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**Agencies in this issue—**



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# List of CFR Parts Affected

**The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.**

**A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.**

# Rules and Regulations

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

### PART 213—EXCEPTED SERVICE

#### Treasury Department

Section 213.3305 is amended to show that the title of the position of Special Assistant to the Secretary (Director, Executive Secretariat) has been changed to Deputy Assistant to the Secretary (Director, Executive Secretariat). Effective on publication in the FEDERAL REGISTER, subparagraph (1) of paragraph (a) of § 213.3305 is amended as set out below.

**§ 213.3305 Treasury Department.**

(a) *Office of the Secretary.* (1) One Deputy Assistant to the Secretary (Director, Executive Secretariat).

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4451; Filed, Apr. 15, 1969; 8:49 a.m.]

### PART 213—EXCEPTED SERVICE

#### Treasury Department

Section 213.3305 is amended to show that one Confidential Assistant to an Assistant Secretary is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (38) is added to paragraph (a) of § 213.3305 as set out below.

**§ 213.3305 Treasury Department.**

(a) *Office of the Secretary.* * * *

(38) One Confidential Assistant to an Assistant Secretary.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4450; Filed, Apr. 15, 1969; 8:49 a.m.]

### PART 213—EXCEPTED SERVICE

#### Department of Housing and Urban Development

Section 213.3384 is amended to show that the position currently listed in Schedule C as Assistant to the Federal Housing Commissioner is now titled Special Assistant to the Assistant Secretary for Mortgage Credit and FHA Commissioner, and that the abolished positions of Assistant to the FHA Commissioner for Intergroup Relations and Private Secretary to the Director, Urban Transportation Administration, are no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (13) of paragraph (b) and subparagraph (12) of paragraph (d) of § 213.3384 are revoked and subparagraph (14) of paragraph (b) is amended as set out below.

**§ 213.3384 Department of Housing and Urban Development.**

* * * * *

(b) *Office of the Assistant Secretary for Mortgage Credit and Federal Housing Commissioner.* * * *

(13) [Revoked]

(14) One Special Assistant to the Assistant Secretary.

* * * * *

(d) *Office of the Assistant Secretary for Metropolitan Development.* * * *

(12) [Revoked]

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4448; Filed Apr. 15, 1969; 8:48 a.m.]

### PART 213—EXCEPTED SERVICE

#### Department of Housing and Urban Development

Section 213.3384 is amended to show that the position of Private Secretary to the Deputy Assistant Secretary for Metropolitan Development is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (14) is added to paragraph (d) of § 213.3384 as set out below.

**§ 213.3384 Department of Housing and Urban Development.**

* * * * *

(d) *Office of the Assistant Secretary for Metropolitan Development.* * * *

(14) One Private Secretary to the Deputy Assistant Secretary for Metropolitan Development.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4449; Filed, Apr. 15, 1969; 8:49 a.m.]

### PART 735—EMPLOYEE RESPONSIBILITIES AND CONDUCT

#### Exception to Definition of "Consultant" and "Expert"

Section 735.412(c) is amended by adding a new subparagraph (3) making an additional exception to the definitions of "consultant" and "expert". The new subparagraph reads as follows:

**§ 735.412 Specific provisions of agency regulations for special Government employees.**

* * * * *

(c) * * *

(3) A specialist appointed for intermittent confidential intelligence consultation of brief duration.

(Secs. 602, 701, 702, E.O. 11222; 3 CFR, 1964–65, Comp., p. 306)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4452; Filed, Apr. 15, 1969; 8:49 a.m.]

## Title 7—AGRICULTURE

### Chapter II—Consumer and Marketing Service (Consumer Food Programs), Department of Agriculture

### PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

#### Appendix—Second Apportionment of Special Milk Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1969

Pursuant to section 3 of the Child Nutrition Act of 1966, Public Law 89-642, 80 Stat. 885–6, milk assistance funds available for the fiscal year ending June 30, 1969, are reapportioned among the States as follows, in order to effect a further apportionment of supplemental funds:

| State | Total apportionment | State agency | Withheld for private schools |
|---|---|---|---|
| Alabama | $1,753,973 | $1,692,369 | $61,604 |
| Alaska | 28,738 | 28,738 | ..... |
| Arizona | 470,669 | 422,666 | 48,001 |
| Arkansas | 1,128,876 | 1,069,709 | 59,167 |
| California | 9,381,525 | 9,381,525 | ..... |
| Colorado | 946,912 | 859,020 | 87,892 |
| Connecticut | 1,720,436 | 1,720,436 | ..... |
| Delaware | 348,827 | 296,944 | 51,883 |
| Del. St. Dist. Agency | 20,431 | 20,431 | ..... |
| District of Columbia | 615,204 | 615,204 | ..... |
| Florida | 2,003,890 | 1,832,128 | 171,762 |
| Georgia | 1,672,312 | 1,634,544 | 37,768 |
| Hawaii | 182,484 | 133,962 | 48,522 |
| Idaho | 193,604 | 166,540 | 27,064 |
| Illinois | 6,659,779 | 6,659,779 | ..... |
| Indiana | 3,058,489 | 3,058,489 | ..... |
| Iowa | 1,863,089 | 1,648,969 | 214,720 |

| State | Total apportionment | State agency | Withheld for private schools |
|---|---|---|---|
| Kansas | 1,151,399 | 1,151,399 | ..... |
| Kentucky | 1,924,912 | 1,924,912 | ..... |
| Louisiana | 708,505 | 708,505 | ..... |
| Maine | 524,740 | 431,356 | 93,384 |
| Maryland | 2,355,043 | 2,001,175 | 353,868 |
| Md. Bud. & Proc | 52,305 | 52,305 | ..... |
| Massachusetts | 3,594,690 | 3,594,690 | ..... |
| Michigan | 5,394,173 | 4,371,521 | 1,022,652 |
| Minnesota | 2,726,351 | 2,380,719 | 345,632 |
| Mississippi | 1,443,868 | 1,443,868 | ..... |
| Missouri | 2,386,046 | 2,336,984 | 49,062 |
| Montana | 204,928 | 170,172 | 34,756 |
| Nebraska | 641,389 | 517,466 | 123,923 |
| Nevada | 153,597 | 129,834 | 23,763 |
| New Hampshire | 525,115 | 455,675 | 69,440 |
| New Jersey | 3,933,989 | 3,403,069 | 530,920 |
| New Mexico | 747,902 | 435,068 | 312,834 |
| New York | 9,182,327 | 9,182,327 | ..... |
| N.Y. Off. Gen. Serv | 452,066 | 452,066 | ..... |
| North Carolina | 3,543,409 | 3,543,409 | ..... |
| North Dakota | 378,263 | 332,919 | 45,344 |
| Ohio | 6,395,205 | 5,517,276 | 877,929 |
| Ohio Dept. Pub. Wel | 197,534 | 197,534 | ..... |
| Oklahoma | 1,100,247 | 1,100,247 | ..... |
| Oregon | 654,793 | 634,391 | 20,402 |
| Pennsylvania | 5,260,830 | 4,574,862 | 685,968 |
| Rhode Island | 456,663 | 456,663 | ..... |
| South Carolina | 652,557 | 530,910 | 121,647 |
| South Dakota | 370,042 | 370,042 | ..... |
| Tennessee | 1,859,619 | 1,777,240 | 82,379 |
| Texas | 3,827,667 | 3,521,009 | 306,658 |
| Utah | 360,393 | 346,169 | 14,224 |
| Vermont | 259,054 | 249,643 | 9,411 |
| Virginia | 1,891,853 | 1,710,987 | 180,866 |
| Washington | 1,500,140 | 1,258,823 | 241,317 |
| West Virginia | 664,866 | 631,214 | 33,652 |
| Wisconsin | 3,668,620 | 2,843,987 | 824,633 |
| Wyoming | 119,002 | 119,002 | ..... |
| Total | 103,314,000 | 96,100,962 | 7,213,038 |

(Sec. 2, 3, 6, and 8–16, 80 Stat. 885–890; 42 U.S.C. 1771, 1772, 1775, 1777–1785)

Dated: April 10, 1969.

ROY W. LENNARTSON,
*Administrator.*

[F.R. Doc. 69-4475; Filed, Apr. 15, 1969; 8:51 a.m.]

## Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lime Reg. 3, Amdt. 9]

## PART 944—FRUIT; IMPORT REGULATIONS

### Limes

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the provisions of paragraph (a) preceding (a)(1) and of subparagraphs (2) and (3) thereof of § 944.202 (Lime Reg. 3; 33 F.R. 5039, 6096, 6518, 19248) are hereby amended to read as follows:

§ 944.202 Lime Regulation 3.

(a) On and after April 14, 1969, the importation into the United States of any limes is prohibited unless such limes are inspected and meet the following requirements:

(1) * * *

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. Combination, Mixed Color; or

(3) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1⅞ inches in diameter: *Provided,* That any lot of such limes (*a*) which contains limes of a size smaller than 1⅞ inches in diameter but not smaller than 1⅝ inches in diameter may be imported if such lot of limes has an average juice content of at least 45 percent, by volume, and (*b*) which contains limes of a size smaller than 1⅞ inches in diameter but not smaller than 1⅝ inches in diameter may be imported if such lot of limes has an average juice content of at least 50 percent, by volume.

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions being made applicable to domestic shipments of limes under amended Lime Regulation 27 (§ 911.329), which becomes effective April 14, 1969; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this regulation relieves restrictions on the importation of Persian limes during the period April 14–30, 1969.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, April 10, 1969, to become effective April 14, 1969.

PAUL A. NICHOLSON,
*Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 69-4420; Filed, Apr. 15, 1969; 8:46 a.m.]

## Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk) Department of Agriculture

[Milk Order 73]

## PART 1073—MILK IN WICHITA, KANS., MARKETING AREA

### Order Terminating Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Wichita, Kans., marketing area (7 CFR Part 1073), it is hereby found and determined that:

(a) The following provisions of the order relating to the seasonal incentive payment plan no longer tend to effectuate the declared policy of the Act:

Paragraphs (f), (g), (h), (i), and (j) of § 1073.71.

(b) Thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This termination order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This termination order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This termination order is necessary to avoid a conflict between the seasonal incentive "Louisville" payment plan of the order and a Class I base plan operated by the cooperative which is used in dividing returns from the sale of milk among its member producers. Producers for the Wichita, Kans., market have not been paid on the basis of the seasonal incentive plan since it was made effective on September 1, 1966. These provisions were suspended for the years of 1967 and 1968 at the request of this cooperative and a predecessor cooperative association.

(4) Interested parties were afforded opportunity to file written data, views, or arguments concerning this termination (34 F.R. 5552). A cooperative association representing about 95 percent of the producer milk supply for the market filed views supporting termination of the above provisions. No opposing views were filed.

Therefore, good cause exists for making this order effective April 1, 1969.

*It is therefore ordered,* That the aforesaid provisions of the order are hereby terminated.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: April 1, 1969.

Signed at Washington, D.C., on April 10, 1969.

RICHARD E. LYNG,
*Assistant Secretary.*

[F.R. Doc. 69-4422; Filed, Apr. 15, 1969; 8:46 a.m.]

[Milk Order 103]

## PART 1103—MILK IN MISSISSIPPI MARKETING AREA

### Order Amending Order

*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 Mississippi 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.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than April 1, 1969. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued March 26, 1969. The change effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1969, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

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

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum in which each individual producer had one vote, and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

*Order relative to handling*—It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Mississippi marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

*Amendments with respect to revising the base-excess plan.* Amendments No. 1 and 1a shall become effective April 1, 1969.

**§ 1103.82 [Amended]**

1. In § 1103.82(a), change the semicolon at the end of the paragraph (preceding the word "and") to a period and insert the following sentence: "In addition for the months of April, May, June and July 1969, a producer who was also a producer in September 1968 delivering to a pool distributing plant which in subsequent months of the September 1968 through January 1969 base forming period did not qualify as a pool plant shall be assigned a base calculated from his milk deliveries to plants during the September 1968 through January 1969 period as if he were a producer during such entire base forming period".

**§ 1103.83 [Amended]**

1a. In § 1103.83 add the following sentence: "In the case of any producer for whom it is necessary to calculate a base subsequent to March 1, the market administrator shall provide such notification at the earliest possible date."

*Amendments with respect to the deletion of the base-excess plan.* Amendments No. 2 through 9 shall become effective September 1, 1969.

**§ 1103.22 [Amended]**

2. In § 1103.22(i), the word "and" appearing at the end of subparagraph (2) is deleted and subparagraph (3) is revoked.

3. In § 1103.22(l), subparagraph (2) is revoked.

4. Section 1103.30(a)(1)(i) is revised to read as follows:

**§ 1103.30 Reports of receipts and utilization.**

(a) * * *

(1) * * *

(i) Receipts of producer milk, including such handler's own production;

* * * * *

5. In § 1103.31, paragraph (a)(2) and (b)(2)(i) are revised to read as follows:

**§ 1103.31 Payroll reports.**

(a) * * *

(2) The daily and total pounds of milk received from such producer;

* * * * *

(b) * * *

(2) * * *

(i) The daily and total pounds of milk received during the month and the average butterfat test thereof; and

* * * * *

6. In § 1103.71, revise the sentence following paragraph (f) to read as follows:

**§ 1103.71 Computation of the weighted average price and uniform price.**

* * * * *

(f) * * *

The result shall be the "weighted average price" or the "uniform price" for milk received from producers.

**§§ 1103.72, 1103.80, 1103.81, 1103.82, 1103.83 [Revoked]**

7. Sections 1103.72, 1103.80, 1103.81, 1103.82, and 1103.83 and the center-heading "Base Rating" preceding § 1103.80 are revoked.

8. In § 1103.90(a), the introductory text preceding subparagraph (1) is revised to read as follows:

**§ 1103.90 Time and method of payment.**

* * * * *

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price pursuant to § 1103.71 adjusted by the producer butterfat differential computed pursuant to § 1103.91, subject to the location adjustment to producers pursuant to § 1103.92, and less the following amounts:

* * * * *

9. Section 1103.92(a) is revised to read as follows:

**§ 1103.92 Location differential to producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1103.90, the uniform price pursuant to § 1103.71 to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1103.53; and

* * * * *

(Secs. 1–19, 48 Stat. 31 as amended; 7 U.S.C. 601–674)

Effective date: This revision shall become effective on April 1, 1969, except amendments No. 2 through 9 which shall become effective on September 1, 1969.

Signed at Washington, D.C., on April 10, 1969.

RICHARD E. LYNG,
*Assistant Secretary.*

[F.R. Doc. 69-4421; Filed, Apr. 15, 1969; 8:46 a.m.]

# Title 10—ATOMIC ENERGY

## Chapter I—Atomic Energy Commission

## PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

### Transfer of Products Containing Byproduct Material and Source Material Exempted From Licensing and Regulatory Requirements

On February 24, 1968, the Atomic Energy Commission published in the FEDERAL REGISTER (33 F.R. 3346) a proposed

amendment to 10 CFR Part 150 which would redefine the category of products containing radioactive materials over whose transfer by the manufacturer, processor, or producer in an Agreement State the Commission retains jurisdiction. The notice of proposed rule making was published in the FEDERAL REGISTER once each week for four consecutive weeks, allowing 60 days for public comment after initial publication.

After consideration of the comments and other factors involved, the Commission has adopted the proposed amendment. The text of the effective rule is the same as the proposed rule except for clarifying changes of language.

Subsection 274c of the Atomic Energy Act of 1954, as amended, provides that notwithstanding any agreement between the Atomic Energy Commission and any State, the Commission is authorized to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

In issuing 10 CFR Part 150, which implemented certain provisions of section 274 of the Act, in 1962, the Commission exercised its authority under subsection 274c of the Act by providing (§ 150.15(a)(6)) that persons in Agreement States are not exempt from the Commission's licensing requirements with respect to * * *

(6) The transfer of possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material, intended for use by the general public.

In retaining regulatory authority over transfer of products "intended for use by the general public", the Commission was seeking to maintain surveillance over the safety of products containing radioactive materials, without the imposition of regulatory controls, and to be able to assess the effect of the attendant uncontrolled addition of these radioactive materials to the environment.

In view of the increasing difficulty in determining whether or not such products are intended for use by the general public, the Commission has adopted the amendment of Part 150 set out below, which changes § 150.15(a)(6) by deleting the phrase "product * * * intended for use by the general public" and substituting therefor the phrase "product * * * whose subsequent possession, use, transfer and disposal by all other persons are exempted from licensing and regulatory requirements of the Commission under Parts 30 and 40 of this chapter."

Under Part 150 as amended below the transfer of possession or control by a manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material or source material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from Commission licensing and regulatory requirements under Parts 30 and 40, is not subject to the licensing and regulatory authority of an Agreement State even though the product is manufactured, processed, or produced pursuant to an Agreement State license. The manufacturer of such products in an Agreement State is subject to the Commission's regulatory authority with respect to transfer of any product which has been so exempted from the Commission's licensing and regulatory requirements. The Commission has confined its regulation of the transfer of exempt products to specifications for the products, quality control procedures, requirements for testing, and labeling. The authority of Agreement States to regulate any radiation hazards that might arise during manufacture of such products is not affected by the amendment. Accordingly, dual regulation will continue to be avoided.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 150, is published as a document subject to codification effective thirty (30) days after publication in the FEDERAL REGISTER.

Subparagraph 150.15(a)(6) is amended to read as follows:

§ 150.15 Persons not exempt.

(a) Persons in Agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the following activities:

* * * * *

(6) The transfer of possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from licensing and regulatory requirements of the Commission under Parts 30 and 40 of this chapter.

* * * * *

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201; sec. 274, 73 Stat. 688; 42 U.S.C. 2021)

Dated at Washington, D.C., this 9th day of April 1969.

For the Atomic Energy Commission.

W. B. McCOOL,
*Secretary.*

[F.R. Doc. 69-4419; Filed, Apr. 15, 1969; 8:51 a.m.]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 69-WE-6-AD; Amdt. 39-752]

## PART 39—AIRWORTHINESS DIRECTIVES

### Lockheed Model L-188 Series Airplanes

There have been cracks reported in the lower wing surface at the inboard nacelles on Lockheed Model L-188 Series airplanes that could result in a serious degradation of the strength of the wing. Since this condition is likely to exist in other airplanes of the same type design, an airworthiness directive is being issued to require a one-time inspection of the lower wing surface at the inboard nacelles on Lockheed Model 188 Series airplanes, and repairs of the cracks. The results of that inspection will be reported to the Chief, Aircraft Engineering Division, FAA Western Region, and will be used in determining any additional AD action that may be required.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

LOCKHEED. Applies to Model L-188 series airplanes.

Compliance required within the next 400 hours' time in service after the effective date of this AD, unless previously accomplished.

To detect cracks in the lower wing surfaces of Electra aircraft, accomplish the following:

(1) Visually inspect the lower wing plank surfaces and areas around fasteners, including planks one through eight between W.S. 157 and W.S. 219 in accordance with the procedure outlined in paragraphs A through E of FAA approved Lockheed Service Bulletin 88/SB-669, or later FAA-approved revisions.

