination, either in cans or in bulk. Under such circumstances, little purpose would be served by a diversion provision.

The advent of farm bulk tanks bodes significant changes in the handling and movement of milk and it is desirable that some changes be made in the order provisions to accommodate the efficiencies inherent in transfers of milk via bulk tank handling. While only a relatively small segment of the producers on the market have yet installed bulk farm tanks, handlers in many circumstances have found it necessary to perform otherwise unnecessary handling functions, identified with receiving and transferring, in order to preserve producer status for milk disposed of to nonproducer milk plants or to maintain as their own producers, dairy farmers whose milk is disposed of to the producer milk plants of other handlers. In other instances, milk identified with nonproducer milk plants, but disposed of for manufacturing uses at producer milk plants has been subjected to similar unnecessary handling to maintain its identity as nonproducer milk.

The order provisions should limit the ability of a handler to take full advantage of the evolution of milk handling only to the extent necessary to establish clearly the identity of milk, establish its association with the market, and to protect the integrity of regulation. Since day-to-day and month-to-month market requirements may vary, some accommodation should be provided to permit the efficient handling of any necessary surplus. It is expedient, therefore, to permit certain diversions if the handler who normally receives the milk chooses to divert it and accepts the responsibility of accounting for it.

It is not necessary to limit in any way the extent of diversions to other producer milk plants. Milk diverted between producer milk plants would qualify as producer milk under any circumstances. The order provisions assure full accounting of the milk regardless of which plant is designated the receiving plant. If the handler to whom the milk is normally

delivered desires to retain control thereof and chooses to report the milk as diverted, there is no reason why the situation should not be accommodated.

When diversion between producer milk plants is provided for, it is necessary to determine to which plant the milk is normally delivered and to which plant it is diverted. This problem may be resolved by providing that the milk of any producer which is diverted to another producer milk plant during the month will be priced at the location where the greater proportion of such producer's milk is physically received during the month.

Without this provision it would be possible for a handler to report as a diversion from a distant plant milk which is regularly received at a plant nearer to or in the city market, thereby gaining a pricing advantage by virtue of the difference in applicable location differentials. It would be impractical for administrative reasons to require that daily receipts of each producer be priced, in all circumstances, at the location of the producer milk plant where physically received. The procedure herein provided represents a practical accounting procedure and provides adequate safeguards against perversion of the pricing provisions.

It is possible, of course, that a producer's milk may be associated with different plants for purposes of pricing at different times of the year and that this can result in variations in returns to such a producer. It is expected, however, since such variations in returns can arise, that handlers will arrange diversions in such a way as to minimize such variations. Those variations which cannot be avoided will, of course, be a necessary outcome of the provision for pricing milk at the point where the greater proportion of the milk of a producer is delivered in any month.

Milk diverted from a producer milk plant to a nonproducer milk plant should be priced on the basis of the location of the diverting plant. Proponents proposed that milk so diverted be priced f. o. b. the market. They state that the handler does not incur the cost of moving the milk to the market in this case and hence, he should not be permitted a transportation allowance.

Under the Federal order program milk is priced at the plant of receipt to reflect its place location value to the regulated market. This is accomplished by the application of appropriate location differentials which are intended to reflect the cost of transportation between the plant of receipt and the city market. Regardless of whether the milk actually moves to the city market or remains in the country its place location value for the market does not change. Hence, it would be inappropriate to price milk normally received at a country point, but which is diverted to a nonproducer milk plant, at f. o. b. market prices.

The established order prices are intended to bring forth an adequate but not an excessive supply of fluid milk for the regulated market and no distinction is made in pricing milk which may move from time to time to outside markets. While it is possible that a handler, because of the location of the nonproducer milk plant to which milk was diverted, might gain some benefit by virtue of a saving in transportation costs which otherwise would be incurred in moving the milk to the regulated market, this cannot be construed as an injury to the producers whose milk is involved. The handler may have realized more or less than the order prices for the milk so disposed of; the producer, however, is assured the utilization value of his milk computed at the order prices at the location of the producer milk plant with which he is associated.

During the months of October through January when supplies are lowest, it is not necessary to accommodate diversions to nonproducer milk plants except insofar as may be necessary to assure orderly handling of weekend surpluses which accrue because plants operate on a five-day bottling week. Diversion privileges on 14 days, (7 days in the case of every-other-day delivery) during any such month will accommodate this situation. Such limitation was supported by producer proponents and will facilitate determination of that milk which is regularly associated with the market. Any dairy farmer whose milk is diverted on a greater number of days in any of these months should not acquire producer status during such month(s).

The months of February through September are the months of highest production and it is desirable that handlers be permitted liberal privileges for diversion to nonproducer milk plants to expedite the orderly disposition of the seasonal surplus. Accordingly, unlimited diversions to nonproducer milk plants are provided during such period.

A number of the larger handlers in the market operate both producer and nonproducer milk plants. While individual-handler type pooling tends to encourage handlers to maintain blended returns to their producers which are favorable in relation to the blended price of other handlers, there are, nevertheless, substantial differences in pay prices as between handlers. Hence, it is apparent that a handler might, in order to maintain a competitive return to the dairy farmers delivering to his nonproducer milk plants, report such milk as a receipt at his producer milk plant and a diversion to the nonproducer milk plant, thus causing his regular producers to share their Class I market with dairy farmers whose milk is not associated with such market. Such an operation might lower returns to regular producers to the point of threatening the maintenance of an adequate supply of milk for the market. It is desirable therefore to establish some standard by which it may be determined that diverted milk in these months is in fact regularly associated with the market. This can be accomplished by limiting the diversion privilege in respect to the milk of new producers. It is provided, therefore, during the months of February through September, when unlimited diversions to nonproducer milk plants are permitted, that dairy farmers may maintain producer status where their milk is so diverted only if such dairy farmers held producer status during the entire month immediately preceding the month in which the diversion was made.

It is possible that milk diverted from a producer milk plant to a regulated plant under another Federal order might acquire status as producer milk under the provisions of such other order. Without appropriate safeguards such a movement might produce the inappropriate result of full regulation of the same milk under two Federal orders. It is necessary therefore that provision be made to exclude from any accounting under this order, milk reported as a diversion to a fully regulated plant under another order which milk is fully regulated and priced as producer milk under such other order.

Certain handlers associated with the market have manufacturing facilities in their producer milk plants and customarily process not only their own surplus but also the surplus of other handlers and/or surplus milk from surrounding unregulated markets. Unlimited diversions between producer milk plants, as previously discussed, will accommodate the most efficient handling of milk moving between regulated handlers.

The present order provisions permit transfers from nonproducer milk plants for Class II use and for Class I use on less than eleven days during any of the months of October through January. However, milk moved directly from the farm to a producer milk plant is treated as a producer receipt. Hence, handlers are deterred from accepting milk from nonproducer milk plants on a diversion basis for Class II use. It is desirable in the interest of orderly marketing and efficient handling to permit diversions from nonproducer milk plants to producer milk plants under specified conditions. However, any diversion privileges applicable to nonproducer milk should in no way enhance a regulated handler's opportunity to utilize nonproducer milk for Class I uses. As long as milk is received from nonproducer milk plants either by transfer or diversion for only Class II use, or for limited Class I use in the months of October through January, regular producers are not adversely affected and there is no need to further limit the amount of such milk which may be handled at a producer milk plant. The privilege of receiving milk from a nonproducer milk plant for Class I use on less than eleven days during any month of October through January was provided in the order effective June 1, 1956 and was necessary for reasons stated in the Secretary's decision of May 7, 1956 (21 F. R. 3116). The intent of this provision can be preserved if milk received as diverted milk is treated as a transfer from the diverting plant for purposes of determining such plant's status as a producer or nonproducer milk plant. If the assignment of diverted milk in any month results in producer milk plant status for the diverting plant, such plant would then become a fully regulated plant.

2. *Recognition of contractual agreements between handlers.* One proposal

considered at the hearing would revise the order provisions to recognize an existent contractual agreement between a cooperative association as a regulated handler and a proprietary handler by providing for the accounting of the contracted volumes of milk as though physically received by the proprietary handler at his producer milk plant regardless of whether the milk so moved. Proponents pointed out that under the existing order provisions, to reflect the contracted volumes of milk in the proprietary handler's blend price computations, it is necessary to first physically receive the milk at the cooperative association's plant, then reload it and move it to the proprietary handler's plant, and when not needed there to reload it again and transport it back to the cooperative association's plant. This involves unnecessary handling in double hauling and loading and unloading which proponents claim would be eliminated by their proposal.

The diversion provision hereinbefore recommended will mitigate the problem from which proponents seek relief by permitting the proprietary handler to receive direct delivery milk from specified producer members of the cooperative association and whenever the milk is not needed at his producer milk plant to have it received at the cooperative's plant as diverted milk. Accordingly, no further changes in the order provisions are necessary in this regard.

Proponents contend that the problem cannot be completely eliminated by the diversion provision since contracts are negotiated for specified volumes of milk which cannot be assigned conveniently to specified producers. They also state that cooperative members wish to have their milk received at the cooperative plant because of their confidence in the association's reporting of weights and tests.

Since the cooperative association in question markets the milk of its producer members, collects all proceeds from such sales, and reblends the proceeds among all of its members, there can be no problem in the payment of producers. One of the cooperative's functions in its role as a cooperative is to see that its members are compensated for the volumes and tests of milk actually delivered and this can be readily accomplished regardless of which plant actually receives the milk.

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 set forth in the briefs are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

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

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

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

1. Delete § 961.10 and substitute therefor the following:

§ 961.10 *Producer.* "Producer" means any person, except a producer-handler and a dairy farmer whose milk is received as milk diverted from a nonproducer milk plant, who produces milk which is received directly at a producer milk plant or is diverted in accordance with the provisions of paragraph (a) of this section: *Provided,* That if such milk is diverted to a nonproducer milk plant (except a plant at which the milk is subject to the classification and pricing provisions of another Federal order) for the account of the diverting handler, the milk so diverted shall be deemed to have been received at a producer milk plant at the location of the plant from which diverted.

(a) Diverted by a handler in his capacity as the operator of a producer milk plant; (1) to another producer milk plant, (2) to a nonproducer milk plant on not more than 14 days (7 days in the case of every-other-day delivery) during any month(s) of October through January or (3) to a nonproducer milk plant during any of the months of February through September: *Provided,* That no dairy farmer shall qualify as a producer under this subdivision with respect to milk so diverted unless he held status as a producer throughout the entire preceding month.

2. Delete § 961.12 and substitute therefor the following:

§ 961.12 *Producer milk.* "Producer milk" means only that milk (a) received at a producer milk plant directly from producers, not including milk received as diverted milk for another handler's account or (b) diverted by the handler in his capacity as the operator of a producer milk plant to a nonproducer milk plant (except a plant at which the milk is subject to the classification and pricing provisions of another Federal order) in accordance with the provisions of § 961.10 (a) (2) or (3); or (c) diverted by a handler in his capacity as the operator of a producer milk plant for his account to the producer milk plant of another handler.

3. Delete the word "and" following the semicolon at the end of paragraph (d) in § 961.30; substitute a semicolon in place of the period at the end of paragraph (e) and add new paragraphs (f) and (g) to read as follows:

(f) Milk diverted from a producer milk plant, from the farm on which such milk was produced, to another plant(s); and

(g) Milk received, directly from the farm on which such milk was produced, as milk diverted from a nonproducer milk plant(s).

4. Add a new section immediately following § 961.61 to read as follows:

§ 961.62 *Milk received as diverted milk or disposed of by diversion.* (a) Milk received directly at a producer milk plant as milk diverted from another plant for the account of the operator of such other plant shall be treated as a receipt at the diverting plant and a transfer to the producer milk plant for purposes of determining the diverting handler's status as a producer milk plant pursuant to § 961.7.

(b) Milk caused by a handler, as the operator of a producer milk plant, to be diverted for his account to another plant shall for purposes of classification, pricing, and payment be considered to have been received by the diverting handler at the plant from which the diversion was made and as transferred to the plant where physically received: *Provided,* That all of the milk of any producer, any part of which was so diverted to another producer milk plant during the month shall be considered to have been received by the diverting handler at the location of the producer milk plant where the greater volume of such producer's milk was physically received.

Issued at Washington, D. C., this 12th day of December 1958.

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

[F. R. Doc. 58-10412; Filed Dec. 16, 1958; 8:51 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 604, 606, 713]

[Administrative Order 516]

VARIOUS INDUSTRIES IN PUERTO RICO

APPOINTMENT TO INVESTIGATE CONDITIONS AND RECOMMEND MINIMUM WAGES; NOTICE OF HEARING

Pursuant to authority contained in the Fair Labor Standards Act of 1938 (52

Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and Reorganization Plan No. 6 of 1950 (3 CFR, 1950 Supp., p. 165), I hereby appoint, convene, and give notice of the hearings of Industry Committee No. 43–A for the Electrical, Instrument, and Related Products Industry in Puerto Rico; Industry Committee No. 43–B for the Metal, Machinery, Transportation Equipment, and Allied Products Industry in Puerto Rico; and Industry Committee No. 43–C for the Fabricated Plastic Products Industry in Puerto Rico.

Industry Committee No. 43–A is composed of the following representatives:

For the public: W. Ellison Chalmers, Chairman, Champaign, Ill.; Arthur W. Sempliner, Detroit, Mich.; David M. Helfeld, Rio Piedras, P. R.

For the employees: Gilbert X. Barker, Atlanta, Ga.; Albin F. Hartnett, Washington, D. C.; Alfia E. Miano, Santurce, P. R.

For the employers: Harry A. Ehle, Ardmore, Pa.; Carl A. Reed, Carolina, P. R.; Guilford E. Gosney, Guayama, P. R.

For the purpose of this order, the electrical, instrument, and related products industry in Puerto Rico is defined as follows:

The manufacture, assembly, and repair of machinery, apparatus, equipment and supplies for the generation, storage, transmission, transformation and utilization of electrical energy; and the manufacture, assembly, and repair of instruments, lenses, apparatus, and equipment for scientific, professional, industrial measurement, photographic, ophthalmic, musical, and horological purposes: *Provided, however,* That the industry shall not include (1) industrial and commercial machinery powered by electric motors; (2) measuring-and-dispensing pumps; (3) ophthalmic frames; or (4) any activity included in the stone, clay, glass, cement, and related products industry, as defined in the wage order for that industry in Puerto Rico (29 CFR Part 678): *And provided further,* That for the purpose of this order the industry shall not include any of the activities defined and described in § 606.2 (a) of Part 606.

Industry Committee No. 43–B is composed of the following representatives:

For the public: W. Ellison Chalmers, Chairman, Champaign, Ill.; Arthur W. Sempliner, Detroit, Mich.; David M. Helfeld, Rio Piedras, P. R.

For the employees: Gilbert X. Barker, Atlanta, Ga.; Albin F. Hartnett, Washington, D. C.; Alfia E. Miano, Santurce, P. R.

For the employers: Harry A. Ehle, Ardmore, Pa.; George M. Goldberg, San Juan, P. R., Frank Dratch, Santurce, P. R.

For the purpose of this order, the metal, machinery, transportation equipment, and allied products industry in Puerto Rico is defined as follows:

The mining and other extraction of metal ore and the processing of such ore into metal; the manufacture (including repair) of any product or part made chiefly of metal; and the manufacture from any material of machinery, tools, transportation equipment and ordnance: *Provided, however,* That the industry shall not include (1) the production of any basic material other than metal; (2) the further processing of any basic material other than metal except when done by an establishment producing from such material a product of this industry or subassembly of such product; and (3) any activity included in the button, jewelry, and lapidary work industry as defined in the wage order for that industry (29 CFR Part 709) or in the electrical, instrument, and related products industry as defined in this Administrative Order: *And provided, further,* That for the purpose of this order the industry shall not include any of the activities defined and described in § 604.2 (b) of Part 604.

Industry Committee No. 43–C is composed of the following representatives:

For the public: W. Ellison Chalmers, Chairman, Champaign, Ill.; Arthur W. Sempliner, Detroit, Mich.; David M. Helfeld, Rio Piedras, P. R.

For the employees: Gilbert X. Barker, Atlanta, Ga.; David Lasser, Washington, D. C.; Frank Grillo, Santurce, P. R.

For the employers: Harry A. Ehle, Ardmore, Pa.; Louis Levine, Rio Piedras, P. R.; Luis Rodriguez Cabrera, Hato Rey, P. R.

For the purpose of this order, the fabricated plastic products industry in Puerto Rico is defined as follows:

The molding, extrusion, lamination, or other forming, and the fabrication of plastic products: *Provided, however,* That the industry shall not include (1) the manufacture of buttons, buckles, jewelry (including rosaries), and jewelry findings (including beads); (2) the manufacture from plastic materials (except plastic molded to shape) of footwear and cut stock and findings for footwear; (3) the manufacture of apparel and apparel furnishings and accessories; and (4) any activity included in the artificial flower, decoration, and party favor industry (29 CFR Part 688), the chemical, petroleum, rubber, and related products industry (29 CFR Part 670), the leather, leather goods, and related products industry (29 CFR Part 602), and the needlework and fabricated textile products industry (29 CFR Part 612), as defined in the wage orders for those industries in Puerto Rico: *And provided further,* That for the purpose of this order the industry shall not include any of the activities defined and described in § 713.2 (a) of Part 713.

I hereby refer to each of the above-named industry committees the question of the minimum wage rate or rates to be fixed under the provisions of section 6 (c) of the Act in the particular industries with which they are concerned. Each industry committee shall investigate conditions in its industry, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the Act.

Industry Committee No. 43–A shall convene at 10:00 a. m. on January 12, 1959, in the office of the Wage and Hour Division, United States Department of Labor, New York Department Store Building, Fortaleza and San Jose Streets, San Juan, Puerto Rico, to conduct its investigation and shall commence its hearings at 2:00 p. m. on the same date at the same place. Following this hearing, Industry Committees Nos. 43–B and 43–C shall convene consecutively at the same place in that order at hours designated by the committee chairman to conduct their investigations and to hold their hearings.