(2) If cracks exist, appropriate repair must be accomplished before further flight in accordance with paragraph F of FAA-approved Lockheed Service Bulletin 88/SB-669, or in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(3) Report all results of this inspection, whether accomplished before or after the effective date of this AD, to the Chief, Aircraft Engineering Division, FAA Western Region. Reports must include crack locations and length, if any, aircraft serial number, and accumulated hours' time in service. The

data received in the required reports will form the basis for any further AD action that may be required. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

Airplanes with cracks may be flown in accordance with special flight permits issued pursuant to FAR 21.197 to a base where repair can be accomplished.

This amendment becomes effective on April 17, 1969.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, and 1423, and of sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on April 8, 1969.

LEE E. WARREN,
*Acting Director, Western Region.*

[F.R. Doc. 69-4413; Filed, Apr. 15, 1969; 8:46 a.m.]

[Docket No. 69-EA-34; Amdt. 39-750]

## PART 39—AIRWORTHINESS DIRECTIVE

### Fairchild Hiller Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Fairchild Hiller F27 and FH-227 type airplanes.

There have been several reports of gear retraction of the subject aircraft while the aircraft were on the ground and parked. Since this condition is likely to exist in other aircraft of the same type design, an airworthiness directive is being issued to require a change in the landing gear selector wiring and the landing control wiring.

Since a situation exists which requires the expeditious publication of this amendment, notice and public procedure herein are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 [31 F.R. 13697], § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive.

FAIRCHILD. Applies to all Model F-27 series and FH-227 series airplanes.

Compliance required within the next 500 hours time in service after the effective date of this AD unless already accomplished.

To prevent hazards associated with an unselected landing gear retraction on the ground, accomplish the following:

(a) Rewire the landing gear retraction system in accordance with Fairchild Hiller Service Bulletin 32-64 dated June 12, 1967, for F-27 aircraft and Fairchild Hiller Service Bulletin 32-5 dated March 13, 1967, for FH-227 aircraft or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, or equivalent modification approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) Upon request, with substantiating data submitted through an FAA Maintenance Inspector, compliance time may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective April 23, 1969.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421 and 1423, and sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on April 4, 1969.

WAYNE HENDERSHOT,
*Acting Director, Eastern Region.*

[F.R. Doc. 69-4416; Filed, Apr. 15, 1969; 8:46 a.m.]

[Airspace Docket No. 69-SO-30]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Greensboro, N.C., transition area.

The Greensboro transition area is described in § 71.181 (34 F.R. 4637). An extension to the transition area is predicated on the Greensboro ILS localizer southeast course. Since the AL-178-ILS-RWY 32 (BC) standard instrument approach procedure will be canceled, effective May 8, 1969, it is necessary to alter the transition area by revoking the extension that was designated to provide controlled airspace protection for this approach procedure.

Since this amendment is less restrictive in nature, notice and public procedure hereon are unnecessary, and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 8, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Greensboro, N.C., transition area is amended as follows: "* * * within 2 miles each side of the Greensboro ILS localizer southeast course, extending from the 8-mile radius area to 8 miles southeast of the Greensboro VORTAC 087° radial * * *" is deleted.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348(a) and of sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in East Point, Ga., on April 7, 1969.

JAMES G. ROGERS,
*Director, Southern Region.*

[F.R. Doc. 69-4412; Filed, Apr. 15, 1969; 8:46 a.m.]

[Airspace Docket No. 69-SO-26]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Transition Area; Withdrawal of Alteration

On March 22, 1969, Federal Register Docket No. 69-3425 was published in the FEDERAL REGISTER (34 F.R. 5547) amending Part 71 of the Federal Aviation Regulations by altering the Shelbyville, Tenn., transition area.

Subsequent to publication of the rule, it was determined that the instrument approach procedure (AL-5299-VOR-RADIAL 270), necessitating the alteration, would not be canceled.

In consideration of the foregoing, the amendment contained in Airspace Docket No. 69-SO-26 (F.R. Doc. No. 69-3425) is withdrawn.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348(a) and of sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in East Point, Ga., on April 7, 1969.

JAMES G. ROGERS,
*Director, Southern Region.*

[F.R. Doc. 69-4415; Filed, Apr. 15, 1969; 8:46 a.m.]

# Title 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

## PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

### Legality of Membership by Brewer in Beer Wholesalers' Trade Association

§ 15.336 Legality of membership by brewer in beer wholesalers' trade association.

Responding to an application from a beer wholesalers' association the Commission advised the applicant that:

(1) "* * * it is not illegal per se for suppliers to belong to a wholesalers' trade association, but particular care must be exercised to avoid violation of law. In the case of an industry where distributors are in a weak bargaining position, vis-a-vis, their suppliers and where the industry on the supply side is concentrated, these circumstances may lead to vertical restraints on the distributors violative of the antitrust laws for example in the area of pricing decisions. These considerations may apply in the case of the beer industry. The necessity of preserving its members' independence in making business decisions should, of course, be taken into consideration by trade association when they formulate membership policies.

(2) "The Commission further advised the applicant that it is not a violation of the antitrust laws to exclude suppliers from membership in a wholesalers' organization."

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: April 15, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 69–4525; Filed, Apr. 15, 1969; 8:51 a.m.]

# Title 18—CONSERVATION OF POWER AND WATER RESOURCES

## Chapter I—Federal Power Commission

[Docket No. R–356; Order 380]

## PART 141—STATEMENTS AND REPORTS (SCHEDULES)

### Order Prescribing Revised Instruction to Schedule of FPC Form No. 1–M

APRIL 10, 1969.

By this order we prescribe a new Instruction 2 to the schedule titled "Sales of Electricity for Resale", contained in Commission Form No. 1–M. The proposed revision provides a breakdown between firm power sales supplying a customer's total system requirements or total requirements at a specific point of delivery, and firm power sales supplementing the customer's own generation or other purchases. A copy of the schedule as changed is attached hereto.

A notice of proposed rule making proposing the above described change was issued on January 8, 1969 (34 F.R. 767; Jan. 17, 1969). The Commission received two comments and we have made a revision to accommodate the substance of those comments. Both comments indicate that Chelan P.U.D. No. 1 and Grant P.U.D. No. 2 sell the output of their hydroelectric projects on the basis of a percentage of total project energy and capacity available. Consequently, those two entities are unable to segregate firm from nonfirm power sales. We believe that the majority of municipal respondents to Form No. 1–M will not encounter the problems indicated by Chelan P.U.D. No. 1 and Grant P.U.D. No. 2. In cases where the reporting utility is unable to classify which portions of its power sales to a customer for resale are sales of firm power because of a sale on an undifferentiated basis, such utilities should use the symbol O in coluumn (2).

The addition of a new Instruction 2. to the schedule entitled "Sales of Electricity for Resale" is desirable to obtain information on firm power sales made by municipally owned utilities for statistical and general publication purposes. Immediately, it will provide data for inclusion in a Commission publication "Sales of Firm Electric Power for Resale" now limited to information on privately owned companies and Federal projects.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking by submission of data, views, and comments are consistent with all the requirements of the Administrative Procedure Act (5 U.S.C. 553).

(2) The new Instruction 2. of the schedule titled "Sales of Electricity for Resale" is needed to obtain data for a Commission publication "Sales of Firm Electric Power for Resale", and for the other reasons already stated.

(3) It is necessary and appropriate for the purposes of the Federal Power Act that the wording of Instruction 2. of the schedule titled "Sales of Electricity for Resale" contained in FPC Form No. 1–M be amended to read as hereinafter provided.

The Commission, acting pursuant to the provisions of the Federal Power Act as amended, particularly sections 309, and 311 thereof (49 Stat. 858, 859; 16 U.S.C. 825h, 825j) orders:

(A) Effective for the calendar year beginning January 1, 1969, or for a year beginning or ending during the calendar year 1969, each municipality as defined by section 3(7) of the Federal Power Act (41 Stat. 1963; 16 U.S.C. 796), having annual electric operative revenues of $250,000 or more, whether or not the jurisdiction of the Commission is otherwise involved, shall prepare and file with the Commission FPC Form No. 1–M at the time indicated in § 141.7 (18 CFR 141.7) of the Commission's regulations under the Federal Power Act.

(B) The Commission's Form No. 1–M, prescribed by § 141.7 of Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations is revised so that Instruction 2. to the schedule titled "Sales of Electricity for Resale" reads as follows:

2. For each sale designate statistical classification in column (2) thus: FR, for firm power supplying total system requirements of customer or total requirements at a specific point of delivery; FP (P), for firm power supplementing customer's own generation or other purchases; O, for other power. NOTE: Include in the O classification sales in which the power delivered cannot be classified under either of the above definitions.

(Secs. 309, 311, 49 Stat. 858, 859; 16 U.S.C. 825h, 825j)

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

(D) The aforesaid amendment to Instruction 2. shall be effective 30 days from the date of issuance of this order.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69–4401; Filed, Apr. 15, 1969; 8:45 a.m.]

# Title 19—CUSTOMS DUTIES

## Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 69–99]

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

### Vessel Supplies; Customs Regulations Amended

Section 10.62, Customs Regulations, concerning withdrawals under section 309 of the Tariff Act of 1930, as amended, of bunker fuel oil for vessels, amended.

It has been found to be desirable to extend under certain conditions the procedure authorized by § 10.62 for the withdrawal of bunker fuel oil under section 309 of the Tariff Act of 1930, as amended, to withdrawals for delivery to using vessels at a port or ports other than the port where the fuel oil is withdrawn from the customs bonded tank.

It is also desirable to incorporate in the Customs Regulations the procedure authorized by a Treasury decision (T.D. 53982(1)) under which as an incident of the delivery to a vessel under section 309 of the tariff act of fuel oils classifiable at different rates of duty, permission may be given to blend the oils after withdrawal from the bonded tank.

Certain information, additional to that provided by customs Form 7505–B, is needed to effect the physical withdrawal of the fuel oil from the bonded tank.

To effect these changes, § 10.62 of the Customs regulations is amended to read as follows:

**§ 10.62 Bunker fuel oil.**

(a) When all the bunker fuel oil in a customs bonded tank is intended only for lading duty free as supplies on vessels under section 309 of the Tariff Act of 1930, as amended, delivery of the oil, either by pipeline or by customs bonded carrier, under withdrawals on customs Form 7506, either single or monthly (blanket), may be effected without the presence of a customs officer upon the condition that customs Form 7505–B, Order to Release Merchandise on Order of the Warehouse Proprietor, is executed by the withdrawer for each delivery of oil from the tank. Customs Form 7505–B shall be filed by him with the district director of customs at the time of withdrawal or at such other time as the district director may specify and shall include the following additional data:

(1) Type of oil withdrawn.

(2) Number or other identification of sales order therefor.

(3) Name of bonded carrier, date it received oil.

(4) Receipt signed by master or other person in charge of delivering conveyance identified by number or name and, if a customs bonded lighterman or cartman, by the carrier's license number.

(5) Name and location of vessel obtaining oil.

(6) Quantity and identification of each type of old received with date, and signature and title of receiving officer.

If all the oil is laden on the receiving vessel at the port of withdrawal via pipeline from the bonded storage tank, subparagraphs (3) and (4) of this paragraph shall be deemed to be inapplicable.

(b) If a blanket free withdrawal of bunker fuel oil is filed, to comply with Bureau of the Census requirements the withdrawal on customs Form 7506 shall be endorsed "Estimated Withdrawals" and limited to the aggregate quantity and value of fuel oil which it is estimated will be physically removed from customs bond during the calendar month in which the withdrawal is filed for lading on vessels entitled to duty-free vessel supplies under section 309 of the tariff act.

(c) (1) As an incident of the delivery of fuel oils classifiable at different rates of duty to a vessel or vessels under section 309 of the tariff act, the district director of customs may, when necessary to enable a supplier to meet fuel specifications, permit the blending of the oils in the delivering conveyance or in other suitable facilities after withdrawal from the bonded tanks, upon the condition that, to the extent of the amount of oil withdrawn classifiable at the higher rate, duty at the higher rate will be paid on any portion of the blended fuel oil not delivered within a reasonable time to a qualified vessel. The withdrawer shall be required to file a withdrawal for consumption for the excess quantity withdrawn. For example, if the quantity withdrawn consists of 1,500 barrels of bunker C fuel oil classifiable at the rate of one-eighth cent per gallon and 500 barrels of diesel oil classifiable at the rate of one-fourth cent per gallon but only 1,400 barrels of the blended oil are actually laden as fuel supplies on qualified vessels, withdrawals for consumption are required for 500 barrels of diesel oil at the higher rate and for 100 barrels of bunker C fuel oil at the lower rate.

(2) The receipt of the delivering carrier on customs Form 7505–B for fuel oil which has been blended in accordance with subparagraph (1) of this paragraph with components classifiable at different rates of duty shall show for each warehouse entry number and withdrawal number involved the type and quantity of oil received.

(d) Fuel oil withdrawn as vessel supplies at one port may be laden at another port on a vessel or vessels entitled to the free withdrawal privileges of section 309 of the tariff act, under procedures prescribed in this section, provided the movement to the receiving vessel or vessels is under the bond of a qualified carrier as described in § 18.1(a) of this chapter. In such cases, the provisions of § 10.60(d) of this chapter shall be deemed inapplicable.

(e) If a vessel not entitled to duty-free withdrawal of supplies from customs bonded warehouses under section 309 of the tariff act should be supplied with fuel oil from a customs bonded tank described in paragraph (a) of this section because of an emergency, a duty-paid withdrawal therefor shall be filed on the first day that the customhouse is open for the general transaction of business after the day on which the oil is laden on the using vessel. If there should be willful or repeated instances of late filing of a duty-paid withdrawal in such cases, the district director of customs shall require a duty-paid withdrawal to be filed prior to the removal of fuel oil from the bonded tank. Immediate customs supervision over the removal of oil under this paragraph is not required.

(f) When the procedures prescribed in this section are followed, representatives of the regional commissioner of customs will from time to time verify various withdrawals against all pertinent records, including financial records, of the withdrawers, deliverers, and receivers of the oil. (Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309.)

(Sec. 624, 46 Stat. 759; 19 U.S.C. 1624.)

In addition to making certain technical and procedural changes, the purpose of this amendment is to permit the withdrawal of fuel oil from customs bonded tanks for delivery as supplies to vessels in ports other than the port in which the bonded tank is located and to incorporate in the regulations an administrative practice under which fuel oils classifiable at different rates of duty are permitted to be blended at the time of withdrawal from the customs bonded tank. Experience in the administration of the provisions involved has indicated the need for the changes. It is found, therefore, that the issuance of this amendment with notice under 5 U.S.C. 553 or subject to the effective date provision of that section is unnecessary.

*Effective date.* This amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
*Commissioner of Customs.*

Approved: April 9, 1969.

EUGENE T. ROSSIDES,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 69-4458; Filed, Apr. 15, 1969; 8:49 a.m.]

# Title 31—MONEY AND FINANCE: TREASURY

## Chapter II—Fiscal Service, Department of the Treasury

### SUBCHAPTER A—BUREAU OF ACCOUNTS

[Department Circular 1075 (Second Rev.)]

## PART 205—WITHDRAWAL OF CASH FROM THE TREASURY FOR ADVANCES UNDER FEDERAL GRANT AND OTHER PROGRAMS

The Treasury Department finds it necessary to revise its regulations at 31 CFR Part 205 which govern withdrawal of cash from the Treasury for advances under Federal grant and other programs to (a) establish more definitive regulations concerning the timing of such advances and procedures to be observed by Federal program agencies to assure that cash withdrawals from the Treasury occur only as and when essential to the execution of such programs, and (b) implement the provisions of section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90–577 (82 Stat. 1101)). The Department also finds, in accord with 5 U.S.C. 553, that notice and public procedure thereon are not necessary since the revision involves matters relating to grants and rules of agency procedure.

Accordingly, Part 205, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations (Treasury Department Circular 1075 (Revised)) is revised to read as follows:

Sec.
205.1 Purpose.
205.2 Scope of regulations.
205.3 General policy.
205.4 Methods of making cash advances.
205.5 Letter of credit.
205.6 Advances to secondary recipients.
205.7 Responsibility of program agencies.
205.8 Implementing instructions.
205.9 Waivers.

AUTHORITY: The provisions of this Part 205 issued under 5 U.S.C. 301 and sec. 203, 82 Stat. 1101.

### § 205.1 Purpose.

Federal grant and other programs involving advances to various organizations outside the Federal Government constitute a significant portion of the Federal Budget. Advances of cash from the Treasury to such organizations (hereinafter called "recipient organizations") for the purpose of financing their current operations under the Federal programs have a substantial impact on Treasury financing cost and the level of the public debt. The purpose of this part is to prescribe the timing of such advances and the procedures to be observed to assure that cash withdrawals from the Treasury occur only as and when essential to meet the needs of a recipient organization for its actual disbursements.

### § 205.2 Scope of regulations.

The regulations in this part cover disbursement practices for all cash advances to recipient organizations (including States and local governments, educational institutions, international organizations, and any other public and private organizations) under Federal grant or other programs. The regulations also establish guidelines to be observed by Federal program agencies with respect to their responsibilities in executing grant and other programs, including their review of recipient organization practices in obtaining cash advances by drawing down letters of credit and otherwise. Coverage applies to any Federal program requiring advances to finance the recipient organization's activities in carrying out the program, whether by contract, grant, contribution, or other form of agreement. These regulations are not intended to apply to Government disbursements made to reimburse an organization for work already performed (and financed with the organization's own

working capital); however, specific applications of features of these regulations to reimbursement payments will be considered by the Department of the Treasury if requested by a program agency.

§ 205.3 General policy.

Advances to a recipient organization shall be limited to the minimum amounts needed and shall be timed to be in accord with only the actual cash requirements of the recipient organization in carrying out the purpose of the approved program or project. For relatively small operations (where the aggregate annual amount of advances is under $250,000) cash advances to recipient organizations ordinarily shall be made monthly or more frequently to meet current disbursement needs. For larger operations the timing and amount of cash advances to recipient organizations shall be as close to actual daily disbursements as is administratively feasible.

§ 205.4 Methods of making cash advances.

If a program agency has, or expects to have, a continuing relationship with a recipient organization for at least 1 year, involving annual advances aggregating at least $250,000, the agency may use whichever of the following two methods best meets its own operating objectives provided that in the circumstances involved the two methods are equally advantageous to the Federal Government in terms of the timing of cash withdrawals from the Treasury. The first of these methods, hereinafter called the letter-of-credit method and further described in § 205.5, provides program agencies, recipient organizations and the Department of the Treasury with mechanics specially designed to enable a recipient organization to obtain cash from the Treasury promptly and with such frequency as may be necessary based upon its own determination of when and how much is actually needed for its disbursements. The second method, the conventional method of advancing cash by Treasury check, may be used if it will produce cash management benefits for the Treasury which equal the advantages made possible by the mechanics of the letter-of-credit method. This means it would be practicable to issue Treasury checks to a recipient organization coordinate with the amount of cash financing actually needed by the recipient organization for its current disbursements with a frequency comparable to what a recipient organization can achieve by its own direct and frequent drawdowns on a letter of credit. Agencies may request from the Department of the Treasury specific approval of other methods which purport to be equally advantageous to the Federal Government.

§ 205.5 Letter of credit.

(a) A letter of credit, which must be executed by an authorized certifying officer of the program agency concerned, gives the recipient organization the authority to draw directly on the Treasury, through its commercial bank (acting as its agent) and either a Federal Reserve Bank (acting as agent of the Treasury) or the Cash Division, Office of the Treasurer of the United States, subject to any monetary and other limits established by the program agency. Withdrawals must be made by authorized officials of the recipient organization designated by it and approved by the program agency's certifying officer.

(b) A letter of credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated funds in good faith thereunder in executing the authorized Federal program in accordance with the grant, contract, or other agreement.

(c) Use of letters of credit shall be covered by a clause in the grant, contract, or other agreement for advance financing whereby the recipient organization commits itself (1) to the practice of requesting cash drawdowns only as and when actually needed for its disbursements, and (2) to timely reporting as required by the program agency, with the understanding that failure to adhere to these commitments may cause the unobligated portion of the letter of credit to be revoked. In general, agreements shall provide for a recipient organization to initiate each drawdown at approximately the same time that checks are issued by the organization in payment of program liabilities, and in an amount approximately equal to the Federal share of such payments, except that drawdowns shall not ordinarily be made more frequently than daily, or be in amounts less than $10,000 or more than $1 million, but in no case more than $5 million unless so stated on the letter of credit.

(d) In specific instances, as determined mutually by the Department of the Treasury and the program agency, a recipient organization may be requested to authorize its commercial bank to draw on a letter of credit in its behalf when checks issued by the recipient organization (covering disbursements of Federal funds) are presented to the bank for payment.

§ 205.6 Advances to secondary recipients.

Advances made by primary recipient organizations (those which receive advances directly from the Federal Government) to secondary recipients shall conform substantially to the same standards of timing and amount as apply to advances by Federal agencies to primary recipient organizations.

§ 205.7 Responsibility of program agencies.

Regardless of the particular method used to advance funds, the program agency is responsible for (a) making such reviews of financial practices of recipient organizations, both primary and secondary, as are necessary to insure against excessive withdrawals of cash from the Treasury, and (b) instituting such remedial measures as may be necessary in the event of excessive withdrawals. Implementing procedures of program agencies shall specify the methods employed to carry out these responsibilities. Also, each program agency shall furnish the Department of the Treasury with reports, semiannually, showing cash balances in the hands of recipient organizations as of each June 30 and December 31.

§ 205.8 Implementing instructions.

(a) Implementing procedural requirements under this part will be promulgated by the Commissioner of Accounts in the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies.

(b) Agency procedures to accomplish the objective of this part will be submitted to the Commissioner of Accounts for approval.

§ 205.9 Waivers.

Any waivers of provisions of this part previously granted to program agencies are hereby revoked. Requests for waivers of specific provisions of this part shall be presented in writing to the Commissioner of Accounts.

*Effective date.* These regulations are effective upon signature.

Dated: April 10, 1969.

[SEAL] JOHN K. CARLOCK,
*Fiscal Assistant Secretary.*

[F.R. Doc. 69-4459; Filed, Apr. 15, 1969; 8:49 a.m.]

# Title 32A—NATIONAL DEFENSE, APPENDIX

## Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[NSA ORDER 1 (AGE-1, Rev., Amdt. 3)]

## AGE-1—GENERAL AGENTS, AGENTS, AND BERTH AGENTS

### Miscellaneous Amendments

AGE-1, Rev., as amended by Amendment 2 (30 F.R. 16201, Dec. 29, 1965) is hereby amended as follows:

1. The parenthetical notation "(Amended 11-65)" appearing below the notation "GAA 3-19-51" at the beginning of the standard form of General Agency Agreement set forth in section 2(a) is revised to read:

(Amended 3-69)

2. Article 12. *Nondiscrimination* of the standard form of General Agency Agreement set forth in section 2(a) is revised to read:

ARTICLE 12. *Nondiscrimination in employment.* During the performance of this agreement, the General Agent agrees as follows:

(a) The General Agent will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The General Agent will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but

not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The General Agent agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the National Shipping Authority setting forth the provisions of this nondiscrimination clause.

(b) The General Agent will, in all solicitations or advertisements for employees placed by or on behalf of the General Agent, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The General Agent will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the National Shipping Authority, advising the labor union or workers' representative of the General Agent's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The General Agent will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The General Agent will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the National Shipping Authority and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the General Agent's noncompliance with the nondiscrimination clauses of this agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the General Agent may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The General Agent will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The General Agent will take such action with respect to any subcontract or purchase order as the National Shipping Authority may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the General Agent becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the National Shipping Authority the General Agent may request the United States to enter into such litigation to protect the interests of the United States.

3. Article 21. *Nondiscrimination* of the standard form of General Agency Agreement set forth in section 2(a) is deleted.

4. The parenthetical notation "(Reissued as of 5-60)" appearing below the notation "BAA 10-12-51" at the beginning of the standard form of Berth Agency Agreement set forth in section 2(b) is revised to read:

(Amendment 3-69)

5. Article 12. *Nondiscrimination* of the standard form of Berth Agency Agreement set forth in section 2(b) is revised to read:

ARTICLE 12. *Nondiscrimination in Employment.* During the performance of this agreement, the Berth Agent agrees as follows:

(a) The Berth Agent will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Berth Agent will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Berth Agent agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the National Shipping Authority setting forth the provisions of this nondiscrimination clause.

(b) The Berth Agent will, in all solicitations or advertisements for employees placed by or on behalf of the Berth Agent, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Berth Agent will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the National Shipping Authority, advising the labor union or workers' representative of the Berth Agent's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Berth Agent will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Berth Agent will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the National Shipping Authority and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Berth Agent's noncompliance with the nondiscrimination clauses of this agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Berth Agent may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Berth Agent will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Berth Agent will take such action with respect to any subcontract or purchase order as the National Shipping Authority may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the Berth Agent becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the National Shipping Authority the Berth Agent may request the United States to enter into such litigation to protect the interests of the United States.

6. Sec. 3. *Addendum to GAA 3-19-51* is revised to read:

**Sec. 3 Addendum to GAA 3-19-51.**

Each party holding a General Agency Agreement (GAA 3-19-51) shall be required to execute an addendum in form approved by the Office of General Counsel, Maritime Administration, amending the agreement to conform with the provisions of section 2(a).

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114, sec. 202 of Executive Order 11246, as amended by Executive Order 11375)

Dated: April 11, 1969.

By order of the Director, National Shipping Authority, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[F.R. Doc. 69-4477; Filed, Apr. 15, 1969; 8:51 a.m.]

# Title 36—PARKS, FORESTS, AND MEMORIALS

## Chapter I—National Park Service, Department of the Interior

## PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

### Amistad Recreation Area, Tex.; Alcoholic Beverages and Firearms

Proposals were published on page 15297 of the FEDERAL REGISTER dated October 15, 1968, and on page 2356 of the FEDERAL REGISTER dated February 19, 1969 to add § 7.79 paragraphs (a), and (b) to Title 36 of "Code of Federal Regulations". The effects of the amendments are to prohibit sale of, or gift of, alcoholic beverages to minors, or the possession of such intoxicating beverages by minors, and to prohibit the carrying or possession of firearms on the waters of Amistad Lake except as incident to authorized hunting.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendments. No comments, suggestions, or objections have been received and the proposed amendments are hereby adopted without change and are set forth below. These amendments shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

Section 7.79 is added as follows:

§ 7.79 Amistad Recreation Area.

(a) *Alcoholic Beverages.* (1) The sale or gift of an alcoholic beverage to a person under 21 years of age is prohibited.

(2) Possession of alcoholic beverages by persons under 21 years of age is prohibited.

(b) *Firearms.* The carrying or possession of firearms or other implements designed to discharge missiles, which are capable of destroying animal life, on the waters of Amistad Reservoir, except as incident to the authorized hunting of wildlife in areas so designated by the Superintendent, is prohibited. This restriction shall not apply to authorized law enforcement officers when engaged in law enforcement duties.

COLEMAN C. NEWMAN,
*Superintendent,*
*Amistad Recreation Area.*

[F.R. Doc. 69-4409; Filed, Apr. 15, 1969; 8:45 a.m.]

# Title 43—PUBLIC LANDS: INTERIOR

## Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4590]

[New Mexico 4826]

### NEW MEXICO

### Partial Revocation of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended, it is ordered as follows:

1. Secretarial Order of February 14, 1919, creating Stock Driveway No. 20 (New Mexico No. 2), is hereby revoked so far as it affects the following described land:

NEW MEXICO PRINCIPAL MERIDIAN

T. 25 N., R. 7 E.,
Sec. 35, lots 1, 2, 3, 4, and E½.

The area described aggregates 407.64 acres in Rio Arriba County.

The tract of land lies 2 miles east of the village of El Rito. Topography is steeply rolling to rough and broken gulleys. Vegetation consists of native forage species, blue grama, black grama, and galleta with crested wheatgrass being introduced in some areas. There is also an extremely dense stand of pinon-juniper.

2. At 10 a.m. on May 14, 1968, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 14, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The land has been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to the regulations in 43 CFR 3400.3.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, N. Mex.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

APRIL 8, 1969.

[F.R. Doc. 69-4406; Filed, Apr. 15, 1969; 8:45 a.m.]

[Public Land Order 4591]

[New Mexico 6844]

### NEW MEXICO

### Withdrawal for National Forest Administrative Site and Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

NEW MEXICO PRINCIPAL MERIDIAN

SANTA FE NATIONAL FOREST

*Seven Springs Campground*

T. 20 N., R 2 E.,
Sec. 25, NW¼SW¼;
Sec. 26, E½NE¼SE¼.

*Seven Springs Administrative Site*

T. 20 N., R. 2 E.,
Sec. 26, SW¼SW¼SE¼ and S½ NW¼SW¼SE¼.

*Redondo Campground and Jemez Overlook*

T. 19 N., R. 3 E.,
Sec. 21, lots 2, 3, and 4, SE¼SE¼NW¼, and E½SW¼.

*Black Canyon Campground*

T. 17 N., R. 10 E.,
Sec. 1, lots 12 and 13;
Sec. 12, NW¼NE¼NW¼ and NE¼NW¼ NW¼.

*Little Tesuque Picnic Area*

T. 17 N., R. 10 E.,
Sec. 2, E½SE¼SE¼ and E½W½SE¼SE¼.

*Borrego Mesa Campground*

T. 20 N., R. 11 E.,
Sec. 9, SE¼ of lot 5, SW¼SE¼NE¼, NW¼ NE¼SE¼, and NE¼NW¼SE¼.

The areas described aggregate 413.34 acres in Sandoval and Santa Fe Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

APRIL 9, 1969.

[F.R. Doc. 69-4407; Filed, Apr. 15, 1969; 8:45 a.m.]

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[FCC 69-360]

### PART 0—COMMISSION ORGANIZATION

### Chief, Broadcast Bureau; Delegation of Authority

In the matter of amendment of § 0.281(r) of the Commission's rules and regulations.

1. The Commission, having under consideration the frequency-hours usage requirements of FCC-licensed international broadcast stations as concerns seasonal authorizations and temporary authority for the carriage of special events, has determined that the Chief, Broadcast Bureau, should be delegated authority—

(a) To grant requests for waiver of the provisions of § 73.702(1) of the Commission's rules and regulations to permit international broadcast stations to operate a greater number of frequency-hours than provided by the daily frequency-availability table in § 73.704;

(b) To grant requests for waiver of the provision of the note to § 1.574(c) to permit international broadcast stations to operate a greater number of frequency-hours than authorized on April 25, 1963;

and that § 0.281(r) of the rules and regulations be amended to reflect this determination. All such authority will be coordinated with the U.S. Information Agency.

2. Since the amendment relates to internal Commission organization and practice, the prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) need not be observed.

3. Authority for the adoption of this amendment is contained in sections 4(i), 303(c), and 303(r) of the Communications Act of 1934, as amended.

4. *Accordingly, it is ordered,* Effective April 18, 1969, that § 0.281(r) of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 303 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 9, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

In Part 0 of Chapter 1 of Title 47, Code of Federal Regulations, § 0.281(r) is amended to read as follows:

§ 0.281 Authority delegated.

* * * * *

(r) After coordination with the U.S. Information Agency, to authorize the use of frequencies and frequency hours by international broadcast stations; and

[1] Commissioner Johnson concurring in the result.

to grant, upon adequate showing of need, waivers for operation in excess of the frequency-hour limitations imposed by § 73.702(1) and the note to § 1.574(c) of this chapter.

* * * * *

[F.R. Doc. 69-4461; Filed, Apr. 15, 1969; 8:50 a.m.]

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[Docket No. 18383; FCC 69-355]

## PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

### Television Relay Service to Community Antenna Television Systems

*Report and order.* In the matter of amendment of Part 21 of the Commission's rules and regulations relative to applications in the domestic public point to point microwave radio service involving television relay service to community antenna television systems, Docket No. 18383.

1. This proceeding was instituted by a notice of proposed rule making released on November 22, 1968 (FCC 68-1121, 33 F.R. 17696). It was proposed to modify Part 21 of the Commission's rules so as to delete §§ 21.710, 21.712, and 21.714 and to add new § 21.713. The essence of such change would be: (a) To eliminate from Part 21 the requirements that largely duplicate the carriage and nonduplication provisions of § 74.1103 of the rules and (b) to add the requirement that the proposed CATV system subscriber give the § 74.1105 notice and apply for any necessary Commission authorization (to utilize the distant signal) prior to the filing of the common carrier microwave application.

2. Comments were received from United States Independent Telephone Association (USITA); National Cable Television Association, Inc. (NCTA); Association of Maximum Service Telecasters, Inc. (MST); Western Microwave, Inc. (Western); National Association of Broadcasters (NAB); Frank K. Spain, doing business as Microwave Service Co. (MSC); West Texas Microwave Co. (West Texas); Telecommunications, Inc.; and All-Channel Television Society (ACTS). Reply comments were received from USITA and MST.

3. ACTS, MST, and NAB support the proposed changes. NCTA supports the proposal in general but suggests several changes. The carriers (Western, MSC, West Texas, Telecommunications, and USITA) support the deletion of §§ 21.710, 21.712, and 21.714 but are opposed to the adoption of § 21.713 for various reasons.

4. The most common complaint advanced by the carriers is that the rule would be burdensome and interfere with the filing of applications. However, such complaint is not supported by convincing argument. We recognize that the carrier will be required to obtain and submit with its application copies of the letters of notification, but we fail to see any substantial burden. Under the present rules (§ 21.712(a)) the carrier is required to submit, or have submitted, the same letters of notification 30 days prior to the institution of service. It then appears that the only difference in this respect is the timing of notification. Several carriers have contended that the CATV systems may not have completed their choice of signals to be obtained off the air when the microwave application is filed. We doubt that such decision is so complex or difficult that it requires an extended period of consideration. Even so, there is no prohibition against a CATV system modifying its notification after the microwave application is filed.[1]

5. Several carriers contend that the proposed rule would require the carrier to police the CATV rules. The Commission has no intention of requiring such policing. As indicated in the notice of proposed rule making, there is desire to reduce the administrative burden on the carriers. We do not expect the carrier to insure that the CATV system has correctly complied with all provisions of the CATV rules. However, we do expect the carrier to require the CATV system to submit to it copies of all letters of notification (for purposes of inclusion in the application), to ascertain that such letters contain reference to the intended microwave filing, and to require the CATV system to identify any other Commission application or request that may be necessary for carriage of the imported signals. Beyond this the carrier will have no other responsibility with respect to the CATV rules. It will be the responsibility of the CATV system to make correct notification pursuant to § 74.1105 and to ascertain whether any other Commission authorization is needed to enable it to operate as proposed. To eliminate any misunderstanding in this aspect, we will eliminate the term "certification" from § 21.713 and substitute other language which more accurately reflects the carrier's limited responsibility in this matter.

6. Another objection raised by several carriers is that an application, or set of applications, often involves service to a number of communities and that an objection or protest concerning one community would impede and delay service to all communities. This, unfortunately, has frequently been a problem in respect to "multiple service" applications in the past since a television broadcaster, objecting to service to a single community, would usually file a petition to deny which would have the effect of impeding the entire proposal even though other, uncontested service was involved. However, we fail to see how the proposed rule changes would aggravate the situation. Whether a broadcaster files a petition to deny the microwave applications or files a § 74.1109 petition in response to an earlier filed § 74.1105 notification, the result is the same—to impede the entire proposal. Of course, the Commission will continue, as it has in the past, to permit the separation of the noncontroverted portions of a proposal from the contested portion where that is feasible.

7. Notwithstanding these and other arguments advanced by the carriers, we are convinced that the adoption of § 21.713 will bring a higher degree of logical and procedural order in the Commission's consideration of these microwave-CATV proposals without imposing any substantial hardship on any party. Furthermore, we believe the premises for this proposal, as outlined in the notice of proposed rule making, are still valid and that all parties will benefit from the proposed changes. Accordingly, we will adopt the rule as proposed except for some modifications in language.

8. It has also been suggested that we delay action in this proceeding until the rules proposed in Docket No. 18397 (15 FCC 2d 417) are acted upon. The rules proposed in that proceeding would completely reconstitute § 74.1107 and eliminate the prior consent now necessary for the importation of distant signals into a top 100 television market but would leave untouched the notification and objection provisions of §§ 74.1105 and 74.1109. Therefore, such rules, if adopted, would not affect the need or justification for paragraph (a) of § 21.713, but they would substantially deminish the applicability of paragraph (b). However, even if the prior approval requirement of the present § 74.1107(a) is eliminated, there may be circumstances whereby other Commission approval may be required prior to the institution of service to a customer (e.g., the CATV customer may rely on channel service by a telephone company which is subject to a section 214 authorization). Consequently, we will revise the language of § 21.713(b) to be of more general applicability.

9. As indicated in paragraph 3, NCTA suggests several changes to the proposed rule. One suggested change would eliminate the requirement that the carrier file copies of the 74.1105 notifications but would substitute the names and addresses of those that were notified and the date of notification. This suggestion is rejected because of the additional work it would necessitate on the part of the Commission staff. While the inclusion of copies of the letters will tend to add somewhat to the bulk of the application, it will facilitate review of the application. Another NCTA suggestion is that the proposed provision requiring the § 74.1105 notices to include a reference to the microwave application be placed in § 74.1105(b) rather than § 21.713. While the inclusion of this requirement in § 74.1105(b) may be helpful, it is not considered critical since the carrier will be responsible for informing the CATV system of the requirement. Furthermore, modification of § 74.1105 would not be appropriate in the context of this proceeding which is limited to Part 21 of the rules. However, we will consider the suggestion with respect to another proceeding which may encompass changes to § 74.1105.

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[1] If the subsequent change involves a signal to be relayed on the proposed facilities, the microwave application would have to be amended, and public notice thereof would be given by the Commission.

10. In view of the foregoing, it is concluded that the rule changes contained below should be adopted. Authority for the rules adopted is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

11. *Accordingly, it is ordered,* That effective May 19, 1969, Part 21 of the Commission's rules and regulations is amended as set forth below.

12. *It is further ordered,* That the various requests contained in the pleadings and comments listed in paragraph 2, to the extent that they may not have been granted herein, are otherwise denied.

13. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 9, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

Part 21 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 21.710 [Deleted]

1. Delete § 21.710 in its entirety.

§ 21.712 [Deleted]

2. Delete § 21.712 in its entirety.

§ 21.714 [Deleted]

3. Delete § 21.714 in its entirety.

4. Add new § 21.713 to read as follows:

**§ 21.713 Applications for authorizations involving relay of television signals to CATV systems.**

An application in this service for authorization to establish new facilities or to modify existing facilities to be used to relay television signals to community antenna television (CATV) systems shall contain a statement by the applicant that, to the best of his knowledge, each CATV system to be served has, on or before the filing date of the application, complied with the requirements of paragraphs (a) and (b) of this section. In respect to paragraph (a) of this section, copies of all letters of notification shall be included in the microwave application. Where paragraph (b) is applicable, the relevant request or application shall be identified, including the date the request or application was filed and, if available, the file number.