In order to reach as rapidly as is economically feasible the objective of the minimum wage prescribed in paragraph (1) of section 6 (a) of the Act, each industry committee shall recommend to the Administrator the highest minimum wage rate or rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa. Where an industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry, the industry committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein which will not substantially curtail employment in such classifications and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within the industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (1) Competitive conditions as affected by transportation, living, and production costs; (2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

The Administrator shall prepare an economic report for such committee containing such data as he is able to assemble pertinent to the matters herein referred to that committee. Copies of each such report may be obtained at the national and Puerto Rican offices of the United States Department of Labor as soon as they are completed and prior to the hearings. Each committee will take official notice of the facts stated in the economic report to the extent they are not refuted at the hearings.

The procedure of these industry committees will be governed by Part 511 of Title 29, Code of Federal Regulations.

As a prerequisite to participation as witnesses or parties these regulations require, among other things, that interested persons in the present matters shall file pre-hearing statements containing certain specified data, not later than January 2, 1959.

Signed at Washington, D. C., this 11th day of December 1958.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 58-10411; Filed, Dec. 16, 1958; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order No. 2836]

COMMISSIONER OF INDIAN AFFAIRS

DELEGATION OF AUTHORITY TO NEGOTIATE CONTRACTS WITH PRIVATE INDUSTRY FOR ON-THE-JOB TRAINING OF ADULT INDIANS

SECTION 1. *Delegation.* The Commissioner of Indian Affairs is authorized, subject to the provisions of section 2 of this order, to exercise the authority delegated by the Administrator of General Services to the Secretary of the Interior (23 F. R. 6312) to negotiate, without advertising, under section 302 (c) (9) of the Federal Property and Administrative Services Act of 1949, as amended (41 U. S. C. 252 et seq.), contracts with private industry for on-the-job training of adult Indians required to carry out the vocational program responsibilities of the Bureau of Indian Affairs under the act of August 6, 1956 (70 Stat. 986; 25 U. S. C. 309).

SEC. 2. *Exercise of authority.* The authority granted by section 1 of this order shall be exercised in accordance with applicable limitations and requirements of the Federal Property and Administrative Services Act, supra, particularly sections 304 and 307 thereof; and in accordance with policies, procedures, and controls prescribed by the General Services Administration, and applicable regulations of the Department.

SEC. 3. *Redelegation.* The Commissioner of Indian Affairs may, in writing, redelegate or authorize written redelegation of the authority granted by section 1 of this order. Each such redelegation shall be published in the FEDERAL REGISTER.

ELMER F. BENNETT,
Acting Secretary of the Interior.

DECEMBER 9, 1958.

[F. R. Doc. 58-10382; Filed, Dec. 16, 1958; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

GLENN E. CARTER

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of May 5, 1956, 21 F. R. 3030; October 27, 1956, 21 F. R. 8245; May 2, 1957, 22 F. R. 3135; October 30, 1957, 22 F. R. 8743; May 2, 1958, 23 F. R. 2976.

A. Deletions: No changes.
B. Additions: No changes.

This statement is made as of October 20, 1958.

GLENN E. CARTER.

OCTOBER 20, 1958.

[F. R. Doc. 58-10399; Filed, Dec. 16, 1958; 8:49 a. m.]

AIRWAYS MODERNIZATION BOARD

TRANSFER OF DUTIES AND FUNCTIONS

CROSS REFERENCE: For document affecting the duties and functions of the Airways Modernization Board, see F. R. Document 58-10383, Federal Aviation Agency, *infra.*

ATOMIC ENERGY COMMISSION

[Docket No. 27-8]

NEW ENGLAND TANK CLEANING CO.

NOTICE OF ISSUANCE OF AN AMENDMENT TO BYPRODUCT MATERIAL LICENSE

Please take notice that the Atomic Energy Commission has issued the following Amendment (No. 1) to License No. 20-3541-1 authorizing New England Tank Cleaning Company as requested in its application for license amendment dated October 29, 1958, to allow the receipt, packaging and disposal of byproduct material under the direct supervision of Joel B. Bulkley. Mr. Bulkley has served as a consultant for the program and has had 11 years of experience in the handling of curie quantities of radioisotopes at the Radioactivity Center and Cyclotron Group at Massachusetts Institute of Technology. The qualifications of Mr. Bulkley appear adequate to assure that the material will be handled and used in such a manner as to protect the health and safety of the public and minimize danger of life or property.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the authorization of another qualified person to directly supervise the program does not affect the health and safety conditions of the operation previously approved by the Commission.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after the issuance of the license amendment. For further details, see the application for license amendment submitted by New England Tank Cleaning Company, which is on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C. A copy of the application may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 10th day of December 1958.

For the Atomic Energy Commission.

JAMES R. MASON,
Chief, Isotopes Branch, Division of Licensing and Regulation.

[License No. 20-3541-1 (I60), Amdt. 1]

BYPRODUCT MATERIAL LICENSE

In accordance with application dated October 29, 1958 from New England Tank Cleaning Company, License No. 20-3541-1 is amended to change Condition 2 to read as follows:

2. Byproduct material shall be received, packaged, and disposed of by or under the direct supervision of Norman C. Rasmussen and/or Joel B. Bulkley.

This amendment is effective as of the date of issuance.

Date of issuance:

For the Atomic Energy Commission.

JAMES R. MASON,
Chief, Isotopes Branch, Division of Licensing and Regulation.

[F. R. Doc. 58-10378; Filed, Dec. 16, 1958; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Order E-13263; Docket No. 1705-7]

AMERICAN AIRLINES, INC.; AIR FREIGHT RATE CASE

ORDER TO SHOW CAUSE

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 11th day of December 1958.

In the matter of the Air Freight Rate Case; petition of American Airlines, Inc., for clarification or modification of minimum rate order.

The Board having considered all the information and data set forth and specifically referred to in the Statement of Provisional Findings and Conclusions (hereinafter referred to as the Statement), which is attached hereto and incorporated herein,[1] and having on the basis thereof made the provisional findings and conclusions specified in the Statement:

It is ordered, That all parties herein are directed to show cause, if any, why the Board should not

[1] Filed as part of original document.

(a) Adopt and make final the findings and conclusions specified in the Statement, and

(b) Further amend Orders No. E–4606, issued September 14, 1950, and E–4954 issued December 20, 1950, by amending paragraph (a) under Distribution Service in the Appendix to said orders to read as follows:

(a) Upon receipt of written instructions to provide distribution service from the consignor or the consignee (or, if there be more than one consignee, only from the consignor) no later than the time of receipt by the carrier of the shipment, the carrier will accept a shipment from one consignor at one time at one address, receipted for in one lot, and will segregate the parts of the shipment at destination, where the carrier will deliver such parts to the consignee or consignees; provided, however, that if the parts of the shipment are to be delivered to more than one consignee, the shipment must be prepaid. A shipper may include as part of a distribution shipment any packages, pieces, or bundles consigned to any air or surface carrier at the destination of the distribution shipment for the purpose of carriage beyond such destination.

It is further ordered, That any party having objections to the proposed amendment or the findings and conclusions set forth in the Statement shall within 15 days of the date hereof, file written notice of objections with the Board. If notice is filed as aforesaid, written answers and supporting documents shall be filed not later than 30 days from the date hereof.

It is further ordered, That if notice of objection is not filed within 15 days, or if notice is filed and answer is not filed within 30 days after service of this order, all parties shall be deemed to have waived all further procedural steps before final decision, and the Board may adopt as its decision herein the findings and conclusions set forth in the Statement attached, and further amend the model rules relating to distribution service as stated in the first ordering paragraph above.

It is further ordered, That, if answers are filed as provided herein the Board will consider all such answers and thereafter proceed herein as it then deems appropriate.

It is further ordered, That this order shall be served on all parties listed below.

It is further ordered, That this order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

MABEL MCCART,
Acting Secretary.

CERTIFICATED CARGO CARRIERS

AAXICO Airlines, Inc.
The Flying Tiger Line, Inc.
Riddle Airlines, Inc.
Slick Airways, Inc.

CERTIFICATED CARRIERS

Allegheny Airlines, Inc.
American Airlines, Inc.
Bonanza Air Lines, Inc.
Braniff Airways, Inc.
Capital Airlines, Inc.
Central Airlines, Inc.
Chicago Helicopter Airways, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
Frontier Airlines, Inc.
Lake Central Airlines, Inc.
Los Angeles Airways, Inc.
Mohawk Airlines, Inc.
National Airlines, Inc.
New York Airways, Inc.
North Central Airlines, Inc.
Northeast Airlines, Inc.
Northwest Airlines, Inc.
Ozark Air Lines, Inc.
Piedmont Aviation, Inc.
Southern Airways, Inc.
Southwest Airways Company.
Trans-Texas Airways.
Trans World Airlines, Inc.
United Air Lines, Inc.
West Coast Airlines, Inc.
Western Air Lines, Inc.

DOMESTIC AIR FREIGHT FORWARDERS

ABC Air Freight Company, Inc.
Ace Air Freight Co., Inc.
Acme Air Cargo, Inc.
Air Cargo Consolidators, Inc.
William J. Brosnahan and Charles A. Dasey, d/b/a Air Cargo Transport.
Air Dispatch, Inc.
Air Express International Corp.
Nathan Bronstein, d/b/a Air Freightways.
Air Lanes Service, Inc.
Frank V. Gandola & William E. Geiselman, d/b/a Airborne Coordinators.
Airborne Freight Corporation.
Air-Land Freight Consolidators, Inc.
Air-Sea Forwarders, Inc.
Airways Parcel Post Service, Inc.
Allied Air Freight, Inc.
American Shippers, Inc.
Anderson Express, Ltd.
Barnett Aircargo, Inc.
Peter A. Bernacki, Inc.
Bor-Air Freight Co., Inc.
W. J. Byrnes and Company of New York, Inc.
Benjamin H. Walder & Ruben Konlon, d/b/a Chicagoland Air Freight.
City Messenger of Hollywood, Inc., d/b/a City Messenger Air Express and/or C. M. A. X.
Harry L. Whitaker, d/b/a Cloud Lane.
Los Angeles Consolidators and Trucking Company, d/b/a Domestic Air Express.
Dorf International, Ltd.
Frank P. Dow Co., Inc.
Emery Air Freight Corporation.
Express Forwarding Storage Co., Inc., d/b/a Aero Transport Division.
4–A Air Freight Corp.
General Air Freight, Inc.
Gilbert Air Transport Corp.
Hawaiian Freight Forwarders, Ltd., d/b/a Global Air Cargo.
Hop Air Freight Forwarder, Inc.
K & R Airfreight, Inc.
Sidney B. Lifschultz, Ida Lifschultz, Bernice Brown, Rose Grossman, Nora Bergman, and Estate of S. E. Lifschultz, American National Bank & Trust Co. of Chicago, Executor & Trustee, d/b/a Lifschultz Air Freight.
National Air Freight Forwarding Corporation.
H. G. Ollendorff, Inc.
Pacific Air Freight, Inc.
Parcel Warehouse, Inc., d/b/a Yankee Air Express.
Republic Air Freight, Inc.
Shulman, Inc.
Sun Transporters, Inc.
United Parcel Service—Air, Inc.
Universal Air Freight Corporation.
Western Transportation Co., Inc., d/b/a W. T. C. Air Freight.
Wings and Wheels Express, Inc.
Norman G. Jensen, d/b/a World Freight Forwarders (Air)

[F. R. Doc. 58–10415; Filed, Dec. 16, 1958; 8:52 a. m.]

FEDERAL AVIATION AGENCY

[Administrative Order 1]

BUREAU OF RESEARCH AND DEVELOPMENT

ESTABLISHMENT

1. There is hereby established within the Federal Aviation Agency, a Bureau of Research and Development.

2. All delegations, determinations, rules, regulations, notices and orders, in effect on October 31, 1958, issued or made by the Airways Modernization Board and its authorized officers and employees are continued in effect and shall apply to the Bureau of Research and Development. In all such delegations, determinations, rules, regulations, notices and orders, unless the sense otherwise requires, the term "Bureau of Research and Development, Federal Aviation Agency" is substituted for "Airways Modernization Board" and the term "Administrator, Federal Aviation Agency" is substituted for "Chairman, Airways Modernization Board".

3. The Executive Officer, Bureau of Research and Development, FAA, is authorized to perform for the new executive and staff offices of the FAA, those administrative functions performed for the Airways Modernization Board, by or under the supervision of the Executive Officer, Airways Modernization Board, on October 31, 1958.

E. R. QUESADA,
Administrator.

NOVEMBER 1, 1958.

[F. R. Doc. 58–10383; Filed, Dec. 16, 1958; 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11314; FCC 58–1175]

SPARTAN RADIOCASTING CO. (WSPA–TV)

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re application of The Spartan Radiocasting Company (WSPA–TV), Spartanburg, South Carolina, Docket No. 11314, File No. BMPCT–2042; for modification of construction permit.

1. The Commission has before it for consideration (1) a petition to clarify Issue 5 or, in the alternative, to amend Issue 5, and to delete Issues 1 through 4 in the above-captioned proceeding, filed on August 25, 1958 by Wilton E. Hall and Greenville Television Company (protestants); (2) an answer thereto filed on September 25, 1958 by The Spartan Radiocasting Company (Spartan); and (3) a reply of the Broadcast Bureau to said petition filed on September 25, 1958.

2. This proceeding has had a lengthy history. The most recent action herein occurred on August 4, 1958 when the Commission released its Memorandum Opinion and Order (FCC 58–742) wherein it reopened the record, remanded the proceeding for hearing on further issues, and directed that a Supplemental Initial Decision be issued. This action was taken in the light of a decision of the United States Court of

Appeals for the District of Columbia Circuit in Wilton E. Hall and Greenville Television Company v. Federal Communications Commission, —— U. S. App. D. C. ——, 257 F. 2d 626, handed down on May 22, 1958.

3. Issue No. 5 presently reads as follows: "To determine the manner in which The Spartan Radiocasting Company as the former licensee of Stations WORD and WORD-FM, and as the licensee of Stations WSPA and WSPA-FM operated and has operated said stations, with particular reference to its past reliability and candor as a licensee."

In support of their petition to clarify Issue No. 5, the protestants urge that it is not clear thereunder whether they will have an opportunity to submit, by way of rebuttal, evidence with respect to Spartan's television operations "showing disregard of Spartan's obligations and responsibilities as a licensee, misrepresentation of intentions with respect to programming, failure to fulfill representations made to the Commission with respect to such programming or disqualifying conduct arising out of the presentation of programs upon controversial public issues, in a partisan and one-sided manner without fair opportunity for the presentation of opposing viewpoints." Protestants also urge that it is not clear under the present Issue No. 5, whether other evidence may be introduced to counter-balance the possible mitigating effect of evidence submitted by Spartan with respect to its past operation of its AM and FM stations, such as "evidence of conduct by Spartan of improper activities, additional to its misrepresentation already found on the record, designed to influence favorable Commission action upon authorizations sought from the Commission."

4. In the event of denial of their petition for clarification of Issue No. 5, the protestants request, in the alternative, that the Commission amend Issue No. 5 to indicate that Spartan's past conduct and record as a licensee of a television station is to be considered as well as its record in the operation of its AM and FM stations. It is also requested that Issue No. 5 be amended to permit inquiry into any "ex parte" representations to the Commission with respect to any proceedings upon Spartan's requests or applications for television authorizations, and with respect to any "ex parte" communication to a member or members of the United States Court of Appeals for the District of Columbia Circuit.

5. Spartan and the Broadcast Bureau have replied to the protestants' petition for clarification. Spartan submits that the question of whether any evidence proffered as rebuttal should be admitted turns entirely upon what evidence is offered by Spartan in this proceeding, and that the admissibility of any proffered rebuttal testimony can only be determined in the light of evidence adduced by Spartan. The Broadcast Bureau asserts that under the Court's opinion of May 22, 1958, both it and the protestants may rebut any favorable testimony Spartan may adduce not only with evidence which is within the scope of the direct evidence but also with any facts or matters affecting Spartan's reliability and character which are unrelated to its capacity as a licensee of a standard broadcast or FM station. The Bureau, however, states that Issue No. 5, as now framed, contains no ambiguous or general language which is susceptible of "clarification." The Bureau suggests, instead, that Issue No. 5 be amended to include language which would permit inquiry into Spartan's television operations and "any other facts or circumstances affecting Spartan's reliability and candor as a licensee."

6. The protestants' request for clarification of Issue No. 5 will be denied. In our view, Issue No. 5 does not lend itself to clarification—it would be more appropriate to amend said issue in the respects hereinafter noted. The issue as amended should make clear that Spartan's past conduct and record as a licensee of a television station is a proper area of inquiry, and that any other competent, relevant, and material evidence affecting Spartan's reliability and candor as a licensee is also an appropriate area of inquiry. With reference to the protestants' request that Issue No. 5 be amended to permit inquiry into alleged "ex parte" representations, it is the Commission's opinion that this need not be spelled out with preciseness in the amended issue for, as noted, any evidence submitted in this connection, if competent, relevant, and material, will be admissible under the issue as amended. It should be pointed out, however, that the Commission will construe Issue No. 5, as amended, insofar as any evidence with respect to alleged ex parte representations is concerned, as applying solely to those representations, if any, which may be inconsistent with the adjudicatory processes of the Commission.

7. We turn now to the second aspect of the protestants' petition, i. e., to the request to delete Issues No. 1 through No. 4 which were specified in the Commission's order of August 4, 1958. It is the protestants' position that Issues No. 1 through No. 4 speak in terms of "degradation of service resulting from the modification of Spartan's permit", and that it would be error to reopen the record as to these matters for the Court's opinion of May 22, 1958 makes it clear that this proceeding was remanded to the Commission, insofar as the degradation of service is concerned, in order that the Commission might be afforded an opportunity to "reconsider the present record and to make findings upon this record." The protestants submit that while it is clear that the Court's opinion explicitly authorizes reopening of the record herein to inquire into the "excusability of misrepresentation", no such authorization is apparent with respect to the question of service curtailment.

8. The Broadcast Bureau urges that the Court's opinion of May 22, 1958 permits the reopening of the record as to Issues No. 1 through No. 4. It is stated that the questions of service curtailment and misrepresentation are treated in similar terms by the Court, and that the Court's language as to the advisability of reopening the record is not directed to any single question involved. Reference is made by the Broadcast Bureau to the Court's opinion wherein the following language appears: "If the Commission deems it advisable to reopen the record to receive new evidence, for example as to Spartan's past record as a licensee, it may do so. As to any new matters introduced in such reopened proceedings, it is assumed that all the parties to the case will be heard." [1]

The Bureau submits that reference to Spartan's record as a licensee is only an example of an area of evidence that might be adduced at a further hearing, and that the Court's language contemplates a number of "new matters", not just the matter of Spartan's reliability and candor as a licensee.