(a) The CATV system shall give notification as required by § 74.1105 of this chapter. In addition to the requirements specified in § 74.1105, such notice shall include the fact of intended filing by the common carrier.

(b) If any Commission consent or authorization is required before the CATV system can utilize the television signals to be relayed by the proposed facilities, the CATV system shall file, or cause to be filed, appropriate request or application with the Commission.

[F.R. Doc. 69-4462; Filed, Apr. 15, 1969; 8:50 a.m.]

[Docket No. 18316; FCC 69-371]

## PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

### Free or Reduced Rate Interconnection Service for Noncommercial Educational Broadcasting

*Report and order.* In the matter of free or reduced rate interconnection service for noncommercial educational broadcasting, Docket No. 18316.

*I. Background.* 1. The Commission has under consideration its notice of proposed rule making, FCC 68-909, issued on September 6, 1968 (33 F.R. 12853, Sept. 11, 1968), inviting comments on a proposed rule designed as a first step toward implementing the provisions of new section 396(h) of the Communications Act of 1934. The rule provided that such service may be rendered and required the reporting of various data pertinent thereto.

2. Timely comments were filed by 21 parties, including carriers, broadcasters, associations, States, the Ford Foundation, and the U.S. Department of Health, Education, and Welfare (HEW). The original deadline for reply comments of October 28, 1968, was extended to November 18, 1968, upon motion of the American Telephone and Telegraph Company (A.T. & T.). Prior to that date, reply comments were received from A.T. & T., United States Independent Telephone Association (USITA), and the State Education Department of the University of the State of New York.

3. Subsequent to our adoption of the notice of proposed rule making in this proceeding, negotiations between A.T. & T. and the Corporation for Public Broadcasting (CPB) resulted in a special 6-month experimental tariff offering to CPB which became effective December 1, 1968. This tariff, now scheduled to expire May 31, 1969, provides for interconnection service to 57 points for 2 hours of prime time per night, 5 nights per week, at a charge generally of $43 per point connected per occasion of use. While this provides service at substantially lower charges than would apply if commercial rates were charged, the tariff also provides that, because the service is provided through "spare" channels, the telephone company reserves the right to preempt any portion of the CPB service without prior notice whenever the "spare" channels are required for commercial customers. From the beginning of this service, there have been a number of short-notice preemptions of the CPB service in favor of commercial users.

*II. Comments received.* 4. Generally, those commenting support the proposed rule as a first step toward meeting the established desires for greatly increased interconnection of educational broadcast stations at a price they can afford. The comments recite the benefits to the public of interconnected educational broadcasting and the alleged prohibitive cost thereof at commercial rates. The most common recommendation of these parties is that the frequency of reporting be increased to at least quarterly and that provisions be made for reporting pending requests for free or reduced rate interconnection service.

5. In its initial comments, A.T. & T. noted that it recognizes the public interest in the development of educational broadcasting and cites its tariff providing for a trial of interruptible interconnection service to the Corporation for Public Broadcasting at charges substantially lower than commercial charges. A.T. & T. has no objections to the proposed rule, but asks that, in cases where service is requested and furnished at less than cost to the carrier, the Commission require that such service be subject to its approval upon determination of public interest and that all such expenses be treated as operating expenses so that the users of communications services, rather than the stockholders, would bear the cost. In its reply comments, A.T. & T. states that it has no objection to the increase in frequency of the reports to a quarterly basis, but believes that the Commission could be sufficiently informed of pending requests by the expedient of requiring copies of applications by broadcasters and denials by carriers regarding free or reduced service to be filed with the Commission. In addition, A.T. & T. opposes the proposal of some of the parties that carriers report their intention to deny a proposal. A.T. & T. also points to the language of section 396(h) as being permissive rather than mandatory.

6. USITA, the only other party to advance the point of view of the carriers, noted in its initial comments that while it has no objection to the proposed rule, it urges the Commission to consider what it believes to be serious problems presented to the independent telephone industry in that, unlike the situation generally with interexchange channels, idle facilities are not likely to be available for locally situated studio-transmitter or network access lines so that new construction would generally be required to provide initial service in the territory of independent, non-Bell companies. Where this construction is performed by such an independent telephone company, the company must go before a state regulatory commission to make up any loss. In its reply comments, USITA follows A.T. & T. in emphasizing that, contrary to the position taken by the Ford Foundation, HEW, and others, it does not read the language of section 396(h) as a "mandate" to the Commission to insure that free or reduced rates are provided to educational broadcasting. Rather, USITA construes section 396(h) has merely providing a defense to a complaint by a third party that free or reduced rates for service to educational broadcasting are unduly discriminatory. USITA has no problem with a requirement for more frequent reports, but suggests that a portion of the information might be supplied by filing copies of requests and denials for service with the Commission. In addition to the issue of the proposed rule, USITA emphasizes

its belief that the Commission should act promptly to resolve the questions of whether or not carriers can be required to provide free or reduced rate service and construction and how the costs of these are to be borne.

7. In the comments of HEW, it is suggested that the provision of free or reduced rates should not be limited to broadcasting facilities, but could include closed local distribution systems since section 396(h) states that free or reduced rate interconnection services may be provided "* * * for noncommercial educational television or radio service, * * *." USITA's response objects to this interpretation on the ground that the interconnection services to be supplied are defined in the Act section 397(8) as providing for "* * * the transmission and distribution of television or radio programs to noncommercial educational television or radio broadcast stations.", and therefore, section 396(h) cannot be read to comprehend interconnection services provided to nonbroadcasters or for nonbroadcast purposes.

III. *Conclusions.* 8. Inasmuch as the proposed rule appears desirable for the efficient discharge of the Commission's duties at this stage of the implementation of section 396(h), we intend to adopt it, with certain of the suggested modifications. First, we agree with the majority of the comments received that reports should be made more frequently than every 6 months, at least initially, and we are therefore changing the reporting period to a quarterly basis. In regard to the issue of reporting pending requests and denials of requests for free or reduced rate service, it appears that this area can be adequately covered by including a requirement in the rule that the carrier's report shall identify all unfulfilled pending requests for service. In those cases where time is of the essence, or the prospective user believes needed service is being improperly delayed or denied, the Commission's established informal complaint procedures should provide adequate and timely relief.

9. We wish to make clear at this point that we construe an ultimate objective of the Public Broadcasting Act of 1967 to be the rendition of free or reduced rate interconnection service that is comparable in all material respects with service furnished commercial users at published tariff rates with the only difference in treatment being the free or reduced rate. Therefore, we consider the present experimental tariff offering by A.T. & T. to CPB only as an interim step toward meeting the ultimate objective because the terms and conditions of the offering, particularly the provision for preemption without prior notice, significantly distinguish the quality of this service from commercial service. We therefore expect that the carriers will proceed expeditiously to equip themselves with facilities necessary to fulfill the objectives of the Act. Furthermore, it should be made clear that carriers are not precluded from providing special classes of interconnection services for educational broadcast stations at low rates under tariffs filed with us. However, the rule we are adopting is intended to apply only to those situations where the same services or facilities offered under tariffs filed with us are furnished, or are requested to be furnished, for the interconnection of educational broadcast stations either at no charge or at charges below those published in the tariffs.

10. In regard to the scope of section 396(h), we agree with USITA that this section should not be construed as providing for free or reduced rates for interconnection among nonbroadcast stations. Section 397(8) states that, for the purpose of the Act, "The term 'interconnection' means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to noncommercial educational television or radio broadcast stations," 47 U.S.C. 397(8).

11. Finally, we understand the concern of the carriers as to how the costs of service rendered pursuant to section 396(h) are to be recovered by the carriers. We believe that it is desirable to state the Commission's policy in this area so far as it is possible at this time. Consistent with the policy of the Public Broadcasting Act, it is reasonable and appropriate that all costs, including the cost of new construction, shall be treated as related to common carrier interstate service and as such shall be included in the carriers total interstate rate base and operating expenses. It should also be made clear that, although the language of section 396(h) is permissive, the national policy expressed is that the public interest is served by the expansion of noncommercial educational broadcasting service to the public through free or reduced rate interconnection common carrier services for educational broadcast stations. While we need not definitively resolve the question raised by USITA as to whether or not the Commission can require or order common carriers to provide such free or reduced rate service, we do believe that we have ample authority to promote the congressional purpose and the public interest in this important area.

12. Authority for the adoption of the addition contained herein is contained in sections 4(i), 218, 219(b), and 396(h) of the Communication Act of 1934, as amended.

13. In view of the foregoing: *It is ordered*, That effective July 1, 1969, Part 43 of the Commission's rules is amended to add § 43.74 to read as follows:

**§ 43.74 Service rendered free or at reduced rates pursuant to section 396(h) of the Act; reports relative thereto.**

Any common carrier subject to the Communications Act may render free or reduced rate communications interconnection services for noncommercial educational television or radio services, subject to the rules contained in this part. Every carrier furnishing such service shall make and file, in duplicate, with the Commission within 40 days after the end of each calendar quarter, two certified copies of reports covering each quarter of the year. The reports shall show the call signs and locations of the stations to which such service was rendered pursuant to this rule and the dates such service was rendered; the names of any agency, corporation or association of stations, other than the stations interconnected, to which service was charged or credited; the general character of the service provided; the charges in dollars which would have accrued to the carrier for such services rendered if all charges for such services had been calculated at the published tariff rates; the charges in dollars, if any, actually made or credited for such service; the name and address of any person whose request for such service is pending as of the last day of the reporting period, the date of such request, a general description of the service requested, and the expected date of decision on the pending request; the name and address of any person whose request for such free or reduced rate service has been denied during the reporting period together with a general description of the service requested, and the reasons for such denials of service and the dates thereof.

(Secs. 4, 218, 219, 48 Stat., as amended, 1066, 1077; Sec. 396, 76 Stat. 67; 47 U.S.C. 154, 218, 219, 396)

Adopted: April 9, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 69-4463; Filed, Apr. 15, 1969; 8:50 a.m.]

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[Docket No. 18415; FCC 69-353]

## PART 81—STATIONS ON LAND IN MARITIME SERVICES

## PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

### Use of ITU Manual

*Report and order.* In the matter of amendment of Parts 81 and 83—to include provision for the ITU Manual for use by the Maritime Mobile Service in the list of service documents which shall be provided at specified categories of coast and ship stations, docket No. 18415.

1. A notice of proposed rule making in the above captioned matter was released on January 10, 1969, and was published in the FEDERAL REGISTER on January 14, 1969 (34 F.R. 517). In the notice, the Commission proposed to amend its rules to include provision for the ITU Manual for use by the Maritime Mobile Service in the list of service documents which shall be provided at specified categories of coast and ship stations.

2. No comments were filed in response to the notice.

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[1] Commissioners Wadsworth and Johnson absent.

3. The Final Acts of the World Administrative Radio Conference on marine matters, Geneva, 1969, provides that the "Manual" replace the International Radio Regulations effective April 1, 1969. Since the proposed date of April 1, 1969, has passed, it is necessary that another date be specified. The Commission is, therefore, adopting an effective date of July 1, 1969. Part B of the "Manual" includes extracts from the ITU Additional Radio Regulations (ARR). Since the United States is not party to the ARR, an appropriate note has been added to exclude applicability of the ARR to ships of U.S. registry.

4. In view of the foregoing: *It is ordered*, That, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Parts 81 and 83 of the Commission's rules are amended effective July 1, 1969, as set forth below.

5. *It is further ordered*, That the proceeding in Docket No. 18415 is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 9, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

A. Part 81, Stations on Land in the Maritime Services, is amended as follows:

1. In § 81.213, subparagraph (6) of paragraph (a) is amended to read as follows:

**§ 81.213 Station documents.**

(a) * * *

(6) The Manual for use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva;

NOTE: The Additional Radio Regulations contained in Part B of the Manual do not apply to ships of U.S. registry.

* * * * *

2. In § 81.313, subparagraph (7) of paragraph (a) is amended to read as follows:

**§ 81.313 Station documents.**

(a) * * *

(7) The Manual for use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva.

NOTE: The Additional Radio Regulations contained in Part B of the Manual do not apply to ships of U.S. registry.

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B. Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

1. In § 83.329, subparagraph (8) of paragraph (a) is amended; subparagraph (9) of paragraph (a) is deleted; and subparagraph (10) of paragraph (a) is renumbered (9), and paragraph (b) is amended to read as follows:

**§ 83.329 Station documents.**

(a) * * *

(8) The Manual for use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva;

NOTE: The Additional Radio Regulations contained in Part B of the Manual do not apply to ships of U.S. registry.

(9) Part 83 of this chapter.

(b) All ship stations on board ships not compulsorily fitted with a radiotelegraph installation, but using telegraphy, shall be provided with the documents prescribed by subparagraphs (1), (2), (3), (4), (5), 6), (8), and (9) of paragraph (a) of this section.

* * * * *

2. In § 83.367, subparagraph (5) of paragraph (a) is amended to read as follows:

**§ 83.367 Station documents.**

(a) * * *

(5) The Manual for use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva;

NOTE: The Additional Radio Regulations contained in Part B of the Manual do not apply to ships of U.S. registry.

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[F.R. Doc. 69-4464; Filed, Apr. 15, 1969; 8:50 a.m.]

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[Docket No. 18326; FCC 69-350]

## PART 87—AVIATION SERVICES

### High Frequency Assignments Allocated for Domestic Route Service in Hawaii and U.S. Possessions in West Indies

*Report and order.* In the matter amendment of Part 87 of the Commission's rules to change existing high frequency assignments allocated for domestic route service in the State of Hawaii and U.S. possessions in the West Indies, docket No. 18326.

1. The Commission on September 25, 1968, adopted a notice of proposed rule making in the above entitled matter (FCC 68-966) which made provision for the filing of comments and was published in the FEDERAL REGISTER on October 2, 1968 (33 F.R. 14724). There were no comments received.

2. The notice of proposed rule making was issued in response to frequency changes that were adopted in the Final Acts of the Extraordinary Administrative Radio Conference (EARC), Geneva, 1966. The proposal was for the amendment of §§ 87.299 and 87.301 of the Commission's rules which concern frequencies allocated for domestic route service in the State of Hawaii and U.S. possessions in the West Indies.

3. As stated in the notice of proposed rule making, the operational requirements for providing domestic route service in the State of Hawaii are now firmly established on frequencies from the VHF bands. Accordingly, the Regional and Domestic Air Route Areas (RDARA) high frequencies have been deleted from § 87.299 of the Commission's rules which lists the frequencies available in Hawaii.

4. In accordance with the EARC, § 87.301(b) is amended to make the frequency 5461 kc/s available as a replacement for 4689.5 kc/s for domestic route stations in the West Indies. The replacement will be available on the effective date of this order.

5. In view of the foregoing: *It is ordered*, Pursuant to the authority contained in sections 4(i) and 303 (b), (c), and (r) of the Communications Act of 1934, as amended, that effective May 19, 1969, Part 87 of the Commission's rules are amended as set forth below.

*It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 9, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

Section 87.299 is amended to read as follows:

**§ 87.299 Hawaii.**

Frequencies available for assignment to serve domestic routes in the State of Hawaii are as follows:

| *MC/s* | *MC/s* | *MC/s* |
|---|---|---|
| 129.1 | 129.7 | 130.1 |
| 129.3 | 129.9 | 130.3 |
| 129.5 | | |

Section 87.301 is amended to read as follows:

**§ 87.301 West Indies.**

(a) Very high frequencies available for assignment to serve domestic routes in U.S. possessions in the West Indies are as follows:

| *MC/s* | *MC/s* | *MC/s* |
|---|---|---|
| 129.1 | 129.5 | 129.7 |
| 129.3 | | |

(b) High frequencies available for assignment to serve domestic routes in U.S. possessions in the West Indies are:

| *kc/s* | *kc/s* | *kc/s* |
|---|---|---|
| 2861 | 6619.5 [1] | 8924 [2] |
| 5461 | 6575 [2] | |

[1] Available only until Sept. 17, 1970.
[2] Available after Sept. 17, 1970.

[F.R. Doc. 69-4460; Filed, Apr. 15, 1969; 8:49 a.m.]

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[FCC 69-353]

## PART 97—AMATEUR RADIO SERVICE

### Station Control

In the matter of amendment of the amateur radio service rules to delete a requirement for a showing of station control.

1. The Commission has under consideration Amateur Radio Service rule § 97.37 relating to the requirement that an amateur license applicant make a satisfactory showing that he has control

of both the proposed transmitting station and the specific premises upon which the station apparatus is to be located.

2. The Commission proposes to delete the requirement for a specific showing of station control from § 97.37. It appears that no useful purpose is served by the requirement for a specific showing of station control in the application. Other provisions presently contained in the rules require the licensee to maintain control over the operation of his amateur radio station. The elimination of the requirement to make a specific showing of station control in no way diminishes the licensee's responsibility under these other provisions, to maintain control over his amateur radio station. Also, the amateur applicant will continue to certify, at the bottom of the amateur application form, that the amateur radio equipment to be licensed will remain inaccessible to unauthorized persons. It is determined, therefore, that it is in the public interest to delete the requirement for a showing of station control.

3. The rule changes herein ordered are procedural and editorial only and, hence, the prior notice, public procedure and the effective date provisions of 5 U.S.C., section 533, are not applicable. Authority for these rule changes is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

4. In view of the foregoing: *It is ordered*, That, effective April 18, 1969, § 97.37 is amended as shown below.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 9, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

Part 97 of the Commission's rules is amended as follows:

Section 97.37 is revised to read as follows:

**§ 97.37 General eligibility for station license.**

A license for an amateur station will be issued in response to proper application therefor to a licensed amateur operator for use at a designated fixed location. An amateur station license may also be issued to an individual, not a licensed amateur operator (other than an alien or a representative of an alien or of a foreign government), who is in charge of a proposed amateur station for recreation under military auspices (only of the Armed Forces of the United States) which is to be located in approved public quarters but not operated by the U.S. Government.

[F.R. Doc. 69-4465; Filed, Apr. 15, 1969; 8:50 a.m.]

[1] Commissioner Johnson concurring in the result.

# Title 50—WILDLIFE AND FISHERIES

## Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

## PART 33—SPORT FISHING

### Squaw Creek National Wildlife Refuge, Mo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

**§ 33.5 Special regulations: sport fishing: for individual wildlife refuge areas.**

MISSOURI

SQUAW CREEK NATIONAL WILDLIFE REFUGE

Sport fishing on the Squaw Creek National Wildlife Refuge, Mo., is permitted only on the area designated by signs as open to fishing. These open areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Minneapolis, Minn. 55450. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Open season: May 1, 1969, through September 15, 1969, daylight hours only.

(2) Spearing or gigging is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through September 15, 1969.

HAROLD H. BURGESS,
*Refuge Manager, Squaw Creek National Wildlife Refuge, Mound City, Mo.*

APRIL 7, 1969.

[F.R. Doc. 69-4408; Filed, Apr. 15, 1969; 8:45 a.m.]

# Title 49—TRANSPORTATION

## Chapter X—Interstate Commerce Commission

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected S.O. 1003-A]

## PART 1033—CAR SERVICE

### Illinois Central Railroad Co. Authorized To Operate Over Certain Trackage Abandoned by Tennessee Central Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of April 1969.

Upon further consideration of Corrected Service Order No. 1003 (33 F.R. 12741, 34 F.R. 12) and good cause appearing therefor:

*It is ordered*, That:

Section 1033.1003 *Service Order No. 1003* (Illinois Central Railroad Co. authorized to operate over certain trackage abandoned by the Tennessee Central Railway Co.) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

*It is further ordered*, That this order shall become effective at 12:01 a.m., April 12, 1969; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of the order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
*Secretary.*

[F.R. Doc. 69-4437; Filed, Apr. 15, 1969; 8:47 a.m.]

[S.O. 1004-A]

## PART 1033—CAR SERVICE

### Harriman & Northeastern Railroad Co. Authorized To Operate Over Certain Trackage Abandoned by Tennessee Central Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 10th day of April 1969.

Upon further consideration of Service Order No. 1004 (33 F.R. 12660, 34 F.R. 11) and good cause appearing therefor:

*It is ordered*, that;

Section 1033.1004 *Service Order No. 1004* (Harriman & Northeastern Railroad Co. authorized to operate over certain trackage abandoned by the Tennessee Central Railway Co.) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

*It is further ordered*, That this order shall become effective at 12:01 a.m., April 12, 1969; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of the

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

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-4436; Filed, Apr. 15, 1969; 8:47 a.m.]

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[2d Rev. S.O. 1020]

## PART 1033—CAR SERVICE

### Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 9th day of April 1969.

It appearing, that an acute shortage of plain boxcars with inside length of 50 feet or longer and boxcars with inside length of 40 feet or longer with side-door openings of 8 feet or wider exists throughout the United States; that shippers located on lines of carriers owning a substantial number of these type cars are being deprived of such cars required for loading, resulting in a very severe emergency thus creating a great economic loss; that present rules, regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange and return of such boxcars owned by these railroads are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

*It is ordered,* That:

**§ 1033.1020 Distribution of boxcars.**

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Withdraw from distribution and return to owners empty, except as otherwise provided in subparagraphs (2) or (3) of this paragraph, all plain boxcars which are listed in the Official Railway Equipment Register; ICC R.E.R. 370, issued by E. J. McFarland, or reissues thereof, as having mechanical designation XM, with inside length of 50 feet or longer, or with inside length 40 feet or longer and with side-door openings 8 feet wide or wider, or equipped with plug doors regardless of length.

(2) Boxcars described in subparagraph (1) of this paragraph available empty at a station other than a junction with the owner may be loaded to stations on or via the owner, or to any station which is closer to the owner than the point where loaded.

(3) Boxcars described in subparagraph (1) of this paragraph available empty at a junction with the owner must be delivered to the owner at that junction, either loaded or empty.

(4) Boxcars described in subparagraph (1) of this paragraph must not be back-hauled empty, except from cleaning or repair facilities, or normal car distribution points, for the purpose of obtaining a load as authorized in subparagraphs (2) and (3) of this paragraph, nor held empty more than 24 hours awaiting placement for loading.

(5) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraphs (2) and (3) of this paragraph.

(b) Application: The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) Effective date: This order shall become effective at 11:59 p.m., April 12, 1969.

(d) Expiration date: This order shall expire at 11:59 p.m., May 31, 1969, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

*It is further ordered,* That a copy of the order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-4438; Filed, Apr. 15, 1969; 8:48 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Consumer and Marketing Service

[ 7 CFR Parts 1005, 1009, 1036 ]

[Dockets Nos. AO-177-A34-R01, AO-268-A17, AO-179-A31]

### MILK IN TRI-STATE, CLARKSBURG, W. VA., AND EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREAS

### Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

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 Clarksburg, W. Va., on December 10, 1968, pursuant to notices thereof which were issued on September 19, September 27, October 4, October 22, November 6, and November 18, 1968 (33 F.R. 14414, 14784, 15069, 15805, 16451, 17314). This hearing reopened a public hearing which was held at Charleston, W. Va., on August 27 and 28, 1968, pursuant to notice thereof issued on August 7, 1968 (33 F.R. 11409).

Upon the basis of the evidence introduced at the hearings and the record thereof, the Deputy Administrator, Regulatory Programs, on March 5, 1969 (34 F.R. 5013; F.R. Doc. 69-2865) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (34 F.R. 5013; F.R. Doc. 69-2865) are hereby approved and adopted and are set forth in full herein:

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

1. Merging the Clarksburg order with the Eastern Ohio-Western Pennsylvania order or the Tri-State order;

2. Modification of the Class II price provisions of the Clarksburg and Eastern Ohio-Western Pennsylvania orders; and

3. With respect to the Tri-State order:

(a) Expansion of the marketing area;

(b) Diversion of milk to other order plants;

(c) Elimination of pricing districts;

(d) Elimination of supply-demand adjustor;

(e) Price for milk used in cottage cheese; and

(f) Revision of location adjustments.

*Findings and conclusions.* The following findings and conclusions on the material issues are based on evidence presented at the hearings and the records thereof:

1. *Merger of orders.* The Eastern Ohio-Western Pennsylvania and Clarksburg orders should be merged and continued as the Eastern Ohio-Western Pennsylvania order. Regulation of the marketing areas of these two orders under a single order is the most appropriate means of effectuating the intent of the Act. A single order for the merged area will provide a regulatory program for milk marketing consistent with current marketing conditions and practices. Except for the changes proposed by this decision, the provisions of the Eastern Ohio-Western Pennsylvania order are appropriate for the proposed enlarged marketing area.

The present Eastern Ohio-Western Pennsylvania marketing area includes territory in 38 counties: 20 in Ohio, 14 in Pennsylvania and four in West Virginia. The order including the present marketing area became effective July 1, 1968. It resulted from the merging of the previously existing Wheeling, Youngstown-Warren, and Northeastern Ohio orders and the adding to the marketing areas of these orders territory in 14 counties in Pennsylvania and seven counties in Ohio.

The Clarksburg marketing area, which is contiguous to the southern border of the Pennsylvania portion of the Eastern Ohio-Western Pennsylvania marketing area, includes territory in nine West Virginia counties.

Combining the Clarksburg and Eastern Ohio-Western Pennsylvania orders into a single order was proposed by Dairymen's Cooperative Sales Association (DCSA), which represents about 70 percent of the 159 producers who supplied the five Clarksburg order pool plants in October 1968. Another proposal at the hearing would merge the Clarksburg order with the Tri-State order instead of with the Eastern Ohio-Western Pennsylvania order. The latter proposal was made by a handler whose plant is pooled under the Tri-State order but from which plant Class I milk is also distributed in the Clarksburg and Eastern Ohio-Western Pennsylvania marketing areas.

DCSA is one of the principal producer associations in the Eastern Ohio-Western Pennsylvania and Tri-State markets. The only other producer organization in the Tri-State market to indicate its position on the proposals supported the merger of the Clarksburg and Eastern Ohio-Western Pennsylvania orders. This merger was also supported at the hearing by a Clarksburg order handler who also operates a pool plant under the Eastern Ohio-Western Pennsylvania order and one under the Tri-State order. Two other Tri-State order handlers, a Clarksburg handler, and an Eastern Ohio-Western Pennsylvania handler likewise supported a merger of the Clarksburg and Eastern Ohio-Western Pennsylvania orders. Only the handler proposing the merger of the Clarksburg and Tri-State orders testified in support of his proposal. Other handlers and producers in the Clarksburg market took no position at the hearing on the merger proposals.

Historically, the Clarksburg market has been one of the smallest of the Federal order markets. In October 1967, 268 producers delivered 7.2 million pounds of milk to Clarksburg pool plants. In the fall of 1968, this volume was reduced substantially by the closing of a Clarksburg order plant and the shifting of the producers supplying it out of the market. Deliveries from the remaining 159 producers in October 1968 totaled 5.2 million pounds. Under the Eastern Ohio-Western Pennsylvania order, 10,420 producers delivered 258 million pounds of milk to pool plants in October 1968.

The Clarksburg plant closing resulted from the consolidation of plant operations by the handler proposing a merger of the Clarksburg and Tri-State orders. This handler closed plants regulated under the Clarksburg, Eastern Ohio-Western Pennsylvania, and Tri-State orders and transferred the processing operations to a new plant at Coshocton, Ohio. Sales in the Clarksburg market that were made from the handler's Clarksburg plant now emanate from the Coshocton plant, which is regulated under the Tri-State order. In August 1968, the month preceding the plant closing, the handler's Class I sales from his Clarksburg plant totaled 1.8 million pounds, one-third of the Class I sales that month by all Clarksburg order handlers.

Following the plant closing, DCSA shifted 92 producer-members from the Clarksburg market to the Eastern Ohio-Western Pennsylvania market. Because of the distance of their farms from Coshocton, it was not economically practical for these producers to supply the Coshocton plant. The removal of this milk supply from the Clarksburg market was necessary since presently regulated handlers in the market are not equipped to handle any significant volume of surplus milk.

Maintaining a separate order for the present Clarksburg market will no longer assure stable and orderly marketing conditions for the remaining producers on the market. Because of the relatively small volume of milk now being sold by handlers regulated under the Clarksburg order, a major loss of Class I sales by them to handlers in other areas could reduce substantially the returns to Clarksburg producers. Only the removal of a large portion of the milk supply from the market averted a substantial reduction in the uniform price when the aforementioned Clarksburg plant closed.

In recent years, Clarksburg pool plants have lost several major Class I outlets in the Clarksburg market to other order plants. The sales shift resulting from the Tri-State handler's plant consolidation was but the most recent, although perhaps most significant, of these losses. The trend toward consolidation of plant operations in large, centrally located plants may very well have a further impact on the Clarksburg market. The spokesman for a multiple-plant operator with pool plants under all three of the orders under consideration at the hearing testified that the handler is constructing a plant in southwestern Pennsylvania to replace his Eastern Ohio-Western Pennsylvania pool plant at Pittsburgh. This new plant is so situated geographically that it could also replace the handler's Clarksburg plant as a supplier of Class I products for the Clarksburg area.

When the Clarksburg order was issued in 1955, the regulated area was distinguishable as a separate market for a particular group of handlers and producers. Changes in recent years affecting distribution practices have resulted in a significant expansion of the procurement and distribution areas not only of Clarksburg order pool plant operators but also of the various other plant operators who are suppliers or potential suppliers of milk for the Clarksburg market. Better highways, improved transportation and refrigeration facilities, and the greater use of single service containers have made it feasible to move packaged milk over long distances. Hence, Clarksburg order handlers have extended their distribution routes to other areas and handlers under other orders have extended their distribution routes into the marketing area of the Clarksburg order. The potential sales outlets in the various populated centers, and particularly the increasingly important supermarket business, have encouraged the distribution by handlers over larger geographical areas.

There is a significant overlapping of the sales areas of Clarksburg order handlers with handlers under other orders. About 40 percent of the Class I distribution in the Clarksburg area is priced under other orders. Milk from Clarksburg order plants is distributed in the Tri-State market and in the West Virginia and Pennsylvania portions of the Eastern Ohio-Western Pennsylvania marketing area. Likewise, there is distribution in the Clarksburg market from plants regulated under the Eastern Ohio-Western Pennsylvania, Tri-State, and Cincinnati orders.

Merging the Clarksburg order with the Eastern Ohio-Western Pennsylvania order, rather than with the Tri-State order, will result in the more practical regulatory scheme for the majority of the producers now on the Clarksburg market. As indicated, about 70 percent of these producers are members of DCSA, the proponent of the Clarksburg-Eastern Ohio-Western Pennsylvania merger. This cooperative, which likewise is a principal producer association in the Eastern Ohio-Western Pennsylvania market, assumes the responsibility of marketing the milk of its members in these adjoining markets. The merger of these two orders will facilitate the performance of this function by the cooperative.

The economic impact of the recent loss of Class I sales by Clarksburg producers was borne entirely by DCSA. By removing a portion of the total producer supply from the market, and thereby preventing a lower market utilization, returns to the remaining producers on the market were not affected by the substantial loss of Class I sales. Producers on the market who are not members of DCSA thus benefited significantly from the cooperative's action. In redirecting this milk supply of its members from the Clarksburg market to the Eastern Ohio-Western Pennsylvania market, DCSA is incurring additional hauling costs—10 cents or more per hundredweight—which are being shared by all members of the cooperative.

With the recent transfer of 92 producers from Clarksburg to Eastern Ohio-Western Pennsylvania order pool plants, the Eastern Ohio-Western Pennsylvania order is carrying, in effect, the surplus for the Clarksburg market. Moreover, Clarksburg handlers tend to rely on this larger adjacent market when supplemental supplies of Class I milk are needed.

While there is some variation in the inspection standards between the Clarksburg marketing area and some jurisdictions in the present Eastern Ohio-Western Pennsylvania marketing area, there are apparently no practical limitations on the movement of milk throughout the proposed merged area. The States of Ohio and West Virginia reciprocate on health approvals. The State of Pennsylvania and the Pennsylvania county of Allegheny, which utilize different inspection standards, have no reciprocity arrangements on inspection requirements with Ohio and West Virginia. However, many producers and handlers outside Pennsylvania have Allegheny County and/or Pennsylvania health permits. In fact, some handlers operating in the present Clarksburg market have health permits for these jurisdictions. It must be concluded that the health requirements throughout the proposed marketing area are not so different as to be an impeding factor in the merging of the Clarksburg and Eastern Ohio-Western Pennsylvania orders.

The proposal to merge the Clarksburg order with the Tri-State order instead of with the Eastern Ohio-Western Pennsylvania order was supported by only the proponent handler. This handler contended that his proposal should be adopted since the major portion of the Class I sales from other order plants in the Clarksburg marketing area are from Tri-State order pool plants. Moreover, the handler claimed, such a merger is necessary to insure the alignment of Class I prices between the Tri-State and Clarksburg areas. The handler also argued that the reciprocity arrangement on inspection standards between Ohio and West Virginia, which neither of these States has with Pennsylvania, favored the adoption of his proposal.

The record does not show that it would be more practical to merge Clarksburg with Tri-State than with the Eastern Ohio-Western Pennsylvania order. The fact that most of the other order sales in the Clarksburg market emanate from the Tri-State market is not a compelling reason for a Tri-State-Clarksburg merger. The interests of producers who are supplying the Clarksburg market must be considered a primary factor under the prevailing marketing conditions. Such interests have already been described.

A merger of the Tri-State and Clarksburg orders is not essential to establishing a satisfactory price alignment between these regulated areas. The proposed order changes described elsewhere in this decision will contribute to achieving an alignment of prices between the Tri-State market and the proposed expanded Eastern Ohio-Western Pennsylvania market.

The proponent handler did not show how he, other handlers, or producers in the Clarksburg and Tri-State markets would be adversely affected by merging the Clarksburg order with the Eastern Ohio-Western Pennsylvania order rather than the Tri-State order. Although a substantial amount of proponent's Class I sales is made in the Clarksburg marketing area, the handler indicated that his plant would continue to be regulated under the Tri-State order whether Clarksburg was merged with that order or the Eastern Ohio-Western Pennsylvania order. Hence, the milk received at his plant would continue to be priced and pooled under the Tri-State order.

As indicated above, the intent of the Act would best be served by merging Clarksburg with the Eastern Ohio-Western Pennsylvania order. Accordingly, the alternative proposal, to merge Clarksburg with the Tri-State order, is denied.

*Class I price and location differentials.* The territory presently included in the Clarksburg order should be included in the Pittsburgh pricing district of the Eastern Ohio-Western Pennsylvania order.

Class I prices under the Eastern Ohio-Western Pennsylvania order are established for two districts, "Pittsburgh" and "Cleveland-Erie". The Pittsburgh district includes all territory in the marketing area within 80 miles of Pittsburgh; the Cleveland-Erie district includes the remaining territory in the marketing area. The Pittsburgh district Class I price, which is 10 cents more than the Cleveland-Erie district Class I price, is computed by adding $1.97 to the basic formula price; it has been $6.30 each month since the Eastern Ohio-Western Pennsylvania order became effective July 1, 1968.

The cooperative proposing the merger of the Eastern Ohio-Western Pennsylvania and Clarksburg orders proposed that the Class I price at plants in the present Clarksburg marketing area be 10 cents higher than the Pittsburgh district price. Two presently regulated Clarksburg handlers proposed that such price

be the same as the Pittsburgh district price. The handler who proposed the merger of the Tri-State and Clarksburg orders proposed that the Clarksburg Class I price be 7 cents above the Tri-State order price for the Charleston-Huntington district. This would result in a Class I price of $6.15 (after eliminating the effect of the supply-demand adjustor in the Tri-State order as is provided elsewhere in this decision).

In 1968, the Clarksburg order Class I price averaged $6.32,[1] ranging from $6.13 (in July and December) to $6.45 (in January and February). The current Pittsburgh district Class I price of $6.30 that would be applicable for milk received at plants in the present Clarksburg marketing area reasonably approximates the Class I prices that have prevailed most recently in Clarksburg. Accordingly, it should tend to insure the maintenance of an adequate supply of milk for the Clarksburg area and an alignment of prices between the presently regulated Clarksburg plants and those under other Federal orders.

Five cities (Canton and Cleveland, Ohio; and Erie, Pittsburgh, and Uniontown, Pa.) are measuring points for determining location adjustments and whether the Pittsburgh district or Cleveland-Erie district Class I price shall apply at plants located outside the Eastern Ohio-Western Pennsylvania marketing area. For milk received at a plant outside the marketing area, the Class I price is the price applicable at the nearest measuring point. Location differentials are applicable for milk received at plants outside the marketing area and 85 miles or more from the nearest measuring point.

The above five cities were selected because they are so situated geographically in relation to the supplies for the market to serve most equitably as representative measuring points for determining Class I prices and location adjustments at plants outside the marketing area. Under the merged order, Clarksburg is similarly so situated and should be added as a measuring point for the purposes stated.

*Merger of administrative expense, marketing service, and producer-settlement funds.* To accomplish the merger of the Eastern Ohio-Western Pennsylvania and Clarksburg orders effectively and equitably, the assets in the administrative expense and marketing service funds which have accrued under the separate orders should be combined. Similar procedure should be carried out with respect to the producer-settlement fund reserves. Any liabilities of such funds under the individual orders should be paid from the new funds so created. Similarly, obligations which are due and owing to the funds under the separate orders should remain and be paid to the combined funds under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. All handlers currently regulated under the separate orders will continue to be regulated under the merged order. Therefore, it is equitable to combine the monies accumulated under the separate funds and to pay any liabilities of each of the present funds from the consolidated fund.

The money accumulated in the marketing service funds of the separate orders is that paid by producers for whom the market administrator has performed such services as verifying the tests and weights of producer milk and furnishing market information. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the expanded market. The consolidation of the assets in the separate marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The producer-settlement funds under the present Eastern Ohio-Western Pennsylvania and Clarksburg orders facilitate the payment by handlers for milk received from producers. A handler whose obligation for producer milk received during the month is greater than the amount he is required to pay producers at the applicable uniform price pays the difference into the producer-settlement fund. Each handler whose obligation for producer milk is less than the applicable uniform price receives payment of the difference from the fund. For the efficient functioning of the fund, a reasonable reserve is set aside at the end of each month.