9. We stated in our memorandum opinion and order of August 4, 1958, that the terms of the remand order from the Court of Appeals permit the reopening of the record herein for the receipt of additional evidence as to the question of service curtailment and the excusability of the misrepresentation, and we noted therein that the record is presently inadequate for resolution of the matters raised by the Court. Nothing in the protestants' instant pleading requesting the deletion of Issues No. 1 through No. 4 persuades us that our previous determination was in error. It is apparent, in our view, that the Court's opinion permits reopening of the record by the Commission both as to the questions of service curtailment and excusability of the misrepresentation, for after stating that the service curtailment remained unjustified and the misrepresentation unexcused the Court stated that if the Commission "deems it advisable to reopen the record to receive new evidence, for example, as to Spartan's past record as a licensee, it may do so", and that as to "any new matters introduced in such reopened proceedings, it is assumed that all the parties to the case will be heard."

10. In view of the foregoing: *It is ordered*, That the above-described petition of Wilton E. Hall and Greenville Television Company is granted only to the extent noted in the amended Issue No. 5 herein, and, otherwise is denied in all respects: *And it is further ordered*, That Issue No. 5 of our order herein of August 4, 1958 is amended to read as follows:

5. To determine the manner in which The Spartan Radiocasting Company as the former licensee of Stations WORD and WORD-FM, and as the licensee of Stations WSPA, WSPA-TV, and WSPA-FM operated and has operated said stations, and any other facts or circumstances affecting Spartan's reliability and candor as a licensee.

Adopted: December 10, 1958.

Released: December 12, 1958.

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

[F. R. Doc. 58-10400; Filed, Dec. 16, 1958; 8:49 a. m.]

[1] Wilton E. Hall and Greenville Television Company v. Federal Communications Commission, supra at 629.

[Docket Nos. 12223, 12224; FCC 58M-1416]

ARMIN H. WITTENBERG, JR., AND PASADENA PRESBYTERIAN CHURCH

ORDER CONTINUING HEARING

In re applications of Armin H. Wittenberg, Jr., Los Angeles, California, Docket No. 12223, File No. BPH-2170; Pasadena Presbyterian Church, Pasadena, California, Docket No. 12224, File No. BPH-2179; for construction permits (FM Facilities, Channel 294).

The Hearing Examiner has under consideration a motion filed November 28, 1958, on behalf of Armin H. Wittenberg, Jr., requesting that the date for the evidentiary hearing in the above-entitled proceeding be continued from December 17, 1958 to either January 7 or 26, 1959 or to a subsequent date.

The reason for the requested continuance is the fact that a member of the family of movant's counsel is seriously ill and counsel wishes to be with his family during the period within which the hearing is presently scheduled.

The Hearing Examiner has been advised informally that other counsel are agreeable to the requested continuance and that the first date when it will be possible for all of the witnesses sought for cross-examination to be present is March 23, 1959, which date is agreeable to all parties. Good cause for granting the requested continuance has been shown.

It is ordered, This the 9th day of December 1958 that the motion for continuance of the above-entitled hearing is granted and the hearing is continued from December 17, 1958, to March 23, 1959.

Released: December 10, 1958.

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

[F. R. Doc. 58-10401; Filed, Dec. 16, 1958; 8:49 a. m.]

[Docket No. 12263; FCC 58-1191]

REVISION OF RADIO REGULATIONS OF INTERNATIONAL TELECOMMUNICATION UNION

FOURTEENTH NOTICE OF INQUIRY

1. The Seventh Notice of Inquiry in this proceeding included draft proposals concerning the use of VHF telephony in the maritime mobile service. The Commission has reviewed these draft proposals, the comments received thereon in response to the Seventh Notice of Inquiry in this proceeding, the proposals put forth in this matter by various parties in the Department of State Preparatory Committees considering it, and, more recently, the report recently approved by the Radio Technical Commission for Maritime Services (RTCM SC-39), and has concluded that revised proposals concerning this subject should be issued for public comments. Such revised proposals are attached hereto.

2. Primarily the Commission's revised proposals in this matter consist of permitting single-channel radiotelephone equipments in the maritime mobile service on one of the frequencies allocated to it between 156 and 162 Mc if the vessel in question is already fitted for any one of three alternate marine radio systems, that is 500 kc, 2182 kc, or multi-channel VHF in the band 156-162 Mc.

3. Because of the long and careful study which has been given this matter in the Department of State Preparatory Committees and the consequent familiarity of interested persons with the issues involved, and because of the urgency in formulating definitive US proposals to be submitted to the International Telecommunication Union, a very limited time is being provided for comments on the version of No. 588a and Appendix 12b is of the Radio Regulations attached hereto.[1] Upon receipt of such comments, the Commission's representative on Department of State Preparatory Committee V will submit the attached proposal to that Committee, together with any amendments thereto which may appear desirable in the light of the comments received in response to this Notice of Inquiry.

4. The Commission emphasizes that it has not taken a final position with respect to this matter. Following consideration of the aforementioned revised proposal by the appropriate Department of State Preparatory Committees, the Commission's recommendations will then be made known to the Department of State, which has the overall responsibility for formulating the position of the United States in these matters. It should be noted that the Department of State receives recommendations not only from the Commission but also from other interested agencies of the government.

5. Any interested person is invited to file comments with the Commission concerning this matter on or before December 22, 1958. In view of the necessity for preparing the United States position at the earliest possible time, the Commission does not expect to be able to grant an extension of time for filing comments. In accordance with the provisions of § 1.54 of the Commission's rules, an original and fourteen (14) copies of all comments shall be furnished to the Commission.

Adopted: December 11, 1958.

Released: December 11, 1958.

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

[F. R. Doc. 58-10402; Filed, Dec. 16, 1958; 8:49 a. m.]

[Docket No. 12263; FCC 58-1193]

REVISION OF RADIO REGULATIONS OF INTERNATIONAL TELECOMMUNICATION UNION

FIFTEENTH NOTICE OF INQUIRY

1. The Fourth, Fifth and Seventh Notices of Inquiry in this proceeding included draft proposals for portions of the Radio Regulations concerning the use of the frequency 8364 kc. The Commission has reviewed those proposals, the comments received thereon, and the work of the Department of State Preparatory Committees concerned, and has concluded that additional proposals should be issued for public comment. Such proposals are attached hereto.

2. The amendments proposed herein are for the purpose of enhancing the use of the frequency 8364 kc for special maritime and aeronautical communications relating to the safety of life. No deleterious effect upon use of the 8 Mc ship calling band would be expected by this proposal.

3. Because of the long and careful study which has been given this matter in the Department of State Preparatory Committees and the consequent familiarity of interested persons with the issues involved, and because of the urgency in formulating definitive US proposals to be submitted to the International Telecommunication Union, a very limited time is being provided for comments on the proposals attached hereto.[1] Upon receipt of such comments, the Commission's representative on Department of State Preparatory Committees III and V will submit the attached proposal to those Committees, together with any amendments thereto which may appear desirable in the light of the comments received in response to this Notice of Inquiry.

4. The Commission emphasizes that it has not taken a final position with respect to this matter. Following consideration of the aforementioned revised proposal by the appropriate Department of State Preparatory Committees, the Commission's recommendations will then be made known to the Department of State, which has the overall responsibility for formulating the position of the United States in these matters. It should be noted that the Department of State receives recommendations not only from the Commission but also from other interested agencies of the government.

5. Any interested person is invited to file comments with the Commission concerning this matter on or before December 22, 1958. In view of the necessity for preparing the United States position at the earliest possible time, the Commission does not expect to be able to grant an extension of time for filing comments. In accordance with the provisions of § 1.54 of the Commission's rules, an original and fourteen (14) copies of all comments shall be furnished to the Commission.

Adopted: December 11, 1958.

Released: December 11, 1958.

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

[F. R. Doc. 58-10403; Filed, Dec. 16, 1958; 8:49 a. m.]

[1] Filed as part of the original document.

[Docket Nos. 12488, 12489; FCC 58M-1420]

YOUNG PEOPLE'S CHURCH OF THE AIR, INC., AND WJMJ BROADCASTING CORP.

ORDER CONTINUING HEARING

In re applications of The Young People's Church of the Air, Inc., Philadelphia, Pennsylvania, Docket No. 12488, File No. BPH-2394; WJMJ Broadcasting Corporation, Philadelphia, Pennsylvania, Docket No. 12489, File No. BPH-2423; for construction permits.

The Hearing Examiner having under consideration informal agreement of all parties regarding date for hearing;

It is ordered, This 10th day of December 1958, that the hearing now scheduled for December 23, 1958, is continued to January 22, 1959, at 10:00 a. m.

Released: December 10, 1958.

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

[F. R. Doc. 58-10404; Filed, Dec. 16, 1958; 8:49 a. m.]

[Docket Nos. 12546, 12547; FCC 58M-1422]

NEWARK BROADCASTING CORP. AND WMGM BROADCASTING CORP.

ORDER SCHEDULING HEARING

In re applications of Newark Broadcasting Corporation, Newark, New Jersey, Docket No. 12546, File No. BPH-2427; WMGM Broadcasting Corporation, New York City, New York, Docket No. 12547, File No. BPH-2442; for construction permits.

It is ordered, This 10th day of December 1958, that the hearing in the above-entitled matter presently postponed without date is hereby scheduled to commence at 10:00 a. m., February 5, 1959, in the Commission's offices in Washington, D. C.

Released: December 11, 1958.

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

[F. R. Doc. 58-10405; Filed, Dec. 16, 1958; 8:49 a. m.]

[Docket No. 12664; FCC 58M-1425]

RADIO KYNO, THE VOICE OF FRESNO (KYNO)

ORDER CONTINUING HEARING

In re application of Amelia Schuler, Lester Eugene Chenault and Bert Williamson, d/b as Radio KYNO, the Voice of Fresno (KYNO), Fresno, California, Docket No. 12664, File No. BP-11458; for construction permit.

With the agreement of counsel for all parties indicated during the prehearing conference in this proceeding on December 10, 1958; *It is ordered*, This 11th day of December 1958, that the hearing heretofore scheduled for January 15, 1959, is continued to February 3, 1959, at 10:00 o'clock a. m., in Washington, D. C.;

It is further ordered, Pursuant to agreement of all counsel, that copies of the proposed exhibits of the applicant will be furnished to counsel for the other parties and to the Examiner on or before January 27, 1959.

Released: December 11, 1958.

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

[F. R. Doc. 58-10406; Filed, Dec. 16, 1958; 8:49 a. m.]

[Docket Nos. 12691, 12692; FCC 58M-1423]

DALE W. FLEWELLING AND KROY, INC.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Dale W. Flewelling, Sacramento, California, Docket No. 12691, File No. BPH-2389; KROY, Inc., Sacramento, California, Docket No. 12692, File No. BPH-2395; for construction permits for new FM stations.

On the Examiner's own motion: *It is ordered*, This 11th day of December 1958, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, at 10:00 o'clock a. m., on January 8, 1959, in the offices of the Commission, Washington, D. C.

The prehearing conference will be concerned with the pertinent topics specified in § 1.111 of the rules and such other matters as will be conducive to an expeditious conduct of the hearing. In this connection, attention is also directed to the provisions of the Commission's "Hearing Manual for Comparative Broadcast Proceedings".

Released: December 11, 1958.

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

[F. R. Doc. 58-10407; Filed, Dec. 16, 1958; 8:50 a. m.]

[Docket No. 12699; FCC 58M-1429]

THOMAS JOSEPH GARVEY

ORDER SCHEDULING PREHEARING CONFERENCE

In the matter of the applications of Thomas Joseph Garvey, Docket No. 12699, File Nos. 22-C2-P-59, 1137-C2-L-59; for authorizations for a construction permit and a license for a new one-way signalling service in the Domestic Public Land Mobile Radio Service in New Orleans, Louisiana (call sign KKT407).

On the Examiner's own motion: *It is ordered*, This 11th day of December, 1958, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, at 10:00 o'clock a. m., on Tuesday, December 30, 1958, in the offices of the Commission, Washington, D. C.

Released: December 12, 1958.

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

[F. R. Doc. 58-10408; Filed, Dec. 16, 1958; 8:50 a. m.]

[Docket Nos. 12701, 12702; FCC 58-1182]

TOMAH-MAUSTON BROADCASTING CO., INC. (WTMB)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATIONS FOR HEARING ON STATED ISSUES

In re applications of Tomah-Mauston Broadcasting Company, Incorporated (WTMB), Tomah, Wisconsin, Docket No. 12701, File No. BP-11615; for construction permit; Docket No. 12702, File No. BMP-8306, for modification of permit.

1. The Commission has before it (1) a "Protest And Petition For Reconsideration" filed on November 14, 1958, by William C. Forrest (WRDB, hereinafter), licensee of Station WRDB, Reedsburg, Wisconsin (1400 kc, 250 w, U), pursuant to the provisions of sections 309 (c) and 405 of the Communications Act of 1934, as amended, and directed to the Commission's actions (a) of October 15, 1958, in granting without hearing the above-captioned application of Tomah-Mauston Broadcasting Company, Incorporated (WTMB, hereinafter) for a construction permit for a new standard broadcast station (WTMB) at Tomah, Wisconsin to operate on a frequency of 1390 kilocycles with a power of 500 watts, daytime only; and (b) of November 5, 1958, in granting without hearing WTMB's above-captioned application for modification of permit to specify a reduced antenna efficiency of 131 mv/m in lieu of 138 mv/m; (2) an Opposition to the WRDB pleading filed by WTMB on November 21, 1958; and (3) a Reply to opposition filed by WRDB on December 1, 1958.

2. WRDB claims that the WTMB proposal, as granted and as modified, will result in objectionable interference within the normally protected contour of WRDB; that, accordingly, the WTMB authorization results in a modification of the WRDB license; and that WRDB "is therefore entitled to the public hearing required by section 316 of the Communications Act before the [WTMB] authorization * * * is made final."

3. WRDB states that its "revenues depend in part upon the listeners which it has beyond its normally protected contour"; that the "loss of such listeners will impair WRDB's revenues and its ability to provide the program service which it now provides"; that WRDB is "programmed for the rural audience and carries a number of programs which are of special interest to that audience and which are not available on standard broadcast frequencies within the service area of WRDB"; that it will "show at the

hearing which it is requesting that the destruction of its service resulting from the operation of [WTMB] * * * will deprive listeners of programs not available from other stations and will also tend to impair the WRDB service throughout its ehtire service area, and that the modification of the WRDB license by the [WTMB] authorization * * * will not serve the public interest, convenience and necessity."

4. WRDB also states that it is "requesting that the hearing issues permit an investigation of the actual loss of listeners to WRDB, regardless of whether such listeners are inside or outside the normally protected contour" because "interference to actual listeners beyond normally protected contours is relevant and material to a determination whether the proposed operation would serve the public interest"; and that "the issues requested would permit investigation of the programming service proposed by (WTMB), the programming service of WRDB, and the other programming services, if any, available in the interference area" because "such evidence is clearly relevant and material to a determination of whether the (WTMB) authorization * * * would serve the public interest." WRDB specifies six issues, which are set forth in paragraph 12, below, and are renumbered Issues 1, 3, 4, 5, 6, and 7.

5. In support of its claim of objectionable interference from the operation of WTMB as authorized in the construction permit and modification of permit, WRDB submits field intensity measurements on one radial from Station WRDB toward WTMB, N. 321° E., and interprets these measurements to indicate that the 0.5 mv/m contours of WRDB and WTMB would overlap and that adjacent channel objectionable interference would result to WRDB in an area of 3.2 square miles in which approximately 64 persons reside.

6. In its above-referenced Opposition, WTMB claims, in substance, that WRDB is not entitled to protection beyond its normally protected contour because the Commission rule providing for such protection on the basis of unique programming, § 3.182(c), was revoked on October 2, 1957; that WRDB incorrectly interprets its measurment data; that "by any fair reading of the measurements" the antenna efficiency of WRDB is not in excess of 125 mv/m, rather than 135 mv/m as shown by WRDB, and that the WRDB contour does not extend more than 18.8 miles toward WTMB, rather than 19.7 miles as computed by WRDB; that measurements taken by WTMB on WRDB indicate that the WRDB 0.5 mv/m contour extends only 16.7 miles toward WTMB, or 2.1 miles short of the 0.5 mv/m contour of WTMB; that the Wisconsin highway map on which WRDB plotted its measurement data is not sufficiently accurate to establish locations within a quarter of a mile in any direction; that close-in points of the WRDB measurements were located by sighting with an optical telescope, but many of the points are in thick woods from which the tower could not be seen; that the latest calibration of WRDB's measurement meter appears to have been in 1954 and is not entirely reliable; that the interference claimed by WRDB is de minimis; that the Commission can determine, without a hearing, whether the facts alleged by WRDB raise a substantial question as to objectionable interference; that WTMB asumes the validity and accuracy of the only factual data advanced in support of the protest, the actual measurements; that the Commission is invited to draw its own conclusions as to the significance of said data; that the Commission, "in the exercise of its own expertise, can certainly make a choice between these two varying conclusions" drawn by WRDB and WTMB "from the same factual data"; that the WRDB protest should be dismissed because no substantial question of interference has been raised by WRDB; that if the Commission does designate the WTMB application for hearing it has the discretion to keep the grant in effect; that the grant should be kept in effect because WTMB would provide a new service to 28,000 people whereas WRDB claims interference to only 64 persons; and that, if necessary, WRDB will apply for a modification of permit to reduce further its maximum expected operating value to eliminate any possibility of interference to WRDB.[1]

7. In its above-referenced Reply, WRDB contends, in substance, that its analysis of the measurements which it submitted is correct; that its data raises a substantial question as to objectionable interference to WRDB; that WTMB's disputing the facts alleged by WRDB does not alter the situation; that the "dispute must be resolved by evidentiary hearing and not by arbitrary action of the Commission."