The producer-settlement fund balances in the two orders should be combined so that the producer-settlement fund under the merged order may be continued without disruption. It would be impractical to distribute the existing producer-settlement fund reserves to producers and to accumulate anew the required reserve for the merged order. The producers currently supplying the two separate markets are expected to continue to supply milk for the expanded Eastern Ohio-Western Pennsylvania market. Thus, moneys now in the separate producer-settlement funds would be reflected in the uniform prices of the producers whose money will be in the merged fund reserves. These combined funds would also serve the function of a contingency fund from which money would be available for obligations (resulting from audit adjustments and otherwise) for which one or the other of the separate funds was responsible.

2. *Class II price under the Eastern Ohio-Western Pennsylvania order.* The butter-powder price formula used in computing the Class II price under the Eastern Ohio-Western Pennsylvania order should be changed to conform with the butter-powder price formula used in other orders.

The Eastern Ohio-Western Pennsylvania order provides that the Class II price shall be the basic formula price (Minnesota-Wisconsin manufacturing milk price series). However, the Class II price may not exceed a "snubber" price which is a butter-powder price plus 10 cents.

The butter-powder price now used in the Eastern Ohio-Western Pennsylvania order is computed by subtracting 3 cents from the average wholesale price per pound for 92-score butter at Chicago, adding 20 percent of the resulting amount and multiplying the total by 3.5. To this is added an amount determined by subtracting 5.5 cents from the average carlot price per pound for spray process nonfat dry milk in the Chicago area and multiplying the result by 8.5 and the new result by 0.965.

The butter-powder snubber price proposed herein is the same as the one that became effective on July 1, 1968, under the New York-New Jersey, Massachusetts-Rhode Island-New Hampshire, Connecticut, Delaware Valley, Washington, D.C., and Upper Chesapeake Bay orders. This snubber, which is based on the same market values for butter and nonfat dry milk described above, is computed by subtracting 48 cents from the sum of the butter price times 4.2 and the powder price times 8.2.

The proposed butter-powder snubber price runs a fraction of a cent under the butter-powder snubber price now used in the Eastern Ohio-Western Pennsylvania order. For the 24-month period ending with November 1968, the maximum price difference was 0.34 of 1 cent.

During this 2-year period, the butter-powder snubber price was the effective Class II price under the Eastern Ohio-Western Pennsylvania order (formerly the Northeastern Ohio order prior to July 1, 1968) in 21 months. In the other 3 months, the snubber price was equal to the Minnesota-Wisconsin price. Over the 2-year period, the proposed butter-powder snubber would have changed the Class II price under the order in only 3 months, reducing the price in each case by 1 cent.

The minor variations in the butter-powder price formulas now in use in the Eastern Ohio-Western Pennsylvania and Northeastern orders can result from time to time in the price snubbers not having the same pricing effect under each order. Adoption of the price formula proposed herein will result in the price snubbers having a uniform pricing effect on the Class II prices under these orders.

3. *Amendments to Tri-State order—(a) Expansion of the marketing area.* The proposals to add Rowan and Carter Counties, Ky., and Greenbrier County, W. Va., to the marketing area are denied.

No testimony was presented on the proposal in the notice of hearing to add Pocahontas County, W. Va., to the marketing area. Accordingly, no action is taken on it.

The proposal to include the Kentucky counties of Rowan and Carter in the marketing area was made by two Tri-State handlers. However, at the hearing no regulated handlers or the producers supplying them testified on the proposal. A cooperative that supplies an

[1] Official notice is taken of the market administrator's price announcements for the Clarksburg and Eastern Ohio-Western Pennsylvania orders that were issued for November and December 1968.

unregulated distributing plant at Morehead in Rowan County supported the proposal. This distributor, who would become regulated under the order if the proposal were adopted, opposed adding the two counties to the marketing area.

The Morehead distributor contracts annually with an eastern Kentucky cooperative for the entire supply of its 38 members. The present contract provides for the payment for such milk at a price approximating the Tri-State order uniform price for the Charleston-Huntington district. The distributor assumes the burden of disposing of the seasonal surplus of his dairy farmers' deliveries and of acquiring supplemental milk, which he obtains from the Louisville-Lexington-Evansville Federal order market.

The unregulated distributor sells milk in about 15 Kentucky counties, including Carter and Rowan, that are not a part of any Federal order marketing area. There is virtually no other evidence on the record, however, concerning his distribution and that of handlers with whom he competes. Although Tri-State handlers have sales in Rowan and Carter Counties, there is no indication of the proportion of regulated and unregulated sales in these areas or if such counties are a significant part of the sales areas of regulated handlers or of the Morehead distributor.

In view of the limited evidence in this record concerning the distribution of milk in Carter and Rowan Counties, the two counties should not be included in the Tri-State marketing area at this time. Reconsideration of this matter may be warranted on the basis of evidence developed at a later hearing.

The addition of Greenbrier County to the marketing area was proposed by a regulated handler at Beckley, W. Va., who has 7 percent of his Class I sales in this county. The handler claimed that he is disadvantaged on such sales since the principal unregulated distributor in the county is able to obtain milk supplies at prices lower than those provided in the order.

Of the total fluid milk sales in Greenbrier County, 47 percent are by four Tri-State handlers. Another 16 percent of the sales are by handlers regulated under the Cincinnati and Appalachian Federal orders. The remaining 37 percent of the sales are unregulated. Most of these are by a distributor at Ronceverte in Greenbrier County. This distributor also has fluid sales in the West Virginia counties of Monroe, Pocahontas, Nicholas, and Summers, none of which is in the marketing area of a Federal order. The record does not show what proportion of the distributor's sales are in Greenbrier County or in the other counties.

The Ronceverte distributor receives milk from 15 dairy farmers. Several of these farmers testified in opposition to the inclusion of Greenbrier County in the marketing area. None appeared at the hearing in support of the proposal.

The distributor pays in most months approximately the Charleston-Huntington district Class I price for his total farm supply. In the flush production months, when supplies are in excess of his needs, the distributor returns to his producers approximately the Tri-State Class I butterfat value for the surplus. The skim milk portion of such surplus milk is dumped and the butterfat portion is used in the production of ice cream and butter. The distributor testified that in May and June 1968 about 13 percent of his farm supply was so disposed of.

The hearing evidence does not substantiate proponent's claim that the Ronceverte distributor has a buying advantage on milk used for Class I. Therefore, it cannot be concluded from this record that adding Greenbrier County to the marketing area is necessary for the maintenance of orderly marketing conditions for the Tri-State handlers and producers.

(b) *Diversion of milk to other order plants.* Handlers should be permitted to divert producer milk to other order plants for manufacturing purposes. Milk now moved from the farms of Tri-State producers to other order plants does not qualify as producer milk under the Tri-State order.

Producers proposed that the order be revised to permit diversions to other order plants. They contend that, because of changed conditions in the market, such a provision in the order is necessary to insure the orderly marketing of producer milk. There was no opposition to the proposal at the hearing.

In September 1968, a Tri-State handler closed his Athens, Ohio, distributing plant and began processing milk at a new plant at Coshocton, Ohio, about 90 miles north of Athens. The operator also closed at about the same time plants regulated under the Clarksburg and Eastern Ohio-Western Pennsylvania orders. The sales areas that were served by the now closed plants are being served from the Coshocton plant, which is regulated under the Tri-State order.

Milk is received at the Coshocton plant from over 400 producers. When milk assigned to the Coshocton plant by the various cooperatives supplying it is not needed by the handler, it must be moved to other plants for manufacturing purposes. A plant suitably located for this purpose is a plant at Orrville, Ohio, a pool plant under the Eastern Ohio-Western Pennsylvania order.

The most desirable outlet for unneeded supplies at Tri-State order pool plants may often be other order plants. Providing for the diversion of producer milk to other order plants, such as the Orrville plant, for manufacturing purposes will contribute to orderly marketing by facilitating the movement of such unneeded supplies. However, such diversion should be permitted only if a Class III classification (or its equivalent under the other order) is designated for the diverted milk pursuant to the other order. This will tend to insure the integrity of regulation under both orders.

Unless milk is diverted to an other order plant for manufacturing purposes, its eligibility to be included under a Federal order should be determined at the other order plant where received. Producers whose milk is diverted from Tri-State order pool plants are among those on whom the market depends for supplying the market's Class I needs on a regular and continuing basis. It would be inappropriate, therefore, to pool such diverted milk as Class III (or its equivalent) in the other order market. Moreover, if provision were not made for classifying in a manufacturing class under this order milk diverted to an other order plant, there would be a reluctance on the part of other order plants to receive such diverted milk that would reduce the returns to their regular producers.

(c) *Elimination of pricing districts.* The order should continue to provide for Class I price differentials of $1.55 for the Charleston-Huntington district and $1.47 for the Athens-Scioto district. Presently, the Class I price for each district is the basic formula price for the preceding month plus the fixed Class I differential for that district, and plus an additional 20 cents. Such prices are subject to a supply-demand adjustment, which is proposed elsewhere in this decision to be deleted from the order.

Two cooperatives and several handlers in the Charleston-Huntington district proposed that the present pricing districts be eliminated and that a single Class I price be applicable throughout the marketing area. A Class I price differential of $1.55 for the market was generally supported. However, the major emphasis by proponents was not on the level of price but rather on the need for a single Class I price throughout the market.

The testimony by proponents was essentially a reiteration of their position on this same issue at the August 1967 hearing from which the present price structure resulted. They claim now, as then, that the existence of more than one pricing district in the market is causing handlers in the higher-price Charleston-Huntington district to lose Class I sales to handlers in the lower-price Athens-Scioto district. The cooperatives indicated that if this situation continues the decreased demand by Charleston-Huntington handlers for Class I milk will require producers to move milk to more distant outlets at a greater hauling cost. Proponents also argued that a single Class I price for the market would place Charleston-Huntington handlers in a more favorable competitive position for Class I sales and thereby maintain Class I outlets in the Charleston-Huntington district for producer supplies that have historically moved to that district.

Three Athens-Scioto district handlers and a cooperative from which they obtain milk opposed the elimination of the pricing districts. Opponents contended that more time is needed to evaluate the appropriateness of the present pricing arrangement. Also, handlers argued that the present 8-cent price difference between districts, or perhaps even a greater amount, is needed to cover the cost of moving packaged milk from the Athens-Scioto district to the population centers in the Charleston-Huntington district.

Prior to March 1, 1968, the order provided for three pricing districts with Class I differentials of $1.60 for the

Charleston-Huntington district, $1.50 for the Gallipolis-Scioto district, and $1.40 for the Athens district. On the basis of the August 1967 hearing, the latter two pricing districts were combined effective March 1, 1968, and designated the Athens-Scioto district with a Class I differential of $1.47. The Class I differential for the Charleston-Huntington district was reduced to $1.55.

This record does not show any marketing development since the adoption of the present pricing arrangement that would necessitate a further change in the price structure for the market at this time. Although it was contended that the present pricing arrangement is causing Charleston-Huntington handlers to lose Class I sales, handlers in this district have not experienced any significant loss of Class I sales since the realignment of prices in the market.

The marketing situation presented by proponents at this hearing relative to the price issue is in many ways similar to the prevailing situation at the time of the August 1967 hearing. Such marketing conditions were fully considered in arriving at the pricing amendments that became effective March 1. Any different pricing arrangement at this time does not appear warranted. For these reasons, the proposals for a single Class I price for the market are denied.

(d) *Elimination of supply-demand adjustor.* The supply-demand adjustor provisions should be deleted from the order.

The order now provides that the Class I price shall be adjusted monthly to reflect any change in the supply of milk in the market relative to fluid milk sales. When milk supplies are more than adequate in relation to Class I sales, the Class I price is lowered. Conversely, when supplies are less than adequate relative to sales, the Class I price is increased.

The supply-demand adjustments were minus 3 cents for January and February 1967 and zero for the remaining 10 months of the year. Such adjustments in 1968, all of which reduced the price, averaged minus 7 cents.[3]

The three principal cooperatives in the market advocated the deletion of the supply-demand adjustor. There was no opposition to the proposal at the hearing.

The supply-demand adjustor is not achieving its intended purpose of adjusting producers' returns in response to changes in the supply-sales balance in the market. The supply-demand adjustor can have a significant influence on producers' returns only when the Class I price that is subject to the operation of the adjustor is the effective price in the market. In the Tri-State market, the effective Class I price presently is an over-order, or premium, price. Thus, the premium price rather than the supply-demand adjustor is influencing the supply-sales balance in the market.

Tri-State handlers are paying premium Class I prices of $6.33 in the Charleston-Huntington district and $6.25 in the Athens-Scioto district. For the most recent 6 months, July through December 1968, premium prices have been more than order prices by an average of 36 cents per hundredweight. During this period the supply-demand adjustments averaged minus 11 cents per hundredweight. Premiums are thus negating any effect of the supply-demand adjustor.

(e) *Price for milk used in cottage cheese.* Producer milk used in the manufacture of cottage cheese should continue to be priced at the present Class II price, which is the basic formula price (Minnesota-Wisconsin price series) for the month plus 15 cents. This price level became effective under the Tri-State order on March 1, 1968, when the price for milk used in cottage cheese was increased 15 cents per hundredweight.

Several Tri-State handlers proposed that the March 1, 15-cent price increase for cottage cheese milk no longer apply. They contend that the higher price places them at a disadvantage competitively in their market with handlers in the nearby federally regulated Cincinnati, Columbus, and Eastern Ohio-Western Pennsylvania markets who sell cottage cheese in the Tri-State area. Several Tri-State handlers indicated that since the March 1 price increase they have experienced a decrease in cottage cheese sales.

Milk used by Tri-State handlers in making cottage cheese averaged 2.59 million pounds monthly (March through October) since the March 1 amendments. This is 6 percent less than the 2.76 million pounds of milk used in cottage cheese in the same 1967 period. Whether this decrease in cottage cheese production is attributable to the higher price for cottage cheese milk cannot be determined from the record. However, the claim by Tri-State handlers that the present Class II price is placing them at a competitive disadvantage relative to nonpool handlers on cottage cheese sales in the Tri-State market is not substantiated by the record.

The major ingredient cost for cottage cheese is that for skim milk. For the 8-month period of March through October 1968, the present order provisions resulted in an average Class II skim milk value of $1.71 per hundredweight. This was the average cost to Tri-State handlers for producer skim milk used in making cottage cheese. The comparable cost during that time for handlers regulated under the Eastern Ohio-Western Pennsylvania, Columbus, and Cincinnati Federal orders was $1.52 per hundredweight.[5] Based on a yield of 15 pounds of curd per hundredweight of skim milk, the ingredient cost of cottage cheese curd for Tri-State handlers was 11.4 cents per pound. The ingredient cost for handlers in the other three markets was 10.1 cents per pound of curd.

Major processing centers in the neighboring markets include the cities of Cincinnati, Columbus, and Pittsburgh. Although the record does not indicate the present sources, cottage cheese sales in the Tri-State market by handlers in these other markets may be expected to emanate from such cities.

Considerable distances are involved in moving cottage cheese from Cincinnati, Columbus, and Pittsburgh to the Tri-State market. The distance from Cincinnati to Portsmouth, Ohio, is 100 miles. Columbus is 89 miles from Portsmouth and 77 miles from Athens, Ohio. Pittsburgh is 131 miles from Marietta, Ohio. Huntington and Charleston, W. Va., are even more distant from these cities in the other markets. The cost of transporting cottage cheese from the distant areas to outlets in the Tri-State market thus would be expected to negate the 1.3-cent cost advantage per pound of curd which handlers in the nearby markets have over Tri-State handlers on the cost of skim milk.

As at the time the present Class II price was adopted, local producers still represent the cheapest source of cottage cheese milk for Tri-State handlers. Ungraded fresh skim milk delivered from a manufacturing plant to any plant in the Tri-State market was quoted at $2.40 per hundredweight, 69 cents more than the average cost of $1.71 per hundredweight for producer skim milk. Dry curd could be obtained from a Columbus source at 19 cents per pound, plus transportation. The cost for local producer milk at Tri-State plants recently averaged 11.4 cents per pound of dry curd.

Nonfat dry milk, which may be reconstituted for use in cottage cheese production, likewise costs more on a skim equivalent basis than producer skim milk. Non-Grade A and Grade A powder were quoted at 23.75 cents and 25.5 cents per pound, respectively, f.o.b. the market. With a yield of 8.5 pounds of nonfat dry milk per hundredweight of skim milk, the cost of nonfat solids in the two grades of powder would be about $2.02 and $2.17 per hundredweight of skim equivalent.

It is necessary, of course, that producer milk disposed of in manufacturing uses be priced under the order at a level which results in the orderly marketing of such milk. Within this concept, the price level should be that which will provide the highest possible returns to producers. If producer milk used in cottage cheese is priced to handlers at less than the cost of alternative supplies of cottage cheese or dairy products used for making cottage cheese, producers do not receive the full market value for their milk. On the other hand, if producer milk used in cottage cheese is priced higher than the alternative product cost, handlers might be discouraged from using producer milk in cottage cheese.

The present Class II price represents a reasonable return to producers for supplying Grade A milk on a regular basis for cottage cheese production. It would be inappropriate, therefore, to lower the Class II price as proposed by handlers.

(f) *Revision of location adjustments.* The location adjustment provisions of the order should be changed to reflect current marketing conditions.

The order now provides for reducing the Class I and uniform prices at plants

[3] Official notice is taken of the market administrator's price announcements for the Tri-State order that were issued for November and December 1968.

[5] Official notice is taken of the market administrator's price announcements for the Columbus and Cincinnati orders that were issued for March through October 1968.

outside the marketing area and more than 45 miles from designated measuring points by 2 cents for each 10 miles up to 100 miles and 1.5 cents for each 10 miles over 100 miles that the plant is from the nearest measuring point. The measuring points are Ashland, Paintsville, and Pikeville in Kentucky; Athens, Gallipolis, Jackson, Marietta, and Portsmouth in Ohio; and Charleston, Hinton, Huntington, and Williamson in West Virginia.

The location adjustment provisions should be revised so that no location differential would apply at a plant within 100 miles of the designated measuring points. At more distant locations, the Class I and uniform prices should be reduced 15 cents plus an additional 1.5 cents for each 10 miles in excess of 110 miles that the plant is from the nearest measuring point. Coshocton, Ohio, and Bluefield, W. Va., should be designated as additional measuring points for determining location adjustments. Athens, Ohio, which would serve no purpose because of its geographical location, should no longer be a designated measuring point.

The present location differentials do not reflect the current efficiencies in moving milk long distances. Technological changes in recent years, such as larger tank trucks, better refrigeration, and improved roads, have resulted in the more efficient movement of milk. Such efficiency has tended to reduce unit hauling costs for both producers and handlers. Because of this, milk is being moved considerable distances by producers from farms to processing plants and by handlers from plants to resale outlets.

The location differentials also do not reflect the recent changes in the supply and distribution patterns in the Tri-State market resulting from the more efficient movement of milk. Since these differentials were adopted, the one supply plant that had been regulated under the order for a number of years is no longer operating as a supply plant for Grade A milk. This plant is located at Circleville, Ohio, about 50 miles from Jackson, the nearest measuring point. As described earlier in this decision a Tri-State handler has relocated his processing facilities at Athens in a new distributing plant at Coshocton, Ohio. Milk is distributed from this plant not only in the Tri-State market but also in several neighboring markets.