8. WRDB's claim of objectionable interference is based upon an interpretation of the measurement data submitted by WRDB as indicating that the 0.5 mv/m contour of WRDB extends approximately 19.7 miles toward WTMB along a radial of N. 321° E. Measurement data submitted by WTMB covering the same radial (N. 321° E.) is interpreted by WTMB as indicating the extent of the 0.5 mv/m contour of WRDB to be 16.7 miles. When the first set of measurements as submitted by WRDB, covering 41 measuring points, is combined with the measurement data submitted by WTMB, covering 29 measuring points, we find that the total data indicate that the 0.5 mv/m contour of WRDB extends approximately 18 miles along the radial N. 321° E. toward WTMB. Since the two sites are separated by a distance of 38 miles, and the extent of WTMB's 0.5 mv/m contour is 19.2 miles, as agreed by WRDB and WTMB, there would be no overlap, on the basis of our analysis using both sets of measurements. However, our analysis of the WRDB measurement data indicates that the WRDB 0.5 mv/m contour extends to a distance of 19.4 miles and would, on the basis of these measurements alone, involve a slight overlap with the WTMB 0.5 mv/m contour.

9. Thus, we find that the instant protest raises a substantial question of objectionable interference to WRDB from the authorized operations of WTMB, see Hecksher v. FCC, 16 Pike and Fischer RR 2031, 2032, and that, therefore, our grant of the WTMB applications may constitute a modification of the WRDB license. Therefore, we find that WRDB is a party in interest and person aggrieved within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended, to have standing to file the instant pleading pursuant thereto. We find also that WRDB has specified with sufficient particularity the facts relied upon as showing electrical interference, to require our designating the WTMB applications for hearing pursuant to section 309 (c). Section 316 of the Act requires a hearing before the modification of license of an existing station, and, accordingly, the effective date of our WTMB grants must be postponed pending a final decision in the necessary hearing.

10. We are adopting Issue 1 as specified by WRDB, relative to areas and populations served by the WTMB authorizations, and are adding, as Issue 2, an issue to determine whether the WTMB authorizations would involve objectionable interference within the normally protected contour of Station WRDB. The burden of proceeding with the introduction of evidence and the burden of proof on these issues will be on WTMB.

11. WRDB specifies issues to "permit an investigation of the actual loss of listeners to WRDB", inside or outside its normally protected contour, and the "investigation of the programing service" provided by all stations "in the interference area". Although we are including these issues, renumbered 3 (with an editorial change), 4, 5, and 6 in paragraph 12 below, we are not adopting these issues, and the burden of proceeding with the introduction of evidence and the burden of proof on each of these issues will be on WRDB. Our inclusion of these issues does not constitute a finding that they are relevant and material.

12. In view of the foregoing: *It is ordered*, That, pursuant to Section 309 (c) of the Communications Act of 1934, as amended, the instant Protest And Petition For Reconsideration is granted to the extent provided for below and, in all other respects, is denied; that the above-captioned applications of Tomah-Mauston Broadcasting Company, Incorporated are designated for evidentiary hearing on the issues specified below; and that the effective date of the grants of said applications are postponed pending the effective dates of a final decision in the hearing provided for below.

1. To determine the areas and populations which would receive primary

[1] WTMB, in a protest filed on November 21, 1958, against the Commission's grant of a construction permit for a new station in Tomah, Wisconsin, to Jack L. Goodsitt, File No. BP-11715, questions whether the instant WRDB protest was aided, abetted, or inspired by parties to the licensee of Station WCOW, Sparta, Wisconsin. However, WTMB has not raised the question in its pleading in the instant case, and we see no reason at this time to go into the matter in our disposition of the case here before us.

service from the operations proposed in the above-captioned applications and the availability of other primary services to such areas and populations.

2. To determine whether the operations proposed in the above-captioned applications would involve objectionable interference to Station WRDB, Reedsburg, Wisconsin, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine the areas and populations outside the normally protected contour of Station WRDB which would lose actual service as a result of the operations proposed in the above-captioned applications, the availability of other primary service to such areas and populations, and the program service provided to such areas and populations by other primary services, if any.

4. To determine the nature of the program service provided by WRDB.

5. To determine the nature of the program service proposed to be provided in the above-captioned applications.

6. To determine the effect of the interference which would be suffered by WRDB as a result of the operation of the station proposed in the above-captioned applications upon WRDB's ability to continue to provide the program service it now provides.

7. To determine, in the light of the evidence adduced under the foregoing issues, whether a grant of the above-captioned applications would serve the public interest, convenience and necessity.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to Issues 1 and 2 shall be on WTMB; and that the burden of proceeding with the introduction of evidence and the burden of proof as to Issues 3, 4, 5 and 6 shall be on WRDB.

It is further ordered, That William C. Forrest and the Chief, Broadcast Bureau, are hereby made parties to the proceeding herein and that:

1. The appearances by the parties intending to participate in the above hearing shall be filed not later than December 29, 1958.

2. The hearing on the above issues shall commence at a time and place and before an Examiner to be specified in a subsequent order.

3. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions.

Adopted: December 10, 1958.

Released: December 12, 1958.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] MARY JANE MORRIS, *Secretary.*

[F. R. Doc. 58-10409; Filed, Dec. 16, 1958; 8:50 a. m.]

[1] Dissenting statement of Commissioner Bartley and statement of Commissioner Ford in which Commissioners Doerfer, Chairman; and Cross concur, filed as part of original document.

FEDERAL POWER COMMISSION

[Docket No. G-17153]

CABOT CARBON CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 11, 1958.

Cabot Carbon Company (Cabot) on November 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 November 12, 1958.

Purchaser: Colorado Interstate Gas Company.

Rate schedule designation: Supplement No. 3 to Cabot's FPC Gas Rate Schedule No. 15.

Effective date: January 1, 1959 (effective date is that proposed by Cabot).

In support of this proposed increase in rate, Cabot calls attention to the redetermination clause in its contract and states that the price was negotiated at arm's-length and is in line with other field prices in the area. Cabot also states that the new rate is needed to keep pace with the inevitable increases in production, exploration, development, operation, and maintenance costs, which occur as field pressure and deliverability decline.

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 Cabot's FPC Gas Rate Schedule No. 15 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 Cabot's FPC Gas Rate Schedule No. 15.

(B) Pending the hearing and decision thereon, the supplement hereby is 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 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 Hussey dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-10384; Filed, Dec. 16, 1958; 8:46 a. m.]

[Docket No. G-17221]

TEXAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 10, 1958.

The Texas Company (Texas) on November 10, 1958, tendered for filing proposed changes in its presently effective rate schedules[1] 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, undated.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 12 to Texas' FPC Gas Rate Schedule No. 88. Supplement No. 14 to Texas' FPC Gas Rate Schedule No. 89. Supplement No. 11 to Texas' FPC Gas Rate Schedule No. 90. Supplement No. 11 to Texas' FPC Gas Rate Schedule No. 96. Supplement No. 15 to Texas' FPC Gas Rate Schedule No. 97.

Effective date: December 14, 1958 (effective date is the effective date proposed by Texas).

In support of the proposed favored-nation rate increases, Texas states that the provisions of the contracts were agreed to after bona fide, arm's-length bargaining, that the increase will partially compensate for the continuously increasing costs of development, operation, maintenance and exploration, and that the increase in Texas' booked expenses, as shown in exhibits in Docket No. G-8969 (a suspension proceeding), more than justify the increases. Texas also cites prices of 17.0 cents per Mcf and 15.5 cents per Mcf contracted for by the United Gas Pipe Line Company in the area and a price of 16.5 cents per Mcf contracted for by Coastal Transmission Corporation in the area. (The cited rates are for new services which have not started.)

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. 12 to Texas' FPC Gas Rate Schedule No. 88; Supplement No. 14 to Texas' FPC Gas Rate Schedule No. 89; Supplement No. 11 to Texas' FPC Gas Rate Schedule No. 90;

[1] Present rates previously suspended and are now in effect subject to refund in Docket No. G-15418.

Supplement No. 11 to Texas' FPC Gas Rate Schedule No. 96, and Supplement No. 15 to Texas' FPC Gas Rate Schedule No. 97 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. 12 to Texas' FPC Gas Rate Schedule No. 88; Supplement No. 14 to Texas' FPC Gas Rate Schedule No. 89; Supplement No. 11 to Texas' FPC Gas Rate Schedule No. 90; Supplement No. 11 to Texas' FPC Gas Rate Schedule No. 96, and Supplement No. 15 to Texas' FPC Gas Rate Schedule No. 97.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until May 14, 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 thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have 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. 58-10385; Filed, Dec. 16, 1958; 8:46 a. m.]

[Docket No. G-16449]

SOUTHERN NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 11, 1958.

Take notice that Southern Natural Gas Company (Applicant), a Delaware corporation with its principal place of business in Birmingham, Alabama, filed on September 26, 1958, an application pursuant to section 7 of the Natural Gas Act for (1) a certificate of public convenience and necessity authorizing the relocation of its Calhoun meter station and appurtenant facilities to be constructed and operated in conjunction therewith at a point approximately 1.3 miles south of Calhoun, Georgia; and (2) permission and approval to abandon its old Calhoun meter station site, together with the meter station, and 1.3 miles of 4½-inch pipeline extending in a southerly direction from the old Calhoun meter station to the proposed new meter station site, subject to the jurisdiction of the Commission, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application recites the facilities proposed to be abandoned will be sold to Atlanta Gas Light Company (Atlanta), the distributor in Calhoun, Georgia.

The estimated cost of the new meter station is $15,000, with Applicant contributing $8,904 to Atlanta for the purpose of reinforcing the downstream facilities from the new meter station. Depreciated book value of facilities to be abandoned is stated to be $5,986.83 as of August 31, 1958, and the amount to be paid by Atlanta, adjusted to date of sale.

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 January 20, 1959, 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 January 5, 1959. 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. 58-10396; Filed, Dec. 16, 1958; 8:48 a. m.]

[Docket No. G-9892 etc.]

SOUTH GEORGIA NATURAL GAS CO. ET AL.

NOTICE OF SEVERANCE AND CONTINUANCE

DECEMBER 11, 1958.

In the matters of South Georgia Natural Gas Company, Docket No. G-9892; Southern Natural Gas Company, Docket No. G-14587; The California Company, Docket No. G-16680.

Notice is hereby given that the application filed by The California Company in Docket No. G-16680 in the above-entitled proceeding and scheduled for a hearing to be held on January 20, 1959, at 10:00 a. m., e. s. t., is hereby severed therefrom and continued for hearing at a subsequent date to be set by further notice.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-10395; Filed, Dec. 16, 1958; 8:48 a. m.]

[Docket No. G-4841]

WYMORE OIL CO. ET AL.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 11, 1958.

Take notice that Wymore Oil Company, a co-partnership consisting of O. S. Wyatt, Jr., and A. A. Moore (Wymore), with its principal place of business in Corpus Christi, Texas, and Premont Gas Gatherers, Inc., with principal place of business in Corpus Christi, Texas, B. T. Parr, Morris D. Jaffe, Harry Robbins, M. Finesilver, A. M. Rogers, Bernard Bloom, Abe Epstein, H. Finesilver, and M. R. Burson, filed on November 15, 1954, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing the sales of natural gas 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 to public inspection.

The natural gas to be sold will be produced in the Premont Area, Jim Wells County, Texas, and sold to Tennessee Gas Transmission Company (Tennessee).

On June 1, 1954, Wymore entered into a contract with Premont for the sale and delivery of gas from leases owned by Wymore and the individual applicants.

Premont entered into a contract dated September 16, 1954, with Tennessee to sell to Tennessee the gas purchased by it from Wymore et al. and gas produced from the leases owned by Premont.

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 January 27, 1959 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 Commis-

sion, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 15, 1959. 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. 58-10397; Filed, Dec. 16, 1958; 8:48 a. m.]

[Docket No. G-17217]

TENNESSEE NATURAL GAS LINES, INC.

ORDER SUSPENDING REVISED TARIFF SHEETS AND PROVIDING FOR HEARING

DECEMBER 11, 1958.

On November 14, 1958, Tennessee Natural Gas Lines, Inc. (Tennessee Natural), tendered for filing Eleventh Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1, proposing an annual rate increase of $363,600, based on sales for the calendar year 1957 to Nashville Gas Company, its affiliate and only wholesale customer. The proposed increase is in addition to the rates which became effective July 14, 1957, by order of the Commission issued August 12, 1958, accepting a settlement of the rate proceedings in Docket No. G-11981.

Tennessee Natural states that the proposed increase, amounting to 3.2 cents per Mcf in the commodity component of its Rate Schedule G-1 rate, is identical to a rate increase concurrently filed by its supplier of gas, Tennessee Gas Transmission Company (Tennessee).[1] It requests that either the increase become effective concurrently with the effective date requested by Tennessee for its increase, namely, December 15, 1958, or, in the event that the Tennessee increase is suspended, that the increase be suspended for the same period.

In support of the proposed increase, Tennessee Natural states that in June 1958, a conference was held between representatives of the company and the staff of the Commission at which time a cost of service of its operations for the year 1957, as adjusted, was developed. Following the conference, the settlement agreement with its one customer was submitted to the Commission on July 11, 1958, and, by order issued August 12, 1958, such settlement was accepted by the Commission. During August 1958, Tennessee Natural states it was advised that its supplier would file for a rate increase in October 1958. By letter dated September 3, 1958, Tennessee Natural requested permission to make protective filing on a simplified basis, in view of the aforesaid recent settlement and such request was granted by letter from the Secretary dated September 12, 1958. Accordingly, the cost support now submitted by Tennessee Natural is limited to a showing of its cost of service as agreed upon at the settlement conference, adjusted only to reflect the increase in cost of purchased gas from its supplier.

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 rates, charges, classifications and services contained in Tennessee Natural's FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by Eleventh Revised Sheet No. 4 and the said proposed tariff sheets and the rates contained therein be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 4 and 15 of the Natural Gas Act, and the Commission's regulations under the Natural Gas Act, including rules of practice and procedure (18 CFR Ch. I), a public hearing be held at a time and date to be fixed by notice from the Secretary of this Commission, concerning the lawfulness of the rates, charges, classifications and services, subject to the jurisdiction of the Commission, contained in Tennessee Natural's FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by Eleventh Revised Sheet No. 4.

(B) Pending such hearing and decision thereon, Eleventh Revised Sheet No. 4 to Tennessee Natural's FPC Gas Tariff, Original Volume No. 1, is hereby suspended and its use deferred until May 15, 1959, unless otherwise ordered by the Commission, and until such further time thereafter as it may be made effective in the manner prescribed by the Natural Gas Act.

(C) 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. 58-10398; Filed, Dec. 16, 1958; 8:48 a. m.]

[1] The presently effective and proposed Rate Schedule G-1 rates are:

	Present	Proposed
Monthly demand charge—per Mcf:		
First 50,000 Mcf of billing demand	$2.35	$2.35
All additional billing demand	2.00	2.00
Commodity charge—per Mcf	.1948	.2268

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 12, 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. 35141: *Cotton from Morehead City, N. C., to inland points.* Filed by O. W. South, Jr., Agent (SFA No. A3752), for interested rail carriers. Rates on cotton, carloads, (import) from Morehead City, N. C., to Belmont, Charlotte, Lowell, and Sanford, N. C.

Grounds for relief: Equalization of rates with the port of Wilmington, N. C., and market competition.

Tariff: Supplement 52 to Southern Freight Association tariff I. C. C. 1590.

FSA No. 35142: *Cement to New England territory.* Filed by O. E. Schultz, Agent (ER No. 2473), for interested rail carriers. Rates on cement, tile grout, and cement clinker, carloads from points in Maryland, Pennsylvania, West Virginia, and Virginia; also Rockland, Maine to points in New England territory.

Grounds for relief: Motor truck competition.

Tariff: Supplement 27 to Baltimore and Ohio Railroad tariff I. C. C. 24338 and other schedules listed in exhibit 1 of the application.

FSA No. 35143: *Limestone from Missouri to Baton Rouge, La.* Filed by Southwestern Freight Bureau, Agent (No. B-7437), for interested rail carriers. Rates on agricultural limestone, carloads from Rivermines, Dolly Siding, and Flat River, Mo., to Baton Rouge, La.

Grounds for relief: Short-line distance formula, rail carrier competition, and grouping.

Tariff: Supplement 163 to Southern Freight Association tariff I. C. C. 1469.

FSA No. 35144: *Coal from western mines to Hallam, Nebraska.* Filed by Colorado-Wyoming Committee, Agent (No. F-2), for interested rail carriers. Rates on bituminous slack coal, as described in the application, in carloads from points in Colorado, New Mexico, Utah, and Wyoming to Hallam, Nebr.

Grounds for relief: Rail carrier and market competition; also competition with other types of fuel.

Tariff: Supplement 51 to Colorado-Wyoming Committee tariff I. C. C. 54.

By the Commission.

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

[F. R. Doc. 58-10387; Filed, Dec. 16, 1958; 8:46 a. m.]

[Notice 64]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICE

DECEMBER 12, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Special Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 13123 (Deviation No. 1), WILSON FREIGHT FORWARDING COMPANY, 3636 Follett Avenue, Cincinnati 23, Ohio, filed December 5, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Interchange No. 50 of the New York State Thruway at Buffalo, N. Y., and Interchange No. 61 of the said Thruway at Ripley, N. Y., as follows: from Interchange No. 50 of the New York State Thruway over the New York State Thruway and access routes to Interchange No. 61 and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent route: from the Pennsylvania-New York State line over U. S. Highway 20 to junction U. S. Highway 62, thence over U. S. Highway 62 to Buffalo, N. Y., and serving points in New York bounded by a line beginning at Lake Erie and extending through Athol Springs, N. Y., to U. S. Highway 20, thence along U. S. Highway 20 to junction New York Highway 78, thence along New York Highway 78 to Wrights Corners, N. Y., thence along U. S. Highway 104 to Lewiston, N. Y., and return over the same route.

No. MC 30073 (Deviation No. 1), JOHNSON FREIGHT LINES, INC., 420 Sixth Avenue, South, Nashville, Tenn., filed December 4, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Louisville, Ky., and junction Kentucky Turnpike and U. S. Highway 31W, as follows: from Louisville over the Kentucky Turnpike and access routes to junction U. S. Highway 31W approximately two miles south of Elizabethtown, Ky., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Louisville, Ky., and Nashville, Tenn., over U. S. Highway 31W.