Providing for location adjustment credits only at plants 100 miles or more from designated measuring points, as proposed by producers, recognizes the technological improvements in moving milk greater distances in this market. The 100-mile distance from measuring points is a reasonable and appropriate standard under current conditions as a minimum distance for establishing location adjustments.

The 1.5-cent rate proposed herein reflects the cost of moving milk efficiently under present conditions in the Tri-State market. It is the rate most applicable in Federal orders throughout the United States and is recognized as an appropriate and representative rate for transporting milk to the market. Because of its wide applicability, it will insure a reasonable alignment of prices between this and other orders at the various locations at which handlers under the different orders compete.

The Coshocton handler opposed any change in the location adjustment provisions except a reduction in the 2-cent adjustment rate per 10 miles to 1.5 cents. He claimed that the plant was located in a major production area and that adequate supplies should be available at the price now applicable at the plant.

Under the change proposed herein, the Class I and uniform prices at Coshocton would be at the same level as such prices at Athens. Thus, the handler operating the Coshocton plant would pay the same Athens-Scioto district Class I price which he paid at his Athens plant. Similarly, producers supplying either plant would receive the same uniform price. The present order provisions result in a location adjustment at Coshocton of minus 16 cents per hundredweight.

The location differentials proposed herein are appropriate in view of the changed marketing conditions. The Class I price that would apply at the Coshocton plant would be in reasonable alignment with Class I prices applicable elsewhere in the Tri-State market and in other markets. The Coshocton plant competes with handlers in the Columbus and Eastern Ohio-Western Pennsylvania markets for a substantial quantity of milk. The price level that would result from the amendments proposed herein is necessary to assure an adequate supply of milk for the Coshocton plant. A spokesman for the cooperatives supplying the plant indicated that a lower price would not attract an adequate supply of milk or maintain market stability within the procurement area.

Designating Coshocton and Bluefield as measuring points for determining location adjustments recognizes the increasing distances that milk is moved not only from farms to plants and for distribution from such plants but also in diverting producer milk to nonpool plants. When the milk of producers regularly supplying Tri-State handlers is not needed by them, it must be moved by the producers' cooperatives to nonpool plants for manufacturing purposes.

There are a limited number of manufacturing plants in the area to which milk may be diverted. A plant at Orrville, Ohio, approximately 50 miles north of Coshocton, is expected to serve as a plant to which milk will be diverted from the farms of producers supplying plants in the northern part of the Tri-State market. In the southern part of the marketing area, a manufacturing plant at Independence, Va., about 75 miles from Bluefield, is the nearest available outlet for diverted milk.

Adding the above two measuring points and enlarging the mileage from the various measuring points that milk may be diverted without incurring a location adjustment, thereby facilitating the diversion of producer milk, will tend to insure the maintenance of orderly marketing under current conditions in the Tri-State market.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. 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 orders 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 agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effecuate 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 areas, and the minimum prices specified in the proposed marketing agreements and the orders, 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 agreements and the orders, 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, the marketing agreements upon which hearings have 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 agreements and orders.* Annexed hereto and made a part hereof are four documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Eastern Ohio-Western Pennsylvania Marketing Area", "Order Amending and Merging the Orders Regulating the Handling of Milk

in the Eastern Ohio-Western Pennsylvania and Clarksburg, W. Va., Marketing Areas", "Marketing Agreement Regulating the Handling of Milk in the Tri-State Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Tri-State 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 agreements, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the attached orders which will be published with this decision.

*Determination of representative period.* The month of February 1969 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending and merging the orders, as amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania and Clarksburg, W. Va., marketing areas and of the attached order amending the order regulating the handling of milk in the Tri-State marketing area, are approved or favored by producers, as defined under the terms of the respective Eastern Ohio-Western Pennsylvania, and Tri-State orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing areas.

Signed at Washington, D.C., on April 10, 1969.

RICHARD E. LYNG,
*Assistant Secretary.*

ORDER[1] AMENDING AND MERGING ORDERS REGULATING HANDLING OF MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA AND CLARKSBURG, W. VA., MARKETING AREAS

*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 orders 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 agreements and to the orders regulating the handling of milk in the Eastern Ohio-Western Pennsylvania and Clarksburg, W. Va., marketing areas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Eastern Ohio-Western Pennsylvania 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 Eastern Ohio-Western Pennsylvania 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 Eastern Ohio-Western Pennsylvania 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 Eastern Ohio-Western Pennsylvania 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, 3 cents per hundredweight or such amount not to exceed 3 cents per hundredweight as the Secretary may prescribe, with respect to: (i) Producer milk (including such handler's own production); (ii) Other source milk allocated to Class I pursuant to § 1036.45 (a) (3) and (7) and the corresponding steps of § 1036.45(b); and (iii) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

*Order relative to handling—It is therefore ordered*, That on and after the effective date hereof, the orders regulating the handling of milk in the Eastern Ohio-Western Pennsylvania and Clarksburg, W. Va., marketing areas (Parts 1036 and 1009, respectively) shall be amended and merged into one order and the handling of milk in the merged marketing area, to be designated as the "Eastern Ohio-Western Pennsylvania marketing area," shall be in conformity to and in compliance with the terms and conditions of Part 1036 as hereby amended. Part No. 1009 is superseded by the revision of Part 1036 and Part 1036 is hereby amended as follows:

The provisions of the proposed marketing agreement and order amending and merging the Eastern Ohio-Western Pennsylvania and Clarksburg, W. Va., orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on March 5, 1969, and published in the FEDERAL REGISTER on March 8, 1969 (34 F.R. 5013; F.R. Doc. 69-2865), shall be and are the terms and provisions of this order and are set forth in full herein:

1. In § 1036.6, paragraph (c) is revised to read as follows:

**§ 1036.6 Eastern Ohio-Western Pennsylvania marketing area.**

* * * * *

(c) In West Virginia:

(1) The following counties in their entirety:

| | |
|---|---|
| Brooke. | Marshall. |
| Hancock. | Monongalia. |
| Harrison. | Ohio. |
| Marion. | |

(2) Grafton magisterial district in Taylor County;

(3) Philippi magisterial district in Barbour County;

(4) Leadsville magisterial district in Randolph County;

(5) The city of Buckhannon in Upshur County;

(6) The city of Weston in Lewis County; and

(7) The town of Kingwood in Preston County.

2. Section 1036.20 is revised to read as follows:

**§ 1036.20 Pittsburgh district.**

"Pittsburgh district" means all the territory in the marketing area that is either within West Virginia or within 80 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) of the Pittsburgh, Pa., city hall.

3. Section 1036.51 is revised to read as follows:

**§ 1036.51 Class prices.**

Subject to the provisions of §§ 1036.52 and 1036.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* For each month through December 1969, the Class I price shall be the basic formula price for the preceding month plus $1.67 for plants in the Cleveland-Erie district and $1.77 for plants in the Pittsburgh district, plus 20 cents for each district. At a plant outside the marketing area, add the amount applicable pursuant to this paragraph at the location of the city hall of the following cities that is nearest (by the shortest hard-surfaced highway distance as determined by the market administrator) such plant: Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.

(b) *Class II price.* The Class II price shall be the basic formula price for the month: *Provided*, That such Class II price shall not be more than the price computed pursuant to subparagraphs (1), (2), and (3) of this paragraph:

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

(1) Multiply by 4.2 the Chicago butter price;

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

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

ORDER[1] AMENDING ORDER REGULATING HANDLING OF MILK IN TRI-STATE MARKETING AREA

*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 Tri-State 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; and

(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.

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

*Order relative to handling.*—It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Tri-State marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on March 5, 1969, and published in the FEDERAL REGISTER on March 8, 1969 (34 F.R. 5013; F.R. Doc. 69-2865) shall be and are the terms and provisions of this order and are set forth in full herein:

1. Section 1005.16 is revised to read as follows:

**§ 1005.16 Producer milk.**

"Producer milk" means the skim milk and butterfat contained in Grade A milk:

(a) Received at a pool plant directly from a dairy farmer, a reload point or a handler pursuant to § 1005.13(d);

(b) Diverted from a pool plant to a nonpool plant other than an other order plant or a producer-handler plant: *Provided,* That:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(3) In any month of August through March, the quantity of milk of any producer diverted to nonpool plants that exceeds that delivered to pool plants shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk; or

(c) Diverted from a pool plant to an other order plant if a Class III classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order. The provisos in paragraph (b) of this section shall apply to this paragraph as if set forth fully herein.

2. In § 1005.51, paragraph (a) is revised to read as follows:

**§ 1005.51 Class prices.**

* * * * *

(c) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $1.55 for plants in the Charleston-Huntington district and $1.47 for plants in the Athens-Scioto district, plus 20 cents for each district. At a plant outside the marketing area add the amount applicable pursuant to this paragraph at the location of the city hall of the following cities that is nearest such plant:

KENTUCKY

| | |
|---|---|
| Ashland. | Pikeville. |
| Paintsville. | |

OHIO

| | |
|---|---|
| Coshocton. | Marietta. |
| Gallipolis. | Portsmouth. |
| Jackson. | |

WEST VIRGINIA

| | |
|---|---|
| Bluefield. | Huntington. |
| Charleston. | Williamson. |
| Hinton. | |

* * * * *

3. In § 1005.53, paragraph (a) is revised to read as follows:

**§ 1005.53 Location adjustments to handlers.**

(a) Except as provided in paragraph (b) of this section, the Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant outside the marketing area and more than 100 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from all the cities listed in § 1005.51 (a) shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the city hall of the nearest of the cities listed in § 1005.51(a).

* * * * *

[F.R. Doc. 69-4423; Filed, Apr. 15, 1969; 8:46 a.m.]

## Consumer and Marketing Service

## [ 9 CFR Part 317 ]

## LABELS OF MEAT FOOD PRODUCTS

### Proposed Use of Term "Farm" or Similar Terms

Notice is hereby given in accordance with administrative procedure provisions in 5 U.S.C. 553 that pursuant to the authority conferred by the Federal Meat Inspection Act, as amended (21 U.S.C. Supp. III, sec. 601 et seq.), it is proposed to amend § 317.8(c)(2) of the Federal Meat Inspection Regulations (9 CFR 317.8(c)(2)) to read as follows:

Terms such as "farm," "ranch," "plantation," or "country," shall not be used on labels in connection with any product unless such product is actually prepared on a farm, ranch, plantation, or similar place as indicated on the labels: *Provided,* That if the product is prepared in the same way as it is traditionally prepared on the farm, ranch, plantation, or similar place, such terms may be used if qualified by the word "style" in the same size and style of lettering: *Provided further,* That such terms may be used as part of a brand designation of any product when qualified by the word "brand" in the same size and style of lettering and followed with a statement identifying the locality in which the product is prepared; *And provided further,* That, except in the

case of labels for sausage, lard, bacon, cured and smoked bone-in pork products, and cured and dried bone-in pork products, such terms may be used on the labels as part of a trademark or trade name registered with the U.S. Patent Office, with the symbol signifying such registration, if the labels are devoid of illustration or wording with farm, ranch, plantation, country, or other rural connotations, other than such trademark or trade name. Sausage containing cereal and lard not rendered in an open kettle, shall not be designated by terms such as "farm style," "ranch style," "plantation style," or "country style."

*Statement of considerations.* The proposed change in the Federal Meat Inspection Regulations would permit the use of terms such as "farm" (or "Farm"), "country" (or "Country"), "ranch" (or "Ranch"), and "plantation" (or "Plantation"), on labels for a number of meat food products prepared under the requirements of the regulations in situations in which it appears such terms would not signify that the products were prepared in the rural areas mentioned. The amendment would be in accord with the policies adopted by other regulatory agencies with respect to other foods.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C., this 11th day of April 1969.

R. K. SOMERS,
*Deputy Administrator,*
*Consumer Protection.*

[F.R. Doc. 69-4476; Filed, Apr. 15, 1969; 8:51 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Public Health Service

## [ 42 CFR Part 81 ]

## AIR QUALITY CONTROL REGIONS

## Notice of Proposed Designation of Hartford-Springfield Interstate Air Quality Control Region; Notice of Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate the Hartford-Springfield Interstate Air Quality Control Region (Connecticut-Massachusetts) as set forth in the following new § 81.26 which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designation effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Ballston Center Tower II, Room 905, 801 North Randolph Street, Arlington, Va. 22203. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Connecticut and Massachusetts and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at the Connecticut State Department of Health Auditorium, Fifth Floor, 79 Elm Street, Hartford, Conn. 06115, beginning at 10 a.m., April 29, 1969.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Ballston Center Tower II, Room 905, 801 North Randolph Street, Arlington, Va. 22203, of such intention at least 1 week prior to the consultation. A report prepared for the consultation is available upon request to the Office of the Commissioner.

In Part 81 a new § 81.26 is proposed to be added to read as follows:

### § 81.26 Hartford-Springfield Interstate Air Quality Control Region.

The Hartford-Springfield Interstate Air Quality Control Region (Connecticut-Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:

CITIES

| | |
|---|---|
| Bristol. | Middletown. |
| Hartford. | New Britain. |

TOWNS

| | |
|---|---|
| Andover. | East Haddam. |
| Avon. | East Hampton. |
| Berlin. | East Hartford. |
| Bloomfield. | East Windsor. |
| Bolton. | Ellington. |
| Burlington. | Enfield. |
| Canton. | Farmington. |
| Cromwell. | Glastonbury. |
| Durham. | Granby. |
| East Granby. | Haddam. |

TOWNS—Continued

| | |
|---|---|
| Hebron. | Somers. |
| Manchester. | Southington. |
| Marlborough. | South Windsor. |
| Middlefield. | Suffield. |
| Newington. | Tolland. |
| Plainville. | Vernon. |
| Plymouth. | West Hartford. |
| Portland. | Wethersfield. |
| Rocky Hill. | Windsor. |
| Simsbury. | Windsor Locks. |

In the State of Massachusetts:

CITIES

| | |
|---|---|
| Chicopee. | Springfield. |
| Holyoke. | Westfield. |
| Northampton. | |

TOWNS

| | |
|---|---|
| Agawam. | Ludlow. |
| Amherst. | Middlefield. |
| Belchertown. | Monson. |
| Blandford. | Montgomery. |
| Brimfield. | Palmer. |
| Chester. | Peeham. |
| Chesterfield. | Plainfield. |
| Cummington. | Russell. |
| Easthampton. | Southampton. |
| East Longmeadow. | South Hadley. |
| Goshen. | Southwick. |
| Granby. | Tolland. |
| Granville. | Wales. |
| Hadley. | Ware. |
| Hampden. | Westhampton. |
| Hatfield. | West Springfield. |
| Holland. | Wilbraham. |
| Huntington. | Williamsburg. |
| Longmeadow. | Worthington. |

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: April 11, 1969.

JOHN T. MIDDLETON,
*Commissioner National Air Pollution Control Administration.*

[F.R. Doc. 69-4446; Filed, Apr. 15, 1969; 8:48 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Coast Guard

## [ 33 CFR Part 117 ]

[CGFR 68-163W]

## RADIOTELEPHONES ON DRAWBRIDGES

## Notice of Proposed Rule Making

1. The Commandant, U.S. Coast Guard is considering a proposal to change the rules and regulations governing the operation of drawbridges in 33 CFR 117 to add a provision for requiring the installation of radiotelephone stations on drawbridges where it is determined that such equipment is essential to the operation of the drawbridge for safety or navigation.

2. This amendment is now proposed as result of an amendment to 47 CFR 81 of the rules of the FCC adopted November 20, 1968, which provides in § 81.351(a)(6) that an authorization for a Limited Coast Station (VHF-FM), may

be granted to a person who is responsible for the operation of bridges, structures, or other installations that are a part of, or directly related to, a harbor, port, or waterway when the operation of such facilities requires radio communications with vessels for safety or navigation. Prior to this action by the FCC drawbridge owners were eligible to be authorized to operate radiotelephone stations only on certain frequencies in the 2–4 MHz band on a showing of need. The Commandant could not therefore require the installation and use of VHF–FM radiotelephone equipment on a bridge under the authority of 33 U.S.C. 494 and 499 and 14 U.S.C. 85. The exercise of authority by the Commandant heretofore in the presence of the then existing FCC regulations would not have achieved the desired benefit to safety or navigation which is now possible.

3. This document contains this proposal together with appropriate references to statutory authority which authorizes the Commandant to prescribe rules and regulations to govern the operation of drawbridges. Interested persons may participate in this proposed rule making by submitting such written data, views, arguments, or comments as they may desire, within 60 days after date of publication of this document in the FEDERAL REGISTER, to the Commandant (OAN–5), U.S. Coast Guard, Department of Transportation, Washington, D.C. 20591. Each communication should identify the subject and section number of the proposal to which it is directed; set forth the specific wording of each proposal being recommended in lieu of the proposed wording in this document; the reason or basis for each recommended change; and the name, address, and business firm or organization, if any, of the submitter. Each communication received within the time period so specified will be considered and evaluated before final action is taken on the proposal in this document. Copies of all written communications received will be available for examination and reading by interested persons in Room 7211, Coast Guard Headquarters, Washington, D.C., both before and after the closing date for receipt of comments. The proposal contained in this document may be changed in the light of comments received.

4. No hearing is contemplated on the proposal in this document but arrangements may be made for informal conferences with cognizant Coast Guard officials by contacting the Chief, Aids to Navigation Division, Room 7211, U.S. Coast Guard Headquarters, Washington, D.C. 20591. Any data or views presented during such informal conferences must also be submitted in writing to the Commandant (OAN–5) in accordance with this notice in order that it may become part of the record.

5. In addition to publication in the FEDERAL REGISTER, copies of the printed document will be mailed to persons and organizations who have expressed a continued interest in this subject of bridges and have requested that copies of proposed changes in rules and regulations be furnished them. After the supply of copies of this printed document is exhausted, copies will be available for reading purposes in Room 7211, Coast Guard Headquarters, or at the offices of various Coast Guard District Commanders.

6. A new subsection 117.1(f) is proposed to be added to § 117.1 *General* to state when radiotelephone equipment may be required to be installed on a drawbridge regulated under Part 117 of Title 33 CFR.

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

Section 117.1 is amended to add a paragraph as follows:

§ 117.1 General.

* * * * *

(f) When the Commandant deems it necessary to the operation of any individual drawbridge for safety or navigation, he may require the installation of radiotelephone stations subject to the rules and regulations of the Federal Communications Commission governing the assignment of operating frequencies, licensing and operation of such stations.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 494 and 499, 14 U.S.C. 85; 49 U.S.C. 1655(g); 49 CFR 1.4(a)(3)(v))

Dated: April 7, 1969.

W. J. SMITH,
*Admiral, U.S. Coast Guard,*
*Commandant.*

[F.R. Doc. 69-4411; Filed, Apr. 15, 1969; 8:45 a.m.]

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## Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 68–EA–32]

## FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Withdrawal of Proposed Designation

On page 6247 of the FEDERAL REGISTER for April 24, 1968, the Federal Aviation Administration published a proposed regulation which would designate an Oakland, Md., transition area.

Since publication of the proposal, unanticipated delays have occurred in obtaining the information necessary for establishing an instrument approach for which the transition area was to provide protection, nor is there expectation of readily obtaining such information.

In view of the foregoing, the proposed regulation is hereby withdrawn.

(Sec. 307(a) of the Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348 and sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on April 1, 1969.