No. MC 60319 (Deviation No. 3), MURDOCH & HATCH MOTOR TRANSPORT, INC., 300 Maspeth Avenue, Brooklyn 11, N. Y., filed December 2, 1958. Attorney for said carrier, Clarence D. Todd, 1825 Jefferson Place NW., Washington, D. C. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over three deviation routes, (A) between junction Connecticut Highways 15 and 74 at West Willington, Conn., and junction Connecticut Highways 15 and 30 near Talcottville, Conn., as follows: from junction Connecticut Highways 15 and 74 over Connecticut Highway 15 to junction Connecticut Highway 30; (B) between junction Connecticut Highways 15 and 30 near Talcottville, Conn., and junction Connecticut Highways 15 and 30 near Oakland, Conn., as follows: from junction Connecticut Highways 15 and 30 near Talcottville over Connecticut Highway 15 to junction Connecticut Highway 30 near Oakland; and (C) between junction Connecticut Highways 15 and 30 near Oakland, Conn., and junction Connecticut Highway 15 and U. S. Highway 5, as follows: from junction Connecticut Highways 15 and 30 over Connecticut Highway 15 to junction U. S. Highway 5; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston, Mass., and Hartford, Conn., over the following pertinent route: from Boston over U. S. Highway 20 to Sturbridge, Mass., thence over Massachusetts Highway 15 to the Massachusetts-Connecticut State line, thence over Connecticut Highway 15 to junction Connecticut Highway 74 (formerly Connecticut Highway 15), thence over Connecticut Highway 74 to Connecticut Highway 30 (formerly Connecticut Highway 15), thence over Connecticut Highway 30 to junction U. S. Highway 5, thence over U. S. Highway 5 to Hartford.

No. MC 67646 (Sub-No. 2) (Deviation No. 3), HALL'S MOTOR TRANSIT COMPANY, P. O. Box 738, Sunbury, Pa., filed December 3, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Watkins Glen, N. Y., and Seneca Falls, N. Y., as follows: from Watkins Glen over New York Highway 414 to Seneca Falls and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Trout Run, Pa., and Syracuse, N. Y., over the following pertinent route: from Trout Run over Pennsylvania Highway 14 to the Pennsylvania-New York State line, thence over New York Highway 14 to Geneva, N. Y., and thence over New York Highway 5 to Syracuse.

No. MC 116004 (Deviation No. 4), TEXAS-OKLAHOMA EXPRESS, INC., 1005 South Lamar Street, Dallas 2, Tex., filed December 4, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between junction U. S. Highways 377 and 77 at Denton, Tex., and the Dallas, Tex., Commercial Zone at the northern city limits of Forth Worth, Tex., as follows: from junction U. S. Highways 377 and 77 over U. S. Highway 377 to the Dallas, Tex., Commercial Zone and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Tulsa, Okla., and Dallas, Tex., over the following pertinent route: from Tulsa over U. S. Highway 66 to Oklahoma City, Okla., and thence over U. S. Highway 77 to Dallas.

By the Commission.

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

[F. R. Doc. 58-10388; Filed, Dec. 16, 1958; 8:47 a. m.]

[Notice 62]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 12, 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 61500. By order of December 10, 1958, the Transfer Board approved the transfer to Mullen Bros., Inc., of North Adams, North Adams, Massachusetts, of that portion of Certificate No. MC 116761, issued September 25, 1957, to Rogers Van & Storage, Inc., Holyoke, Mass., authorizing the transportation of fresh meats, packing-house products, and such other commodities as are dealt in or distributed by packing houses, also advertising matter used in promoting the sale of such commodities, over irregular routes, from Pittsfield, Mass., to points within 25 miles of Pittsfield. Benjamin Apkin, 68 Main Street, North Adams, Massachusetts, for applicants.

No. MC-FC 61633. By order of December 9, 1958, the Transfer Board approved the transfer to Robert James Hicks, Fulton, Ky., of Permit No. MC 113626, issued January 14, 1953, to Dennis L. French, Fulton, Ky., authorizing the transportation of: Animal and poultry feeds, mineral for animal and poultry feeds, dry earth paint, insecticides, animal and poultry tonics and medicines, premiums and advertising matter incidental to the sale and distribution of the aforementioned commodities, from Fulton, Ky., to points in that part of Tennessee west of the Kentucky Lake and the Tennessee River; animal and poultry feed, from the above-specified destination points to Fulton, Ky. Henry H. Hancock, 128 North Court Avenue, Memphis, Tennessee, for applicants.

No. MC-FC 61722. By order of December 9, 1958, the Transfer Board approved the transfer to Westwood Cart-

age, Inc., Westwood, Mass., of permit in No. MC 11310, issued December 23, 1952, to Grocery Haulage, Inc., Providence, R. I., authorizing the transportation of: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses and, in connection therewith, equipment, materials, and supplies, used in the conduct of such business between points in a specified territory in Connecticut, Massachusetts, and Rhode Island. Ewald E. Kundtz, 1104 Terminal Tower Building, Cleveland 13, Ohio, for applicants.

No. MC-FC 61736. By order of December 9, 1958, the Transfer Board approved the transfer to A B C Movers, Inc., Baltimore, Maryland, of certificates in Nos. MC 32596, and MC 32596 Sub 1, issued June 21, 1941, and October 12, 1940, respectively, to Rose Shapiro, Norwich, Connecticut, authorizing the transportation of household goods, over irregular routes, between Norwich, Conn., and points within 20 miles of Norwich, on one hand, and, on the other, points in Connecticut, Massachusetts, New York, Rhode Island, and New Jersey, and wool and rags over irregular routes, from Monson, Mass., to Norwich, Conn. Reubin Kaminsky, 410 Asylum Street, Hartford 3, Connecticut.

No. MC-FC 61763. By order of December 9, 1958, the Transfer Board approved the transfer to Pool Truck, Inc., Detroit, Michigan, of permits in Nos. MC 111909 Sub 1, MC 111909 Sub 2, and MC 111909 Sub 3, issued October 2, 1951, December 13, 1951, and January 2, 1953, to J. E. Bejin Cartage Company, A Corporation, Detroit, Michigan, authorizing the transportation of building materials and equipment, and supplies and materials, incidental to the installation thereof, over irregular routes, from Detroit, Mich., to Toledo, Ohio, and points in Ohio within 40 miles of Toledo, plumbing and heating equipment, fixtures, and materials, and supplies incidental to the installation thereof, over irregular routes, from Detroit, Mich., to Toledo, Ohio, and points in Ohio within 40 miles thereof, and such merchandise as is dealt in by mail-order and chain retail department stores, over irregular routes, from Detroit, Mich., to Ann Arbor, Saginaw, and Port Huron, Mich., and such merchandise as drugs, pharmaceuticals, toiletries and drug store sundries as is dealt in by wholesale drug supply houses, over irregular routes, from Detroit, Mich., to Toledo, Ohio, and points in Ohio within 25 miles of Toledo. Ewald E. Kundtz, 1104 Terminal Tower Building, Cleveland 13, Ohio.

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

[F. R. Doc. 58-10390; Filed, Dec. 16, 1958; 8:47 a. m.]

PETITION TO REDEFINE COMMERCIAL ZONE LIMITS

DECEMBER 12, 1958.

The following petition relative to the limits of the zone adjacent to and commercially a part of a municipality within the meaning of section 203 (b) (8) of the Interstate Commerce Act has been received and will be processed in the manner hereinafter indicated.

In MC-C-329, *Davenport, Iowa-Rock Island and Moline, Ill., Commercial Zone*, a petition has been filed on November 24, 1958, as amended December 1, 1958, by John Deere & Co., and 18 motor common carriers seeking redefinition of the limits of the Davenport, Iowa-Rock Island and Moline, Ill., commercial zone, in a manner to expand them. Attorney for petitioner is David Axelrod, Esq., 39 South La Salle Street, Chicago 3, Ill.

The limits of the Davenport, Iowa-Rock Island and Moline, Ill., commercial zone are presently defined in MC-C-329, *Davenport, Iowa-Rock Island and Moline, Ill., Commercial Zone*, 48 M. C. C. 678 (49 CFR 170.10).

Petitioner seeks enlargement of the specifically described zone limits in the area southeast of Moline, particularly to include its property located approximately three miles southeast of the city limits of Moline.

No oral hearing is contemplated with respect to the petition, but an informal investigation with respect to redefinition of the zone limits will be conducted. Subsequent to such investigation the Commission will either (1) enter an order denying the Petition or, (2) if any change is considered, a Notice of Proposed Rule Making will be published. Persons supporting or opposed to any change in the present zone limits, who desire to participate in future proceedings on this petition or be notified of any action taken thereon, should notify the Commission and the individual petitioner of their desire on or before 30 days from the date of this publication.

By the Commission.

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

[F. R. Doc. 58-10391; Filed, Dec. 16, 1958; 8:47 a. m.]

[Notice 247]

MOTOR CARRIER APPLICATIONS

DECEMBER 12, 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 1872 (Sub No. 47), filed September 16, 1958. Applicant: ASHWORTH TRANSFER, INC., 1526 South Sixth West, Salt Lake City, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives, commodities* because of size, weight or special handling, require special equipment, and *contractors equipment and supplies*, between points in Colorado on the one hand, and, on the other, points in New Mexico. Applicant is authorized to conduct operations in Utah, Idaho, Nevada, Wyoming, Arizona, Colorado, Montana, New Mexico, California, and Oregon.

NOTE: Applicant states that it presently has authority to serve Colorado and New Mexico on some of the commodities described above, traversing the State of Utah, and that the purpose of this application is to eliminate the Utah gateway and to acquire authority to transport additional commodities.

HEARING: January 23, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 5267 (Sub No. 10), filed November 21, 1958. Applicant: WILLIAM R. BRUMFIELD AND OLIVET ATWOOD BRUMFIELD, doing business as ATWOOD TRUCK LINE, Route 1, Fort Morgan, Colo. Applicant's attorney: Alvin J. Meiklejohn, Jr., Suite 526 Denham Bldg., Denver 2, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Boettcher, Colo., and points within 5 miles thereof to points in Albany, Carbon, Converse, Fremont, Goshen, Hot Springs, Laramie, Natrona, Niobrara, Platte, and Weston Counties, Wyo., those in Nebraska in and west of Chase, Deuel, Dundy, Garden, Keith, Perkins, and Sheridan Counties, and those in Kansas on and west of U. S. Highway 283. Applicant is authorized to conduct operations in Iowa, Nebraska, and Colorado.

HEARING: January 30, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 8681 (Sub No. 68), filed August 4, 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: *Trucks*, in secondary movements, in truckaway service, between points in Colorado, on the one hand, and, on the other, points in New Mexico (except trucks which are received from any other motor carrier under an interchange arrangement for through transportation jointly by such other motor carrier and said carrier, from points in Michigan to points in New Mexico), and *rejected and damaged shipments* of the above-described units to the shipper for repairing on return. Applicant is authorized to conduct operations throughout the United States.

HEARING: January 19, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Joint Board No. 125, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke.

No. MC 13806 (Sub No. 20), filed November 19, 1958. Applicant: VIRGINIA HAULING COMPANY, a Corporation, P. O. Box 9434, Lakeside Station, Richmond, Va. Applicant's attorney: Paul A. Sherier, 613 Warner Building, Wash-

ington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets* and *skids*, from Woodford, Tylers, Beaverdam, and Lorne, Va., to points in North Carolina, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, and the District of Columbia. Applicant is authorized to conduct operations in Virginia, Maryland, Delaware, Pennsylvania, the District of Columbia, West Virginia, North Carolina, New Jersey, and New York.

HEARING: January 16, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William J. Cave.

No. MC 29886 (Sub No. 128), filed October 16, 1958. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. Applicant's attorney: Charles M. Pieroni, 523 Johnson Building, Muncie, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, earth-moving and road-making implements, machinery, equipment and related articles, tractors* and *tractor parts*, and *show equipment*, from Portland, Oreg., to points in Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, West Virginia, the District of Columbia, Pennsylvania, New York, Vermont, New Hampshire, Massachusetts, Maine, New Jersey, and Delaware; and *damaged shipments* of the above-described commodities on return. Applicant is authorized to conduct operations throughout the United States.

HEARING: February 12, 1959, at the Ground Floor, Pittock Block, 410 Southwest 10th Street, Portland, Oreg., before Examiner Thomas F. Kilroy.

No. MC 29886 (Sub No. 132), filed October 20, 1958. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. Applicant's attorney: Charles M. Pieroni, 523 Johnson Building, Muncie, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses*, from Chehalis, Wash., to points in the United States except points in Washington, Oregon, Montana, and Idaho. Applicant is authorized to conduct operations throughout the United States.

HEARING: January 26, 1959, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Thomas F. Kilroy.

No. MC 34180 (Sub No. 20), filed August 20, 1958. Applicant: J. L. NAYLOR, doing business as EL PASO-PECOS VALLEY TRUCK LINES, 151 North Lee Street, El Paso, Tex. Applicant's attorney: O. Russell Jones, P. O. Box 1437, Santa Fe, N. Mex. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, including *Class A and B explosives and other dangerous articles (Class A, B, and C)*, but excluding articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between junction U. S. Highway 54 and New Mexico Highway 83, approximately three (3) miles north of Alamogordo, N. Mex., and Artesia, N. Mex., over New Mexico Highway 83, serving all intermediate points, and the site of the U. S. Government Solar Furnace, approximately three and one-half (3½) miles north of Cloudcroft, N. Mex., as an off-route point. Applicant is authorized to conduct operations in New Mexico and Texas.

HEARING: January 16, 1959, at the Desert Aire Motel, Alamogordo, N. Mex., before Joint Board No. 87.

No. MC 40007 (Sub No. 63), filed November 6, 1958. Applicant: RELIABLE TRANSPORTATION COMPANY, a Corporation, 4817 Sheila Street, Los Angeles 22, Calif. Applicant's attorney: John C. Allen, 1212 Wilshire Boulevard, Los Angeles 17, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat fats*, edible and inedible, in bulk, in tank vehicles, from Denver and Pueblo, Colo., and points within 25 miles of each, to points in San Francisco, Alameda, and Contra Costa Counties, Calif., and *empty containers, or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return. Applicant is authorized to conduct operations in Arizona, California, Nevada, and New Mexico.

HEARING: February 16, 1959, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner Thomas F. Kilroy.

No. MC 42487 (Sub No. 376), filed October 6, 1958. Applicant: CONSOLIDATED FREIGHTWAYS, INC., 2116 Northwest Savier Street, Portland, Oreg. Applicant's attorney: William B. Adams, Pacific Building, Portland 4, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin liquor*, in bulk, in tank vehicles, from Lebanon, Oreg., and points within seven (7) miles thereof, to points in Nevada and California. Applicant is authorized to conduct operations in Arizona, California, Illinois, Idaho, Iowa, Indiana, Minnesota, Michigan, Montana, Nebraska, Nevada, Oregon, North Dakota, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

HEARING: February 9, 1959, at the Ground Floor, Pittock Block, 410 Southwest 10th Street, Portland, Oreg., before Joint Board No. 151, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 52657 (Sub No. 552), filed November 28, 1958. Applicant: ARCO AUTO CARRIERS, INC., 7530 South Western Avenue, Chicago 20, Ill. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, semi-trailers*, and *trailer and semi-trailer chassis* (other than those designed to be drawn by passenger automobiles) in initial movements, in truckaway and driveaway service, from Michigan City, Ind., to points in the United States; (2) *Truck tractors* in secondary movements, by driveaway service, only when drawing trailers in initial driveaway service, from Michigan City, Ind., to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; (3) *Containers, cargo containers, Cargo container bodies, cargo container boxes*, and *truck and trailer bodies*, from Michigan City, Ind., to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: January 20, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Alton R. Smith.

No. MC 55581 (Sub No. 7), filed November 3, 1958. Applicant: UTAH PACIFIC LUMBER TRANSPORT CO., an Oregon Corporation, 5609 Northeast 77th Avenue, Portland, Oreg. Applicant's attorney: Earle V. White, 2130 West Fifth Avenue, Portland 1, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* and *salt products*, from points in Davis, Salt Lake and Tooele Counties, Utah, to points in Oregon and Washington. Applicant is authorized to conduct operations in Oregon, Idaho, Utah, Washington, Colorado, Montana and Wyoming.

HEARING: February 4, 1959, at the Ground Floor, Pittock Block, 410 Southwest 10th Street, Portland, Oreg., before Examiner Thomas F. Kilroy.

No. MC 58035 (Sub No. 4), filed October 23, 1958. Applicant: FLOYD A. HENRIKSON, doing business as DENVER-LOVELAND TRANSPORTATION, 255 South Cleveland, Loveland, Colo. Applicant's attorney: John H. Lewis, The 1650 Grant Street Building, Denver 3, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum* and *gypsum products*, from the site of the United States Gypsum Company located approximately 5 miles west of Loveland, Colo., on or near U. S. Highway 34 to points in Albany, Carbon, Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyo., and those in Arthur, Banner, Box Butte, Chase, Cheyenne, Dawes, Deuel, Dundy, Frontier, Grant, Garden, Hayes, Hitchcock, Keith, Kimball, Lincoln, McPherson, Morrill, Perkins, Redwillow, Sheridan, Scotts Bluff, and Sioux Counties, Nebr., and *damaged shipments* of the above commodities on return; (2) *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (A) between points in Boulder, Larimer, and Weld Counties, Colo., (B) between points in Boulder, Larimer, and Weld Counties, Colo., on the one hand, and, on the other, points in Colorado. Applicant is authorized to conduct operations in Colorado.

NOTE: Applicant states that the purpose of Part 2 of the application is to convert a registration under the second proviso of section 206 (a) (1) of the Act to a Certificate of Public Convenience and Necessity.

HEARING: January 20, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Joint Board No. 198, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke.

No. MC 68040 (Sub No. 1), filed November 17, 1958. Applicant: ANDERSON FREIGHT CO., doing business as COOS BAY TRANSFER, a Corporation, 881 South Fifth Street, Coos Bay, Oreg. Applicant's attorney: Earl V. White, 2130 Southwest Fifth Avenue, Portland 1, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between North Bend, Oreg., and Crescent City, Calif.: from North Bend over U. S. Highway 101 to Crescent City, and return over the same route, serving all intermediate points, and the off-route points of Arago and Powers, Oreg., and points intermediate to Powers, located on Oregon Highway 242. Applicant is authorized to conduct similar operations between Coos Bay and Powers, Oreg.

HEARING: February 10, 1959, at the Ground Floor, Pittock Block, 410 Southwest 10th Street, Portland, Oreg., before Joint Board No. 11, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 76279 (Sub No. 8), (CORRECTION) filed September 15, 1958, published issue December 10, 1958, at page 9568. Applicant: SODAK TRANSPORT, INC., 907 Thomas Avenue, North, Minneapolis, Minn. Applicant's representative: A. R. Fowler, 2288 University Avenue, Saint Paul 14, Minn. Previous publication gave applicant's docket number as No. MC *16279* (Sub No. 8), in error. The correct docket number is No. MC 76279 (Sub No. 8).

No. MC 92983 (Sub No. 330), filed November 24, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, from Saginaw, Mo., and points within 15 miles thereof to points in Minnesota, Missouri, North Dakota, and South Dakota. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: January 20, 1959, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Allan F. Borroughs.

No. MC 101126 (Sub No. 115), filed November 21, 1958. Applicant: STILLPASS TRANSIT COMPANY, INC., 4967 Spring Grove Avenue, Cincinnati 31, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Edible fat*, in bulk, in insulated, stainless steel tank vehicles, from Napoleon, Ohio, to East St. Louis, Ill. Applicant is authorized to conduct operations in Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

HEARING: January 27, 1959, in Room 712, Federal Building, Cincinnati, Ohio, before Examiner Richard H. Roberts.

No. MC 103051 (Sub No. 56), filed October 22, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern Nat'l. Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from points in Chatham County, Ga., to points in Alabama. Applicant is authorized to conduct operations in Georgia, Tennessee, Alabama, Mississippi, North Carolina, Delaware, Kentucky, Maryland, Virginia, South Carolina, Florida, and Louisiana.

HEARING: January 30, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 103051 (Sub No. 57), filed October 27, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern Nat'l. Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrated lime* (calcium hydroxide), and *quick lime* (calcium oxide), in bulk, in covered dump trailers or other special highway equipment, from points in Blount and Shelby Counties, Ala., to points in Georgia. Applicant is authorized to conduct operations in Georgia, Tennessee, Alabama, Mississippi, North Carolina, Maryland, Virginia, South Carolina, Delaware, Kentucky, Florida, and Louisiana.

HEARING: January 30, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 103051 (Sub No. 58), filed October 27, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern Nat'l. Bank Building, Atlanta 3, Ga. Authority sougth to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from points in Chatham County, Ga., to points in Florida. Applicant is authorized to conduct operations in Georgia, Tennessee, Alabama, Mississippi, North Carolina, South Carolina, Virginia, Maryland, Kentucky, Delaware, Louisiana, and Florida.

HEARING: January 30, 1959, at 680 West Peachstreet Street NW., Atlanta, Ga., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 103993 (Sub No. 113), filed November 17, 1958. Applicant: MORGAN DRIVE-AWAY, INC., 509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Washington to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: January 29, 1959, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Thomas F. Kilroy.

No. MC 106398 (Sub No. 109), filed October 27, 1958. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa 15, Okla. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Washington to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: January 29, 1959, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Thomas F. Kilroy.

No. MC 107107 (Sub No. 110), filed December 5, 1958. Applicant: ALTERMAN TRANSPORT LINES, INC., P. O. Box 65, Allapattah Station, Miami 42, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products*, and *frozen foods*, from Timberville, Va., to points in Florida. Applicant is authorized to conduct operations in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: January 21, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo A. Riegel.

No. MC 107515 (Sub No. 296), filed October 2, 1958. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta, Ga. Applicant's attorney: Allan Watkins, 214

Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chambersburg, Pa., and points within ten (10) miles thereof, to points in Virginia, West Virginia, Kentucky, North Carolina, South Carolina, Tennessee, Georgia, Florida, Mississippi, Louisiana, and Alabama. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

NOTE: Any duplication with present authority to be eliminated. Applicant has authority in Certificate No. MC 107515 (Sub No. 257), issued August 25, 1958, to transport frozen fruit pies and frozen meat and poultry pies from Chambersburg to points in the above-specified States except Virginia, West Virginia, and Kentucky.

HEARING: January 20, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 107515 (Sub No. 299), filed October 17, 1958. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, SW., Atlanta, Ga. Applicant's attorney: Allan Watkins, 214–216 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Bear Lake, Frankfort and Grand Rapids, Mich., to points in Kentucky, West Virginia, Ohio, Indiana, Alabama, Florida, Georgia, and Tennessee. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

NOTE: Common control may be involved.

HEARING: January 19, 1959, at 680 West Peachtree Street, NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 107541 (Sub No. 4), filed November 4, 1958. Applicant: MAGEE TRUCK SERVICE, INC., P. O. Box 36, Klickitat, Wash. Applicant's attorney: John M. Hickson, Failing Building, Portland, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* and *lumber products*, from points in Klickitat County, Wash., to points in Utah, Wyoming, and Colorado. Applicant is authorized to conduct regular route operations in Oregon and Washington, and irregular route operations in Idaho, Oregon, and Washington.

NOTE: On return trips applicant indicates exempt commodities will be transported.

HEARING: February 13, 1959, at the Ground Floor, Pittock Block, 410 Southwest 10th Street, Portland, Oreg., before Examiner Thomas F. Kilroy.

No. MC 107839 (Sub No. 26), filed September 25, 1958. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4716 Humboldt Street, Denver, Colo. Applicant's attorney: Marion F. Jones, 526 Denham Building, Denver 2, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) The commodities classified as (a) *meats, meat products*, and *meat by-products*, (b) *dairy products*, and (c) *articles distributed by meat-packing houses* as defined by the Commission in Modification of Permits of Motor Contract Carriers of Packing-House Products, 46 M. C. C. 23, and *fresh and frozen fruits, vegetables*, and *fish*, between Denver, Colorado Springs, and Pueblo, Colo., on the one hand, and, on the other, points in Louisiana, Alabama, and Mississippi. (2) *Canned goods*, from points in Louisiana, Alabama and Mississippi to Denver, Colorado Springs, and Pueblo, Colo. (3) *Bakery goods*, from points in Louisiana, to Denver, Colorado Springs, and Pueblo, Colo. Applicant is authorized to conduct regular route operations in Colorado, New Mexico and Texas, and irregular route operations in Colorado, Florida, Louisiana, New Mexico, Oklahoma, and Texas.

NOTE: Duplication to be eliminated.

HEARING: January 26, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 108461 (Sub No. 71), filed November 3, 1958. Applicant: WHITFIELD TRANSPORTATION, INC., 240 West Amador Street, Las Cruces, N. Mex. Applicant's attorney: Donald L. Stern, Suite 924, City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk or packaged, from the site of the Southwestern Portland Cement Plant at or near Duro, Tex., to points in New Mexico. Applicant is authorized to conduct operations in Texas, New Mexico, Utah, Arizona, California, and Colorado.

HEARING: January 20, 1959, at the U. S. Court Rooms, Roswell, N. Mex., before Joint Board No. 33.

No. MC 109431 (Sub No. 9), filed September 5, 1958. Applicant: FRANK C. KLEIN & CO., INC., 3600 East 46th Avenue, Denver 16, Colo. Applicant's attorney: John H. Lewis, The 1650 Grant Street Building, Denver 3, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, road oil, heavy fuel oils* and *blending stock*, in bulk, in insulated tank vehicles, and *water*, in bulk, in tank vehicles, between points in an area described as follows: between points in Utah; points in Apache, Navajo, and Coconino Counties, Ariz.; points in Montrose, Ouray, San Miguel, San Juan, Dolores, Montzuma, and La Plata Counties, Colo.; and those in San Juan, Rio Arriba, and McKinley Counties, N. Mex. Applicant is authorized to conduct regular route operations in Colorado, Kansas and Wyoming, and irregular route operations in Colorado, Kansas, Oklahoma, Texas, and Wyoming.

HEARING: January 22, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 110525 (Sub No. 378), filed November 26, 1958. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resin emulsion* and *synthetic liquid latex*, in bulk, in tank vehicles, from Illiopolis, Ill., to points in New Jersey, New York, and Wabash, Ind. Applicant is authorized to conduct operations in Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia.

HEARING: January 21, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Reece Harrison.

No. MC 110698 (Sub No. 108), filed December 2, 1958. Applicant: RYDER TANK LINE, INC., P. O. Box 457, Greensboro, N. C. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from points in Chatham County, Ga., to points in Florida. Applicant is authorized to conduct operations in Indiana, Ohio, Texas, Missouri, the District of Columbia, Kentucky, Arkansas, Pennsylvania, Delaware, New Jersey, New York, Mississippi, Louisana, Florida, Alabama, Maryland, West Virginia, Tennessee, South Carolina, Georgia, Virginia, and North Carolina.

HEARING: January 30, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 110698 (Sub No. 109), filed December 2, 1958. Applicant: RYDER TANK LINE, INC., P. O. Box 457, Greensboro, N. C. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from points in Chatham County, Ga., to points in Alabama. Applicant is authorized to conduct operations in Indiana, Ohio, Texas, Missouri, the District of Columbia, Kentucky, Arkansas, Pennsylvania, Delaware, New Jersey, New York, Mississippi, Louisiana, Florida, Alabama, Maryland, West Virginia, Tennessee, South Carolina, Georgia, Virginia, and North Carolina.

HEARING: January 30, 1959, at 680 West Peachtree Street, N. W., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 110698 (Sub No. 110), filed December 5, 1958. Applicant: RYDER TANK LINE, INC., P. O. Box 457, Greensboro, N. C. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, as defined by the Commission, in bulk, in tank vehicles, from Franklin, Va., to Holyoke and Fall River, Mass. Applicant is authorized to conduct operations in North Carolina, Virginia, Georgia, South Carolina, Tennessee, West Virginia, Maryland, Alabama, Florida, Louisiana, Mississippi, New York, New Jersey, Delaware, Pennsylvania, Arkansas, Kentucky, the District of Columbia, Missouri, Texas, Ohio, and Indiana.

HEARING: January 22, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Walter R. Lee.

No. MC 110804 (Sub No. 1), filed October 1, 1958. Applicant: CECIL L. INGRAM, Ball Ground, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated marble water closet stall partitions*, complete, from Nelson, Ga., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia. The proposed service will be under a continuing contract with the Georgia Marble Company. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia.

HEARING: January 26, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 110814 (Sub No. 9), filed September 24, 1958. Applicant: W. L. LINKENHOGER, G. N. LINKENHOGER & J. L. LINKENHOGER, doing business as WESTERN LINES, P. O. Box 2046, Corpus Christi, Tex. Applicant's attorney: Joe T. Lanham, Suite 1009, Perry-Brooks Building, Austin 1, Tex. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products, including compounded oils and greases having a petroleum base*, in packages or containers, (excluding any movement in bulk, in tank vehicles) and also *including brake fluids; compounds; compounds, antifreeze; compounds, buffing or polishing; compounds, cleaning liquids; compounds, iron or steel rust preventive or removing liquid; compounds, tree or weed killing; gasoline additives; deodorants; insecticides, agricultural, liquid; insecticides, other than agricultural, liquid; paraffin wax*, in boxes, barrels or containers; *sprayers*, NOB; *containers* (cartons, boxes, cans or drums); (1) from Beaumont, Tex. to points in New Mexico, Oklahoma, Arkansas, and Louisiana; (2) from West Port Arthur, Tex. to points in New Mexico and Oklahoma, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in Kansas, Texas, Oklahoma, Nebraska, Missouri, and Iowa.

HEARING: February 9, 1959, at the Hilton Hotel, Albuquerque, N. Mex., before Examiner Lawrence A. Van Dyke.

No. MC 111138 (Sub No. 11), filed November 14, 1958. Applicant: COLONIAL & PACIFIC FRIGIDWAYS, INC., 1215 Bankhead Highway West, Birmingham, Ala. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, packing house products, and commodities used by packing houses*, as defined in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209, 766, from Dubuque, Iowa, to Los Angeles, Sacramento, San Diego, San Francisco and Stockton, Calif., Portland, Oreg., Seattle and Spokane, Wash., Butte and Billings, Mont., Boise, Idaho, and Salt Lake City, Utah; (2) *dairy products*, as defined in Appendix I (B) to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209, from Mason City, Iowa, to points in California, Oregon and Washington; and *hooks, racks*, and *empty containers* used in transporting the above-described commodities, on return. Applicant is authorized to conduct operations in Illinois, Iowa, Wisconsin, California, Washington, Oregon, Tennessee, and Alabama.

HEARING: February 2, 1959, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Thomas F. Kilroy.

No. MC 111138 (Sub No. 12), filed November 14, 1958. Applicant: COLONIAL & PACIFIC FRIGIDWAYS, INC., 1215 Bankhead Highway West, Birmingham, Ala. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, fresh and frozen, as described in Appendix I (A) to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209, from Nampa, Idaho, Dixon, Calif., Portland, Oreg., Spokane and Seattle, Wash., and Storm Lake, Iowa, to Washington, D. C., Philadelphia, Pa., Albany and New York, N. Y., Boston, Mass., Waterbury, Conn., and Providence, R. I.; and shipper-owned *hooks* and *racks*, on return. Applicant is authorized to conduct operations in Illinois, Iowa, Wisconsin, California, Washington, Oregon, Tennessee, and Alabama.

HEARING: January 30, 1959, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Thomas F. Kilroy.

No. MC 111401 (Sub No. 103), filed November 10, 1958. Applicant: GROENDYKE TRANSPORT, INC., 2204 North Grand, Enid, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities, between points in New Mexico and Arizona. Applicant is authorized to conduct operations in Arizona, Arkansas, California, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, Texas, Utah, and Wyoming.

HEARING: February 2, 1959, at the New Mexico State Corporation Commission, Santa Fe, N. Mex., before Joint Board No. 129, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke.

No. MC 111434 (Sub No. 17), filed October 10, 1958. Applicant: DON WARD, INC., P. O. Box 902, Durango, Colo. Applicant's attorney: Charles E. Wright, Equitable Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acid*, in bulk, in tank vehicles, (1) from points in Gila and Pinal Counties, Ariz., to points in San Juan County, N. Mex.; and (2) from points in New Mexico to points in Colorado west of the Continental Divide, points in Coconino County, Ariz., and those in Grand and San Juan Counties, Utah. Applicant is authorized to conduct operations in Colorado, New Mexico, and Utah.

HEARING: February 3, 1959, at the New Mexico State Corporation Commission, Santa Fe, N. Mex., before Examiner Lawrence A. Van Dyke.

No. MC 111472 (Sub No. 59), filed November 14, 1958. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements* and *parts*, from Stockton, Calif., to points in the United States, including the District of Columbia. Applicant is authorized to conduct operations throughout the United States.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a common or contract carrier in No. MC 111472 Sub No. 53.

HEARING: February 16, 1959, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner Thomas F. Kilroy.

No. MC 112173 (Sub No. 17), filed October 13, 1958. Applicant: BOYD E. RICHNER, INC., 404 Third Avenue, Durango, Colo. Applicant's attorney: Charles E. Wright, Equitable Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, (1) From points in California to points in San Juan County, N. Mex., points in La Plata and Montrose Counties, Colo., points in Grand and San Juan Counties, Utah, and those in Coconino County, Ariz.; (2) From the Railhead at Thompsons, Utah to points in Grand and San Juan Counties, Utah, points in La Plata and

Montrose Counties, Colo., and points in San Juan County, N. Mex.; (3) From the Railhead at Montrose, Colo., to points in La Plata and Montrose Counties, Colo., and points in San Juan County, N. Mex.; and (4) *Empty containers or other such incidental facilities* (not specified) used in transporting Soda Ash on return. Applicant is authorized to conduct regular route operations in Colorado and Wyoming, and irregular route operations in Colorado, New Mexico, Utah, and Wyoming.

HEARING: January 23, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 112453 (Sub No. 3), filed October 13, 1958. Applicant: LESTER CRAIN, Dove Creek, Colo. Applicant's attorney: George E. Dilts, P. O. Box 38, 200 West Main, Cortez, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium* and *vanadium ores*, in bulk, from points within 175 miles of Monticello, Utah, to Mexican Hat, Utah, and points within 175 miles of Monticello, Utah. Applicant is authorized to conduct operations in Colorado and Utah.

NOTE: Applicant described the destination territory as to Mexican Hat, Utah and to any other Uranium and Vanadium buying stations or Uranium and Vanadium mills hereinafter designated and constructed within the 175 mile radius of Monticello, Utah now held by applicant.

HEARING: January 28, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 113518 (Sub No. 5), filed November 10, 1958. Applicant: FRESNO-ALBUQUERQUE TRUCK LINE, INC., 360 East Second Street, Los Angeles, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, alcohol*, and *wine making materials and supplies*, between Fresno, Visalia, Merced, Modesto, Napa, Chico, Taft, Imperial, Ventura, Santa Barbara, San Luis Obispo, and Salinas, Calif., and points in Tulare, Merced, Stanislaus, Napa, Butte, Kern, Imperial, Ventura, Santa Barbara, San Luis Obispo, and Monterey Counties, Calif.; on the one hand, and, on the other, Albuquerque, N. Mex., and Pueblo, Denver, and Golden, Colo. Applicant is authorized to conduct operations in California and New Mexico.

HEARING: February 17, 1959, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner Thomas F. Kilroy.

No. MC 113678 (Sub No. 4), filed November 19, 1958. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. Applicant's attorney: Robert H. Shertz, 225 South 15th Street, Philadelphia, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in List A of Appendix 1 of the Descriptions Case, from Denver, Colo., to Baltimore, Md., Hartford and New Haven, Conn., Newark and Carteret, N. J., Philadelphia, Pa., Springfield and Worcester, Mass., Mt. Kisco, N. Y., and points on Long Island, N. Y., and Providence, R. I. Applicant is authorized to conduct operations in Colorado, New York, Massachusetts, and the District of Columbia.

HEARING: January 29, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 114123 (Sub No. 15), filed November 20, 1958. Applicant: HERMAN R. EWELL, INC., East Earl, Lancaster County, Pa. Applicant's attorney: Andrew Wilson Green, 222 North Third Street, Harrisburg, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn syrup*, and *mixtures of* liquid and invert sugar and corn syrup, in bulk, in tank vehicles, from Yonkers, N. Y., to Front Royal, Va., and points in West Virginia; and *liquid fresh milk* (an exempt commodity) on return. Applicant is authorized to conduct operations in New York, West Virginia, Virginia, Pennsylvania, and Ohio.

NOTE: Applicant states that if this application is granted, any present duplicating authority will be surrendered.

HEARING: January 20, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Isadore Freidson.

No. MC 114541 (Sub No. 2), filed December 1, 1958. Applicant: FLORIDA FROZEN FOODS EXPRESS LIMITED, 4 Westside Drive, Toronto, Ontario, Canada. Applicant's attorney: Chester E. King, 1507 M Street NW., Washington 5, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen citrus products*, and *citrus products* not canned and not frozen, from points in Florida, except Winter Garden, Plant City, Lake Wales, Dade City and Auburndale, Fla., to the Port of Entry on the boundary between the United States and Canada at Niagara Falls, N. Y., and *fresh and frozen meat and meat by-products*, under bond from Canada, from the Port of Entry on the boundary between the United States and Canada at Niagara Falls, N. Y., to points in Florida.

NOTE: Applicant states the above-named except cities in Florida apply only to frozen citrus products.

HEARING: January 20, 1959, at the Angebilt Hotel, Orlando, Fla., before Commissioner Laurence K. Walrath.

No. MC 114897 (Sub No. 6), filed September 22, 1958. Applicant: WHITFIELD TANK LINES, INC., 240 West Amador Street, Las Cruces, N. Mex. Applicant's representative: J. P. Rose, P. O. Box 5345, El Paso, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Acids* and *chemicals*, in bulk, in tank or hopper-type vehicles, (a) between points in New Mexico, and (b) between points in New Mexico and points in Mesa, Montrose, San Miguel, Dolores, and Montezuma Counties, Colo.; points in Grand, San Juan, Garfield and Kane Counties, Utah, and those in Apache, Navajo, and Gila Counties, Ariz.; and (2) *Animal and vegetable oils*, in bulk, in tank vehicles, between points in Texas, New Mexico, Arizona, Nevada, Colorado, and Utah. Applicant is authorized to conduct operations in Arizona, Colorado, Nevada, New Mexico, Texas, and Utah.

HEARING: February 5, 1959, at the Hilton Hotel, Albuquerque, N. Mex., before Examiner Lawrence A. Van Dyke.

No. MC 115311 (Sub No. 10), filed October 23, 1958. Applicant: J & M TRANSPORTATION CO., INC., P. O. Box 894, Americus, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime*, in bulk, from points in Shelby, Jefferson, and Blount Counties, Ala., to Atlanta, Ga.; and (2) *Fertilizer* and *fertilizer materials*, in bulk, from Albany and Atlanta, Ga., to points in Alabama. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

HEARING: January 28, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 115594 (Sub No. 4), filed October 27, 1958. Applicant: HOLLOWAY MOTOR EXPRESS, INC., P. O. Box 2337, East Gadsden, Ala. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheat bran, wheat shorts* and *wheat middlings, alfalfa pellets* (whole and reground), *grain* and *grain products, mill feed* and *feed ingredients, grain screenings*, and *grain waste products*, in bulk and in containers, from points in Kansas and Missouri to points in Alabama located on and north of U. S. Highway 80, and points in Georgia located on and north of U. S. Highway 280, and to Boyce (Hamilton County), Tenn., and points in Tennessee located on and west of U. S. Highway 27, and *damaged* and *rejected shipments* of the above-specified commodities on return. Applicant is authorized to conduct regular route operations in Alabama and Georgia, and irregular route operations in Alabama, Georgia, Kansas, Missouri, and Tennessee.

HEARING: January 27, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 115841 (Sub No. 36), filed October 27, 1958. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, P. O. Box 2169, Birmingham, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M. C. C. 209, 766, from Grenada, Miss., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and New Jersey. Applicant is

authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

HEARING: January 22, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 115841 (Sub No. 37), filed October 28, 1958. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, Ala. Applicant's attorney: Allan Watkins, 214–216 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Frankfort, Mich., to points in Kentucky, West Virginia, Ohio, and Indiana. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

HEARING: January 19, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 116008 (Sub No. 16), filed December 5, 1958. Applicant: ARCHIE'S MOTOR FREIGHT, INCORPORATED, 316 East Sixth Street, Richmond 24, Va. Applicant's attorney: Glenn F. Morgan, 1006–1008 Warner Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, paper articles*, and *wood pulp*, from West Point, Va., to points in that part of Pennsylvania on and west of U. S. Highway 15, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, South Carolina, and West Virginia.

HEARING: January 22, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Donald R. Sutherland.

No. MC 116008 (Sub No. 17), filed December 5, 1958. Applicant: ARCHIE'S MOTOR FREIGHT, INCORPORATED, 316 East Sixth Street, Richmond 24, Va. Applicant's attorney: Glenn F. Morgan, 1006–1008 Warner Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved food products* (not including cold pack or frozen foods), and *empty containers or other such incidental facilities*, between points in Delaware on the one hand, and, on the other, points in that part of Pennsylvania on and south of U. S. Highway 422 and on and west of U. S. Highway 219. Applicant is authorized to conduct operations in Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, South Carolina, and West Virginia.

HEARING: January 22, 1959, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 199, or, if the Joint Board waives its right to participate, before Examiner Donald R. Sutherland.

No. MC 116045 (Sub No. 8), filed October 8, 1958. Applicant: NEUMAN TRANSIT CO., INC., P. O. Box 31, Rawlins, Wyo. Applicant's representative: Robert S. Stauffer, 1510 East 20th Street, Cheyenne, Wyo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Uranium concentrate*, commonly known as "Yellow Cake", from Edgemont, S. Dak., and points within 5 miles thereof to Grand Junction, Colo.; (2) *soda ash*, from Westvaco, Wyo., and points within 5 miles thereof to points in South Dakota, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in Colorado and Wyoming.

HEARING: January 20, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Joint Board No. 374, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke.

No. MC 116387 (Sub No. 20), filed October 23, 1958. Applicant: ALABAMA TANK LINES, INC., P. O. Box 36, Powderly Station, Birmingham, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in hopper-type and dump vehicles, from points in Shelby, Jefferson, and Blount Counties, Ala., to points in Fulton County, Ga. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, and Tennessee.

NOTE: Applicant states it is under common control and management with Southern Tank Lines, Inc., who holds authority under MC 109637 and Sub Numbers thereunder. Dual operations under section 210 may be involved.

HEARING: January 28, 1959, at 680 West Peachtree Street, NW., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 116587 (Sub No. 1), filed September 15, 1958. Applicant: EASTERN-WESTERN TRUCKING, INC., 3720 Military Road, Puyallup, Wash. Applicant's attorney: George R. La Bissoniere, 654 Central Building, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points in Washington, on the one hand, and, on the other, points in Oregon, Idaho, and Montana. Applicant is authorized to conduct operations in Washington.

HEARING: January 27, 1959, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Thomas F. Kilroy.

No. MC 116999 (Sub No. 1), filed September 29, 1958. Applicant: EPHRAIM FREIGHTWAYS, INC., 2909 West Seventh Avenue, Denver 4, Colo. Applicant's attorneys: Stockton, Linville and Lewis, The 1650 Grant Street Building, Denver 3, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require special equipment, between Denver, Pueblo and Colorado Springs, Colo., on the one hand, and, on the other, Grand Junction, Colo., serving all intermediate points between Gunnison and Grand Junction on U. S. Highway 50, including Gunnison, and serving intermediate points between Eagle and Grand Junction on U. S. Highways 6 and 24, including Eagle, and serving the intermediate point of Leadville, located on U. S. Highway 24, over the following described routes: (1) from Denver to Grand Junction over U. S. Highway 40 or U. S. Highway 6 to their junction at or near Empire, thence over U. S. Highway 6 to Grand Junction, and return over the same route; (2) from Denver over U. S. Highway 285 to its junction with U. S. Highway 50, thence over U. S. Highway 50 to Grand Junction, and return over the same route; (3) from Denver to Pueblo over either U. S. Highway 85 or U. S. Highway 87, and return over the same route; (4) from Pueblo to Grand Junction over U. S. Highway 50, and return over the same route; (5) from Colorado Springs over Colorado Highway 115 to its junction with U. S. Highway 50, thence over U. S. Highway 50 to Grand Junction, and return over the same route; (6) from Colorado Springs over U. S. Highway 24 to its junction with U. S. Highway 6, thence over U. S. Highways 6 and 24 to Grand Junction, and return over the same route; (7) from Colorado Springs over U. S. Highway 24 to its junction with U. S. Highway 285, thence over U. S. Highway 285 to its junction with U. S. Highway 50, thence over U. S. Highway 50 to Grand Junction, and return over the same route; (8) from Denver over U. S. Highway 6 or U. S. Highway 40 to their junction, thence over U. S. Highway 6 to its junction with Colorado Highway 91, thence over Colorado Highway 91 to its junction with U. S. Highway 24, thence over U. S. Highway 24 to its junction with U. S. Highway 285, thence over U. S. Highway 285 to its junction with U. S. Highway 50, thence over U. S. Highway 50 to Grand Junction, and return over the same route.

HEARING: January 20, 1959, at the County Court House, Grand Junction, Colo., before Joint Board No. 126.

No. MC 117559, filed July 31, 1958. Applicant: HART-SANDHOLM, INC., 3605 Blake Street, Denver, Colo. Applicant's attorney: Francis W. Jamison, 508 Majestic Building, Denver 2, Colo. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Broken and disabled tractors and trailers* and *large trucks* (no automobiles), between points in Nebraska, Wyoming, Utah, Arizona, New Mexico, Montana, and Colorado.

HEARING: January 21, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 117577 (Sub No. 3), filed November 17, 1958. Applicant: A. C. WIDENHOUSE, INC., 8 White Avenue, Concord, N. C. Applicant's attorney: Eugene T. Bost, Jr., 200–204 Cabarrus Bank & Trust Building, Concord, N. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, (1) from originating terminals in Salisbury and Wilmington, N. C., to points in Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Monroe, Polk, Sevier, Sullivan, Unico, Union, and Washington Counties, Tenn., (2) from originating terminals in Salisbury, N. C., to points in Anderson, Cherokee, Chester, Chesterfield, Darlington, Fairfield, Greenville, Lancaster, Kershaw, Laurens, Marlboro, Oconee, Pickens, Spartanburg, Sumter, Union and York Counties, S. C., and (3) from originating terminals in Wilmington, N. C., to points in Berkeley, Chester, Chesterfield, Charleston, Cherokee, Clarendon, Darlington, Dillon, Fairfield, Florence, Georgetown, Horry, Kershaw, Lancaster, Lee, Marion, Marlboro, Sumter, Williamsburg, and York Counties, S. C. *Damaged, rejected or excess asphalt* from the above-described destination points to the above-specified origin points.

HEARING: January 14, 1959, at the U. S. Court Rooms, Uptown, P. O. Building, Raleigh, N. C., before Joint Board No. 289, or, if the Joint Board waives its right to participate, before Examiner James I. Carr.

No. MC 117580 (Sub No. 1), filed September 29, 1958. Applicant: ATLANTA & WEST POINT RAIL ROAD COMPANY, a Corporation, 4 Hunter Street SE., Atlanta, Ga. Applicant's attorneys: Heyman, Abram & Young, 1504 Healey Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, moving in express service, between Atlanta, Ga., and West Point, Ga., over U. S. Highway 29, serving the intermediate points of Red Oak, Fairburn, Newnan, Grantville, Hogansville, and La Grange.

NOTE: Applicant is under common control and management with Western Railway of Alabama and Georgia Railroad, both common carriers by rail. Dual operations or common control may be involved. Applicant states that the above-described commodities will be transported to and from the regular established Railway Express offices located in the cities named in this application in lieu of Railway Express Service rendered on Atlanta & West Point Rail Road Trains Nos. 35 and 36, which trains have been discontinued and without the right to perform regular truck service or door to door pick-up and delivery service.

HEARING: January 29, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 101, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 117601 (Sub No. 1), filed November 10, 1958. Applicant: C & L TRUCKING CO., INC., 1535 Airway Road SW., Albuquerque, N. Mex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand* and *gravel*, from Shiprock, N. Mex., to points in Navajo and Apache Counties, Ariz., and those in Coconino County, Ariz., east of U. S. Highway 89 and north of U. S. Highway 66.

HEARING: February 4, 1959, at the Hilton Hotel, Albuquerque, N. Mex., before Joint Board No. 129, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke.

No. MC 117607 (Sub No. 1), filed September 29, 1958. Applicant: WESTERN RAILWAY OF ALABAMA, a Corporation, 4 Hunter Street SE., Atlanta, Ga. Applicant's attorney: Heyman, Abram & Young, 1504 Healey Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, moving in express service, between West Point, Ga., and Montgomery, Ala., from West Point over U. S. Highway 29 to junction Alabama Highway 14, thence over Alabama Highway 14 to junction Alabama Highway 81, thence over Alabama Highway 81 to junction U. S. Highway 80, thence over U. S. Highway 80 to Montgomery, and return over the same route, serving the intermediate points of Opelika, Auburn, Notasukga, and Tuskegee, Ala., and the off-route point of Milstead, Ala.

NOTE: Applicant is under common control and management with Atlanta & West Point Rail Road Company and Georgia Railroad, both common carriers by rail. Dual operations or common control may be involved. Applicant states that the above-described commodities will be transported to and from the regular established Railway Express offices located in the cities named in the instant application in lieu of Railway Express Service rendered on Western Railway of Alabama Trains Nos. 35 and 36, which trains have been discontinued, and without the right to perform regular truck service or door-to-door pick-up and delivery service.

HEARING: January 29, 1959, at 680 West Peachtree Street, NW., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

No. MC 117641, filed September 19, 1958. Applicant: G. C. PETERS, doing business as PETE PETERS TRAILER SALES, P. O. Box 1291, Cortez, Colo. Applicant's attorney: Robert E. Parga, P. O. Box 895, Cortez, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *House trailers* (mobile unit homes), between Cortez, Colo., on the one hand, and, on the other, points in New Mexico, Colorado, Utah, Texas, and Arizona.

HEARING: January 21, 1958, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

No. MC 117670, filed September 17, 1958. Applicant: CLIFTON W. BILLINGSLEY, doing business as C. & E. HAUL-A-WAY, P. O. Box 324 (305 East Burnside), Bend, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *House trailers*, between Bend, Oreg., on the one hand, and, on the other, points in Oregon, Washington, California, Idaho, Nevada, Utah, Montana, Colorado, Wyoming, and Ariona.

HEARING: February 4, 1959, at the Ground Floor, Pittock Block, 410 Southwest 10th Street, Portland, Oreg., before Examiner Thomas S. Kilroy.

No. MC 117713, filed October 13, 1958. Applicant: GEORGE BENNETT, doing business as BENNETT TRUCK LINE, 807 Ellenwood Circle, Macon, Ga. Applicant's attorney: T. Baldwin Martin, 503 First National Bank Building, Macon, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton gins and parts thereof* and *cotton picking machines and parts thereof*, from Columbus, Ga. to points in New Mexico, Arizona, and California.

HEARING: January 22, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 117715, (Clarification), published December 3, 1958 at page 9374, filed October 13, 1958. Applicant: MARIA V. D'AVELLA, doing business as LONG ISLAND AUTOMOBILE TRANSPORTERS CO., 87–39 90th Street, Woodhaven 21, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles*, in driveaway service, between New York, N. Y., and points in Westchester County, N. Y., and points in New York and New Jersey.

NOTE: The previous publication showed the proposed operations as a radial movement; this was in error and the proposed operations should be as shown above.

HEARING: Remains as assigned, January 21, 1959, at 346 Broadway, New York, N. Y., before Examiner James H. Gaffney.

No. MC 117767, filed October 27, 1958. Applicant: ARNOLD SERVICES, INC., P. O. Box 38, Whitesburg, Ga. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Window hardware*, and *ice-packed poultry* and *agricultural commodities*, between Middleton, Wis., and Miami, Fla.

HEARING: January 26, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Michael B. Driscoll.

No. MC 117700 (CORRECTION), filed October 8, 1958, published issue December 10, 1958. Applicant: ROGERS JOHNS, doing business as R. JOHNS TRANSFER, 834 Grayson Avenue NW., Roanoke 17, Va. Applicant's attorney: Wilbert G. Burnette, 302 Seventh Street, Lynchburg, Va. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the

Commission, commodities in bulk, and those requiring special equipment, from Salem, *Va.*, to points in West Virginia, and *empty containers or other such incidental facilities* used in transporting general commodities, with the above-specified exceptions, and *returned shipments* thereof, on return.

NOTE: Previous publication named the origin point as *Salem, Vt.* This was in error; correctly stated that portion should read: from *Salem, Va.* to points in West Virginia.

HEARING: Remains as assigned January 6, 1959, at the U. S. Court Rooms, Richmond, Va., before Joint Board No. 245, or, if the Joint Board waives its right to participate, before Examiner Mack Myers.

No. MC 117801, filed November 3, 1958. Applicant: SHELDON TRANSPORTATION COMPANY, a Corporation, 426 Main (P. O. Box 215), Suisun, Calif. Applicant's attorney: Marvin Handler, 625 Market Street, San Francisco 5, Calif. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt road oils, road emulsions*, and *residual fuel oils*, in bulk, in tank vehicles, from the plant site of American Bitumuls & Asphalt Co., in Oakland, Calif., and the plant site of Standard Oil Company, in Richmond, Calif., to points in Washow, Storey, Ormsby, Douglas, Lyon, Mineral, Churchill, Pershing, Humboldt and Landers Counties, Nev., and *rejected, contaminated or excess shipments* of the above-described commodities which had originated from the same plants, on return.

HEARING: February 18, 1959, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Joint Board No. 78, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 117803, filed November 6, 1958. Applicant: RAY E. LABERTEW, 2931 Withers, Pueblo, Colo. Applicant's attorney: Alvin J. Meiklejohn, Jr., 526 Denham Building, Denver 2, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from New Orleans, La., to Denver, Colo.

NOTE: Applicant has also filed an application under the "grandfather clause" of section 7 of the Transportation Act of 1958 which amended section 203 (b) (6) of the Interstate Commerce Act, assigned Docket No. MC 117803 Sub No. 1, to transport bananas from New Orleans, La., to Colorado Springs and Pueblo, Colo.

HEARING: January 28, 1959, in Court Room B, U. S. Post Office and Court House, Denver, Colo., before Examiner Lawrence A. Van Dyke.

APPLICATION FOR BROKERAGE LICENSE

No. MC 12686, filed November 20, 1958. Applicant: MONTGOMERY & SLAUGHTER, INC., U. S. Highway 17, P. O. Box 733, Crescent City, Fla. For a license (BMC 4) to engage in operations as a broker at Crescent City, Palatka and Lakeland, Fla., Elizabeth City, N. C., Richmond, Va., and Cranbury, N. J., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *general commodities, including household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, but excluding commodities of unusual value and Class A and B explosives, between Crescent City, Palatka and Lakeland, Fla., Elizabeth City, N. C., Richmond, Va., and Cranbury, N. J., and points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

HEARING: January 19, 1959, at the Angebilt Hotel, Orlando, Fla., before Commissioner Laurence K. Walrath.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 15214 (Sub No. 35), filed November 28, 1958. Applicant: MERCURY MOTORWAYS, INC., 945 Louise Avenue, South Bend, Ind. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities, except household goods as defined by the Commission, Class A and B explosives, livestock, commodities in bulk and those requiring special equipment, between Toledo, Ohio, and Fort Wayne, Ind.: from Toledo over U. S. Highway 24 to Fort Wayne, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Illinois, Ohio, Indiana, Michigan, and Wisconsin.

No. MC 50132 (Sub No. 50), filed December 1, 1958. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boxes*, wooden, wire-bound and/or not wire-bound, assembled and/or unassembled, from Macon, Ga., to Fort Dodge, Iowa. Applicant is authorized to conduct operations in Illinois, Louisiana, Arkansas, Missouri, Tennessee, Kentucky, North Carolina, South Carolina, Nebraska, Mississippi, Kansas, Alabama, Georgia, Virginia, Indiana, and Ohio.

NOTE: A proceeding has been instituted under section 212 (c) in No. MC 50132 Sub 38 to determine whether applicant's status is that of a contract or common carrier. Applicant has filed a "grandfather" application under section 7 of the Transportation Act, as a common carrier, assigned No. MC 113267 Sub No. 2.

No. MC 66562 (Sub No. 1465), filed November 17, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney William H. Marx, Law Department, 219 East 42d Street, New York 17, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, including Class A and B explosives, moving in express service, between Jackson, Ky., and Beattyville, Ky., over Kentucky Highway 52, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations (1) Between Lexington, Ky., and Hazard, Ky., and (2) Between Winchester, Ky., and Pine Ridge, Ky., as authorized in MC-66562 (Sub No. 1300), dated March 17, 1957. RESTRICTIONS: The service to be performed by applicant will be limited to service which auxiliary to or supplemental of express service. Shipments transported by applicant will be limited to those moving on a through bill of lading or express receipt, covering, in addition to the motor carrier movement by applicant, an immediately prior or an immediately subsequent movement by rail or air. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states interchange with rail or air express service will be made at Lexington, Ky.

No. MC 66562 (Sub No. 1470), filed December 1, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Wichita Falls, Tex., and Altus, Okla., from Wichita Falls over U. S. Highway 281 to Burkburnett, Tex., thence continuing over U. S. Highway 281 to junction Oklahoma Highway 36, thence over Oklahoma Highway 36 to Grandfield, Okla., thence continuing over Oklahoma Highway 36 to junction Oklahoma Highway 5, thence west over Oklahoma Highway 5 to Frederick, Okla., thence continuing over Oklahoma Highway 5 through Tipton, Okla., to junction U. S. Highway 283, thence over U. S. Highway 283 to Altus, and return over the same route, serving the intermediate points of Burkburnett, Tex., and Grandfield, Frederick and Tipton, Okla. RESTRICTION: The service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of, air or railway express service. Shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt, covering, in addition to a motor carrier movement by said applicant, an immediately prior or immediately subsequent movement by air or rail. Such further specified conditions as the Commission in the future may find necessary to impose in order to restrict carrier's operations to service which is auxiliary to, or supplemental of, express service. Applicant is authorized to conduct operations throughout the United States.

No. MC 86779 (Sub No. 22), filed November 21, 1958. Applicant: ILLINOIS CENTRAL RAILROAD COMPANY, a Corporation, 135 East 11th Place, Chicago 5, Ill. Applicant's attorney: Urchie B. Ellis, Commerce Attorney, Illinois Central Railroad (same address as applicant).

Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except coal and bulk, petroleum, between Rosedale, Miss., and Coahoma, Miss., over existing authorized routes as described under (D) (4) of Certificate No. MC 86779 between Clarksdale, Miss., and Greenville, Miss., and set out below. Modification of restriction on present operation is sought to permit a continued service operation over this route segment after the parallel railroad segment is abandoned. It is proposed to continue to serve the intermediate and off-route points of Friars Point, Dickerson, Stovall, Farrell, Sherard, Greengrove, Rena Lara, Hillhouse, Francis, Round Lake, Deeson, Perthshire, Gunnison, and Wright, Miss. Applicant's present route under (D) (4) of Certificate No. MC 86779 authorizes: "Between points in Mississippi as follows: from Clarksdale over Mississippi Highway 1 to junction unnumbered highway, thence over unnumbered highway to Friars Point, thence over unnumbered highway to Sherard, thence over Mississippi Highway 1 to Beulah, thence over unnumbered highway to Pace, thence return over unnumbered highway 1 to Beulah, and thence over Mississippi Highway 1 to Greenville, and return over the same route. Service is authorized to and from the intermediate and off-route points of Friars Point, Dickerson, Stovall, Farrell, Sherard, Greengrove, Rena Lara, Hillhouse, Francis, Round Lake, Deeson, Perthshire, Gunnison, Wright, Rosedale, Beulah, Pace, Labdell, Dahomy, Benoit, Scott, Lamont, Winterville, and Metcalf. RESTRICTION: The service authorized in section (D) (4) is subject to the following conditions: Said carrier shall not serve any point not a station on its rail lines, except Lorenzen, Grace, Hampton, Glen Allen, Marathon, Foote, Erwin, Longwood, Avon, Wayside, and Swiftwater, Miss. No shipments shall be transported by said carrier as a common carrier by motor vehicle between any of the following points, or through or to or from, more than one of said points: Memphis, Tenn., Clarksdale, Moorhead, Vicksburg, Greenwood, Greenville, Jackson, and Meridian, Miss. In addition to the restrictions set forth in the section indicated herein, the service authorized herein is subject to the following conditions: The service by motor vehicle to be performed by said carrier shall be limited to service which is auxiliary to or supplemental of the service by railroad. Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict said carrier's operations by motor vehicle to service which is auxiliary to or supplemental of its rail service." Applicant requests the Commission to modify its present authority which restricts it to serve only points which are stations on its lines, and should include in the exceptions the stations named in its rail abandonment proceedings, namely, Friars Point, Dickerson, Stovall, Farrell, Sherard, Greengrove, Rena Lara, Hillhouse, Francis, Round Lake, Deeson, Perthshire, Gunnison, and Wright, Miss. On behalf of applicant it is requested in view of the fact that there will no longer be a rail line between Rosedale and Coahoma it will also be proper that the intermediate stations be excepted from the requirements that service be auxiliary to and supplemental of applicant's rail service. Applicant is authorized to conduct operations in Alabama, Illinois, Indiana, Iowa, Kentucky, Minnesota, Mississippi, Tennessee, and Wisconsin.

No. MC 114106 (Sub No. 12), filed December 2, 1958. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Box 461, 1820 South Main Street, Lexington, N. 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: *Corn syrup*, in bulk, in tank vehicles, from Lexington, N. C., to Waynesboro, Va. Applicant is authorized to conduct operations in Georgia, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE: Applicant has a pending application under MC 115176 as a contract carrier. Section 210 (dual authority) may be involved.

No. MC 114194 (Sub No. 17), filed November 21, 1958. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Starch*, dry, in bulk, in hopper and other bulk type vehicles, from Granite City, Ill., to points in Missouri, Illinois, Ohio, Indiana, Pennsylvania, Michigan, Wisconsin, Minnesota, Kentucky, Tennessee, Arkansas, Louisiana, Oklahoma, Texas, Kansas, Nebraska, and Iowa. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Missouri, Ohio, and Tennessee.

No. MC 117775 (Sub No. 1), filed November 28, 1958. Applicant: LYLE DENEVAN, 2024 South Covell Avenue, Sioux Falls, S. Dak. Applicant's attorney: Theodore Mead Bailey, Jr., 613 Security Bank Building, Sioux Falls, S. Dak. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, such as fluid milk and cream, cottage cheese, sour cream, buttermilk powder, hard cheese, orange drink, orange juice, chocolate and other flavored milks, ice cream, frozen dessert and ice cream specialty items, and *equipment, materials* and *supplies* as are used in the dairy industry, (1) between the plant site of Foremost Dairies, Inc., at Sioux Falls, S. Dak., on the one hand, and, on the other, points in Minnesota, Nebraska and Iowa; (2) between points in Minnesota, Nebraska, and Iowa.

MOTOR CARRIERS OF PASSENGERS

No. MC 116578 (Sub No. 1), filed December 4, 1958. Applicant: ERNEST WILLIAM BEVACQUA, doing business as POWER CITY SCENIC TOURS, 620-16 Street, Niagara Falls, N. Y. Applicant's representative: Clarence E. Rhoney, 94 Oakwood Avenue, North Tonawanda, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round-trip sightseeing or pleasure tours, limited to the transportation of not more than eight passengers in any one vehicle, but not including the driver thereof and not including children under ten years of age who do not occupy a seat or seats, in seasonal operations between April 1 and November 30 of each year, beginning and ending at Niagara Falls, N. Y., and points within 6 miles thereof, and extending to ports of entry on the international boundary line between the United States and Canada at Niagara Falls and Lewiston, N. Y. Applicant is authorized to conduct operations in New York.

PETITION

No. MC 67916 (Sub No. 3) PETITION (dated November 26, 1958), FOR REOPENING, RECONSIDERATION AND MODIFICATION OF ORDERS DATED MAY 18, 1948 and JULY 31, 1951, THE NEW YORK CENTRAL RAILROAD COMPANY COMMON CARRIER APPLICATION, New York, N. Y. Petitioner's attorneys: Herbert Burstein and Kenneth H. Lundmark, 466 Lexington Avenue, New York 17, N. Y. The New York Central Railroad Company, petitioner, for the reasons set forth in its petition, requests that the above-captioned proceeding be reopened and that the orders of the Commission dated May 18, 1948, and July 31, 1951, be reconsidered and modified so as to enable petitioner to provide substituted-motor-for-rail service, free from the restrictive key-point conditions at Galion, Columbus, Springfield and Dayton, Ohio.

APPLICATION UNDER SECTION 212 (c) CONVERSION PROCEEDING

No. MC 115342 (Sub No. 2). Respondent: H. L. REYNOLDS, doing business as REYNOLDS TRUCKING CO., Attalla, Ala. The above-numbered proceeding was instituted under section 212 (c) on the Commission's own initiative, on February 17, 1958, to determine the carrier's status pertaining to his contract carrier authority issued on or before August 22, 1957. Such proceeding was instituted because the carrier failed to file verified statements in response to a Questionnaire mailed September 20, 1957. Such statements have now been filed and the order entered February 17, 1958, instituting a proceeding in No. MC 115342 (Sub No. 2), is hereby vacated and set aside as of January 15, 1959.

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 carrier 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 7058. Authority sought for control and merger by THE CHIEF FREIGHT LINES COMPANY, 1229½ Union Avenue, Kansas City 1, Mo., of the operating rights and property of KANSAS NEBRASKA XPRESS, INC., 1700

West Ninth Street, Kansas City 1, Mo., and for acquisition by J. E. STITH and WILLIAM M. KELLER, both of Kansas City, LLOYD STITH, 2401 North Howard, Tulsa, Okla., and H. B. HUFFHINES, 1620 Corsicana Street, Dallas, Tex., of control of such rights and property through the transaction. Applicants' attorneys: Carll V. Kretsinger and Tom B. Kretsinger, both of 1014–18 Temple Building, Kansas City 6, Mo. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Washington, Kans., and Kansas City, Mo., between Washington, Kans., and St. Joseph, Mo., between Washington, Kans., and Omaha, Nebr., between Belleville, Kans., and Oberlin, Kans., between Republic, Kans., and Kansas City, Mo., and from Kansas City, Mo., to Haddam, Kans., serving certain intermediate and off-route points; *general commodities*, with certain exceptions excluding household goods and including commodities in bulk, between Morrowville, Kans., and Kansas City, Mo., and between Morrowville, Kans., and St. Joseph, Mo., serving certain intermediate and off-route points; *household goods*, as defined by the Commission, from Kansas City, Mo., to Belleville, Kans., serving intermediate and off-route points within 15 miles of Belleville, restricted to delivery only; *livestock* and *eggs*, from Haddam, Kans., to Kansas City, Mo., serving certain intermediate and off-route points; *livestock, hardware, furniture*, and *iron and steel*, between Morrowville, Kans., and Omaha, Nebr., serving certain intermediate and off-route points; *livestock*, between Morrowville, Kans., and Grand Island, Nebr., between Republic, Kans., and St. Joseph, Mo., between Republic, Kans., and Omaha, Nebr., and from Superior, Nebr., to Wichita, Kans., serving certain intermediate and off-route points; *oil* and *grease*, from Belleville, Kans., to Holdredge, Nebr., serving the intermediate points of Clay Center and Hastings, Nebr., for delivery only; *household goods*, over irregular routes, between Washington, Kans., and points within 15 miles thereof, on the one hand, and, on the other, Kansas City, Kans., Kansas City, North Kansas City, and St. Joseph, Mo., and points in Nebraska; *household goods*, as defined by the Commission, *agricultural commodities*, and *emigrant movables*, between Republic, Kans., and points within 25 miles thereof, on the one hand, and, on the other, points in Colorado; *livestock, household goods*, as defined by the Commission, and *agricultural commodities*, between Chester, Nebr., points in Nebraska within 15 miles of Chester, and points in Kansas within 20 miles of Chester, on the one hand, and, on the other, St. Joseph and Kansas City, Mo., and points in Kansas, Nebraska, and Iowa; *livestock, feed, hardware, farm machinery and parts thereof, twine, printing paper, petroleum products in containers, seeds, tires, building materials, hogs, tankage, lubricating oil and grease in containers, binder twine, harvester-thresher combines and parts thereof*, from, to or between points and areas, varying with the commodity transported, in Kansas, Nebraska, Missouri, South Dakota, and Iowa. THE CHIEF FREIGHT LINES COMPANY is authorized to operate as a *common carrier* in Missouri, Oklahoma, Texas and Kansas. Application has been filed for temporary authority under section 210a (b).

No. MC–F 7060. Authority sought for purchase by TRI-STATE WAREHOUSING AND DISTRIBUTING CO., 315 East Seventh Street, P. O. Box 113, Joplin, Mo., of a portion of the operating rights of MID-CONTINENT FREIGHT LINES, 4350 West Roosevelt Road, Chicago, Ill. Applicants' attorneys: Franklin J. Van Osdel, First National Bank Building, Fargo, N. Dak., and Max G. Morgan, 450 American National Building, Oklahoma City, Okla. Operating rights sought to be transferred: *Class A and B explosives* and *ammunition* not so classified and *component parts of ammunition*, however classified, as a *common carrier* over regular routes, between specified points in Oklahoma on the one hand, and, on the other, Savanna Ordnance Depot near Savanna, Ill., Jefferson Proving Ground near Madison, Ind., Arsenal and Hoosier Ordnance Works near Watson, Ind., and Crane Naval Ammunition Depot near Burns City, Ind., serving no other points intermediate or terminal; *class A, B, and C explosives* as classified in the Commission's Rules and Regulations Governing the Transportation of Explosives and Other Dangerous Articles, over irregular routes, between points in Oklahoma on and east of U. S. Highway 81, on the one hand, and, on the other, points near Valley Park, Mo., located within three miles of the junction of U. S. Highway 66 and Missouri Highway 141, including said junction, with service at the described points near Valley Park, Mo., for the sole purpose of interchanging traffic with other motor carriers; *class A, B and C explosives, ammunition* including inert ammunition and *other dangerous articles* including component parts thereof, moving under Government bills of lading, between points in Oklahoma on and east of U. S. Highway 81, on the one hand, and, on the other, Zarah, Kans.; *class A, B, and C explosives, ammunition, inert ammunition and parts thereof*, when moving under Government bills of lading, serving Duenweg, Mo., solely for the purpose of interchange of shipments which carrier is otherwise authorized to interchange at points in Kansas and Oklahoma. Vendee is authorized to operate as a *common carrier* in Missouri, Oklahoma, Kansas, Illinois, Texas, Nebraska, Arkansas, and New Mexico. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 7061. Authority sought for purchase by ALKIRE TRUCK LINES, INC., Room 352, Livestock Exchange Building, Kansas City, Mo., of the operating rights of EDWIN C. DAVIDSON, doing business as MARSHALLTOWN EXPRESS, Tremont Building, Marshalltown, Iowa, and for acquisition by TENNYS ALKIRE, also of Kansas City, of control of such rights through the purchase. Applicants' attorney: William A. Landau, P. O. Box 1634, 1307 East Walnut Street, Des Moines 16, Iowa. 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 Marshalltown, Iowa, on the one hand, and, on the other, certain points in Iowa; *household goods*, as defined by the Commission, between certain points in Iowa, on the one hand, and, on the other, points in Nebraska, Illinois and Minnesota, and between Marshalltown, Iowa, and points within 15 miles thereof, on the one hand, and, on the other, points in Illinois, Nebraska, Missouri, Kansas, Minnesota, North Dakota, and South Dakota. Carrier may combine the above-described household goods authorities provided the authorities have a point common to both to which the carrier may transport a given shipment under one authority and from which it may transport the same shipment under the other, and establish through service under such combination provided in each instance the shipment is transported through the common or gateway point, and provided further that this certificate does not contain any restriction or other indication that through service shall not be conducted. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Oklahoma, Iowa, Illinois, Nebraska, and Indiana. Application has not been filed for temporary authority under section 210a (b).

By the Commission.

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

[F. R. Doc. 58-10389; Filed, Dec. 16, 1958; 8:47 a. m.]