WAYNE HENDERSHOT,
*Acting Director, Eastern Region.*

[F.R. Doc. 69-4414; Filed, Apr. 15, 1969; 8:46 a.m.]

# ATOMIC ENERGY COMMISSION

### [ 10 CFR Parts 2, 50 ]

## BACKFITTING OF PRODUCTION AND UTILIZATION FACILITIES; CONSTRUCTION PERMITS AND OPERATING LICENSES

### Notice of Proposed Rulemaking

The Atomic Energy Commission has under consideration several amendments to its rules of practice, 10 CFR Part 2, and to its regulation, Licensing of Production and Utilization Facilities, 10 CFR Part 50, which would (1) define more precisely the significance of the issuance of a construction permit for a facility, (2) simplify and expedite the Commission's facility licensing process by eliminating the "provisional" operating license, and (3) clarify the Commission's position with respect to requirements for additional safety features after the issuance of a construction permit.

The rapidly expanding technology in the field of atomic energy means that new or improved features or designs that may enhance the safety of production and utilization facilities are continually being developed. Concern has been expressed as to the circumstances under which the Commission will require backfitting of facilities—that is, the addition or modification of structures, systems or components of the facility after the construction permit has been issued. Proposed § 50.109 set forth below provides that the Commission will require backfitting if it finds that such action will provide substantial, additional protection which is required for the public health and safety or the common defense and security.

Proposed § 50.109 is not, however, intended to affect the responsibility of applicants for, or holders of facility licenses for evaluating significant new information developed as a result of experience in the design, construction, testing and operation of facilities and the results of research and development programs bearing on the safety of facilities, and for recommending any additions to, or modifications of facilities needed to protect the health and safety of the public.

Section 50.35 of 10 CFR Part 50 presently states Commission criteria for issuance of a provisional construction permit when an applicant has not supplied initially all of the technical information required to complete the application and support the issuance of a construction permit which approves all proposed design features. That section also provides that the issuance of a provisional construction permit will constitute an authorization to the applicant to proceed with construction but will not constitute Commission approval of the safety of any design feature or specification unless the applicant specifically requests such approval and the approval is incorporated in the permit. In practice, almost all construction permits issued by the Commission have been "provisional" and have never been converted into

"final" construction permits, but have merged directly into the operating license. The proposed amendment of § 50.35 which follows would eliminate the term "provisional" construction permit, thus conforming the terminology with Commission practice. The findings required for issuance of a construction permit would be essentially the same as those required for a "provisional" construction permit. The proposed amendment would provide, however, that in issuing a construction permit, the Commission would be approving the construction of the facility in accordance with the application, including the principal architectural and engineering criteria. (Such approval would, of course, apply only to the extent that a particular matter had been treated in the application, and would not extend to items or details not covered in the application.) The proposed amendment would permit the construction permit holder to depart from provisions of the application other than the principal architectural and engineering criteria in the construction of the facility, subject to the risk of subsequent disapproval by the Commission (unless prior approval is requested and given). By a proposed § 50.2(w), "principal architectural and engineering criteria" would be defined to include (1) the principal design criteria, (2) the essential elements of the proposed design for certain structures, systems and components, (3) the design bases for protection against natural phenomena, and (4) the essential elements of the applicant's quality assurance program.

By a proposed amendment to § 50.57, the "provisional" operating license, which is issued for an 18-month period, would be eliminated. Temporary limitations on operation considered necessary for public health and safety would be incorporated in the full-term operating license as conditions. The elimination of the provisional operating license would not preclude the Commission from imposing all the limitations in the full-term operating license which it can presently require in the provisional operating license. The elimination of the provisional operating license would remove one step in AEC's facility licensing process and is expected to reduce the time consumed in the facility licensing process without reducing the degree of protection of the public health and safety provided.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 2 and 50 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received by the Commission may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

1. Subdivision 2.104(b)(1)(i)(*a*) and section VI(b)(1)(*a*) of Appendix A of 10 CFR Part 2 are amended by deleting the words "for the design" after the phrase "the principal architectural and engineering criteria."

2. Subparagraph 2.104(b)(2) and sections I (c) and (d), III(g)(1), and IV (c) and (d) of Appendix A of 10 CFR Part 2 are amended by substituting the words "construction permit" for "provisional construction permit" where they appear.

§ 2.761 [Amended]

3. Paragraph (d) of § 2.761 of 10 CFR Part 2 is amended by substituting the words "operating license or provisional operating authorization" for "provisional operating license or authorization".

4. A new paragraph (w) is added to § 50.2 of 10 CFR Part 50 to read as follows:

§ 50.2 Definitions.

* * * * *

(w) "Principal architectural and engineering criteria" mean (1) the principal design criteria for the facility; (2) the essential elements of the proposed design of the following structures, systems, and components of the facility: Reactor core, reactivity control systems, protection system, control room, reactor pressure vessel and internals, reactor coolant system and associated auxiliary systems, reactor coolant makeup system, decay heat removal system, cooling water system, fuel storage and handling system, radioactive waste system, emergency power systems, primary reactor containment, containment isolation system, secondary reactor containment, auxiliary buildings, emergency core cooling system, containment heat removal system, containment atmosphere cleanup systems, and such other structures, systems and components as may be specified by the Commission; (3) the design bases for protection against natural phenomena such as earthquakes, tornadoes, hurricanes, floods, tsunamis, and seiches; and (4) the essential elements of the quality assurance program to be applied to the design, fabrication, construction, and testing of the structures, systems, and components of the facility.[1]

5. Paragraphs (a) and (b) of § 50.35 of 10 CFR Part 50 are revised to read as follows:

§ 50.35 Issuance of construction permits.

(a) Notwithstanding the fact that an applicant has not supplied initially all of the technical information required to complete the application, including the final design of the facility, the Commission may issue a construction permit if the Commission finds that (1) the applicant has described the proposed design of the facility, including, but not limited to, the principal architectural and engineering criteria, and has identified the major features or components incorporated therein for the protection of the health and safety of the public; (2) such further technical or design information as may be required to complete the safety analysis, and which can reasonably be left for later consideration, will be supplied in the final safety analysis report; (3) safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and that (4) on the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility and (ii) taking into consideration the site criteria contained in Part 100 of this chapter, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

NOTE: When an applicant has supplied initially all of the technical information required to complete the application, including the final design of the facility, the findings required above will be appropriately modified to reflect that fact.

(b) A construction permit will constitute Commission approval of the construction of the proposed facility described in the application as amended, in accordance with the principal architectural and engineering criteria. In constructing the facility, the holder of the construction permit shall not depart from the principal architectural and engineering criteria, as described in the application as amended, without the approval of the Commission. The holder of the construction permit may, however, make such changes in the facility as do not conflict with the principal architectural and engineering criteria, as described in the application as amended, or the terms and conditions of the construction permit, subject to the risk of the subsequent disapproval of those changes by the Commission at any time prior to the issuance of the operating license. If the holder of a construction permit desires prior approval of changes in the facility which do not conflict with the principal architectural and engineering criteria, he may request such approval by the Commission.

6. Section 50.57 of 10 CFR Part 50 is revised to read as follows:

§ 50.57 Issuance of operating license.

(a) Pursuant to § 50.56, an operating license will be issued by the Commission, up to the full term authorized by § 50.51, upon finding that:

[1] The proposed definition in this paragraph 50.2(w) is appropriate for nuclear reactors but not for fuel reprocessing facilities. During the comment period, an appropriate revision of this paragraph will be made, to provide for definition of principal architectural and engineering criteria for fuel reprocessing facilities.

(1) Construction of the facility has been substantially completed, in conformity with the construction permit and the application as amended, the provisions of the Act, and the rules and regulations of the Commission; and

(2) The facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission; and

(3) There is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations in this chapter; and

(4) The applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations in this chapter; and

(5) The applicable provisions of Part 140 of this chapter have been satisfied; and

(6) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

(b) Each operating license will include appropriate provisions with respect to any uncompleted items of construction and such limitations or conditions as are required to assure that operations during the period of the completion of such items will not endanger public health and safety.

(c) In a case where a hearing has been held in connection with a proceeding under this section the presiding officer may, upon written motion and upon good cause shown, provide that any initial decision issued pursuant to this section shall become effective 10 days after issuance subject to (1) the review thereof and further decision by the Commission upon exceptions filed by any party, and (2) such order as the Commission may enter upon such exceptions or upon its own motion within 45 days after the issuance of such initial decision. In the absence of a Commission order pursuant to the foregoing, and in the absence of exceptions to the initial decision, the initial decision shall become the final decision of the Commission at the end of such 45-day period. If any party oppose the motion for expedited effectiveness of the initial decision, the presiding officer may stay its effectiveness pending filing within 5 days after its issuance of an exception to the provision for expedited effectiveness, and thereafter until decision by the Commission on the exception.

7. An undesignated center head and a new § 50.109 are added to 10 CFR Part 50 to read as follows:

BACKFITTING

**§ 50.109 Backfitting.**

(a) The Commission may, in accordance with the procedures specified in this chapter, require the backfitting of a facility if it finds that such action will provide substantial, additional protection which is required for the public health and safety or the common defense and security. As used in this section, "backfitting" of a production or utilization facility means the addition or modification of structures, systems or components of the facility after the construction permit has been issued.

(b) Nothing in this section shall be deemed to relieve a holder of a construction permit or a license from compliance with the rules, regulations, or orders of the Commission.

(c) The Commission may at any time require a holder of a construction permit or a license to submit such information concerning the addition or proposed addition, the elimination or proposed elimination, or the modification or proposed modification of structures, systems or components of a facility as it deems appropriate.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 8th day of April 1969.

For the Atomic Energy Commission.

W. B. McCOOL,
*Secretary.*

[F.R. Doc. 69-4424; Filed, Apr. 15, 1969; 8:46 a.m.]

# FEDERAL HOME LOAN BANK BOARD

## [ 12 CFR Part 545 ]

[No. 22,723]

## FEDERAL SAVINGS AND LOAN SYSTEM

### Savings Deposits and Payment of Earnings

APRIL 10, 1969.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of implementing an amendment to section 5(b) of the Home Owners' Loan Act of 1933, as amended, contained in Public Law 90-448, 82 Stat. 476, approved August 1, 1968, (1) to authorize Federal savings and loan associations which have adopted the charter amendment providing for acceptance of savings deposits to accept savings deposits for fixed periods of time and to pay interest on all savings deposits, and (2) to authorize all Federal savings and loan associations to pay earnings on a "split rate" basis on a single account, according to the balance maintained in the account. Accordingly, it is proposed to amend said Part 545 as follows:

1. Amend paragraph (b) of § 545.1-2 by revising subparagraphs (1) and (2) thereof to read as follows:

**§ 545.1-2 Savings deposits.**

* * * * *

(b) *Savings deposits*—(1) *General.* A deposit association may raise capital in the form of such savings deposits as are authorized by this section and § 545.1-4. Except as the Board may otherwise provide, a deposit association shall not accept savings accounts other than such savings deposits, but savings accounts existing in such association at the time when it becomes a deposit association shall remain such savings accounts unless and until they are exchanged for such savings deposits. In the case of savings accounts exchanged for savings deposits on a date other than the date on which the association regularly distributes earnings on its savings accounts, such exchange shall be deemed to have taken place on the immediately preceding regular dividend distribution date. Any right outstanding at the time when an association becomes a deposit association to receive from the association in an exchange a savings account shall thereafter be a right to receive, at the option of the holder of such right, either a savings account or a corresponding savings deposit. Any exchange under this subparagraph (1) may be effected in such manner as the Board may prescribe.

(2) *Terms of savings deposits; membership and voting rights.* Except as provided in subparagraph (3) of this paragraph (b), in § 545.1-4, and in § 545.1-5, savings deposits authorized by this section shall be upon the same terms and conditions and have the same characteristics as if they were savings accounts authorized by and subject to the provisions of the association's charter other than the charter provision aforesaid and the provisions of this subchapter other than this section, but, in the case of a deposit association whose charter does not include the provision set forth in paragraph (b) of § 544.8 of this subchapter, such charter shall, for the purposes of this sentence, be deemed to include said provisions. Holders of such savings deposits shall, to the same extent as if their holdings of such savings deposits were holdings of such savings accounts, be members of the association and have voting rights.

* * * * *

2. Add new §§ 545.1-4 and 545.1-5, immediately after § 545.1-3, to read as follows:

**§ 545.1-4 Other savings deposits.**

(a) *General.* In addition to the savings deposits authorized by § 545.1-2, any Federal association which has a charter in the form of Charter N or Charter K (rev.) and which has adopted the charter provision set forth in § 545.1-3 may, subject to the provisions of this section and the provisions of § 545.1-5, accept savings deposits for fixed periods of time.

(b) *Limitations.* In accepting savings deposits under the authority contained in paragraph (a) of this section, no Federal association shall:

(1) Provide for the payment of interest on any savings deposit in excess of the applicable maximum rate of return prescribed in Part 526 of Subchapter B of this Chapter V;

(2) Provide for any forfeiture for breach of condition on the part of any depositor, other than loss of interest, or partial loss thereof, for the term of the

savings deposit or other specified time period;

(3) Issue any negotiable form of certificate evidencing a savings deposit;

(4) Deny any member the opportunity to make any savings deposit at the same rate offered to any other member at that time on the same classification of savings deposit;

(5) Accept any fixed term savings deposit for a term of less than 6 months or more than 5 years or in an amount less than $1,000; *Provided*, That any such savings deposit may be renewed, at the option of the association, for successive periods not exceeding 5 years for each renewal;

(6) Provide for withdrawal from any fixed term savings deposit prior to the expiration of that term, except as provided in paragraph (e) of this section; or

(7) Issue any form of certificate evidencing a savings deposit unless the association has first (i) obtained a written opinion by its legal counsel that such form of certificate complies with the requirements of applicable law and regulations and the association's charter, which opinion shall be retained by the association so long as it continues to issue certificates in such form, and (ii) submitted a copy of such form of certificate, together with a copy of such legal opinion, to the Federal Savings and Loan Insurance Corporation.

(c) *Form of certificates.* Certificates evidencing savings deposits accepted pursuant to the authority contained in this section shall, subject to the limitations contained in paragraph (b) of this section and the disclosure requirements contained in paragraph (d) of this section, be in such form as the board of directors of the association may determine. Such certificates may be incorporated in passbooks or issued as separate certificates.

(d) *Disclosure.* Each certificate evidencing a savings deposit accepted pursuant to the authority contained in this section shall include in its provisions and display in easily read type:

(1) A full and understandable statement of the method of maturing the contract of deposit;

(2) The rate of interest to be paid;

(3) The amount of the deposit;

(4) The term of the deposit;

(5) The penalty or penalties imposed for withdrawal prior to completion of the fixed term or renewal;

(6) Any provisions relating to renewal at the conclusion of the fixed term; and

(7) Any provisions relating to the interest to be paid after the conclusion of a fixed term or renewal.

(e) *Withdrawal prior to expiration of term.* In an emergency where it is necessary to prevent great hardship to the holder of a fixed term savings deposit, a Federal association may pay, prior to the expiration of the term, such savings deposit or the portion thereof necessary to meet such emergency; *Provided*, That before such payment may be made, the depositor must sign an application describing fully the circumstances constituting the emergency which is deemed to justify the payment of the withdrawal, which application shall be (1) approved by an officer of the association who shall certify that, to the best of his knowledge and belief, the statements in such application are true and (2) retained by the association for a period of not less than 2 years. In the event of an emergency withdrawal as provided in this paragraph, the depositor shall forfeit accrued and unpaid interest for a period of not less than 3 months on the amount withdrawn if an amount equal to the amount withdrawn has been on deposit 3 months or more, and the depositor shall forfeit all accrued and unpaid interest on the amount withdrawn if an amount equal to the amount withdrawn has been on deposit less than 3 months. In the case of emergency withdrawal of only a portion of any such savings deposit, the certificate evidencing such savings deposit shall be canceled, and, if the minimum balance requirements of this section continue to be met, a new certificate shall be issued for the remaining portion of the savings deposit with the same term, rate, and dates as the original savings deposit.

**§ 545.1–5 Payment of interest on savings deposits.**

Savings deposits authorized by §§ 545.1–2 and 545.1–4 of this part shall be entitled to interest as fixed by the board of directors of the association from time to time. The board of directors of the association shall fix the interest rate on savings deposits accepted for indefinite periods of time in June and December of each year for the semiannual periods beginning on the immediately following July 1 and January 1 and may, by resolution, provide for the payment of interest on savings deposits on the same bases, terms and conditions as is provided for the distribution of earnings on savings accounts in § 545.1–1; except that, in the case of an association whose board of directors adopts a resolution providing for payment of interest on a quarterly basis, the board of directors shall fix the interest rate on such savings deposits for each quarterly period during the month immediately preceding such quarterly period.

3. Amend paragraph (b) of § 545.3–1 by adding a reference to subparagraph (4) in the first sentence thereof and by adding a new subparagraph (4) thereof to read as follows:

**§ 545.3–1 Distribution of earnings at variable rates.**

* * * * *

(b) *Eligibility requirements.* The board of directors may, by resolution, provide for the distribution of earnings at a rate or rates higher than the regular rate only on savings accounts which meet the minimum requirements fixed by the board of directors pursuant to subparagraphs (1), (2), (3), and (4) of this paragraph and such additional requirements as the board of directors may impose, except that the board of directors shall not authorize the issuance of accounts evidenced by notice-account books pursuant to subparagraph (2) of this paragraph unless the association's charter contains the sentence specified in paragraph (b) of § 544.8 of this subchapter or the charter provision set forth in paragraph (a) of § 545.1–3.

* * * * *

(4) *Split rates*—(i) *General.* For any dividend period for which the regular rate is less than the applicable maximum rate of return prescribed for regular accounts in Part 526 of Subchapter B of this Chapter V, the board of directors may, by resolution, determine to distribute earnings at a rate higher than the regular rate on the balance of any account in excess of such minimum balance as shall be fixed by the board of directors, which minimum balance shall not be less than $200, and at a rate or rates in excess of such higher rate on such higher balance or balances as the board of directors may prescribe, but no rate so determined shall be in excess of the applicable maximum rate of return prescribed for regular accounts in said Part 526.

(ii) *Account books and certificates.* Each account book and certificate evidencing an account issued pursuant to this subparagraph (4) shall be in the form prescribed by the Board pursuant to paragraph (b) of § 545.2 and shall bear on its face the following additional words:

* * * * *

Earnings are distributable on this account as determined by the board of directors of the association, subject to § 545.3–1(b)(4) of the Rules and Regulations for the Federal Savings and Loan System.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by May 16, 1969, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
*Assistant Secretary.*

[F.R. Doc. 69–4463; Filed, Apr. 15, 1969; 8:50 a.m.]

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## [ 12 CFR Part 563 ]

[No. 22,724]

## FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

### Approval of Certificate Forms

Resolved that the Federal Home Loan Bank Board considers it advisable to

amend Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) for the following purposes:

(1) To revise § 563.1 to provide that any State-chartered insured institution may issue any certificate form without prior approval by the Corporation, provided that it has first submitted a copy of such form to the Corporation for approval; that no insured institution shall issue any form of security which has been disapproved in writing by the Corporation; and that any insured institution may adopt a charter or bylaw amendment affecting its securities or investment contracts without prior approval of the Corporation but that any such amendment must be transmitted to the Corporation promptly after adoption;

(2) To amend § 563.2 by eliminating the requirement that the "simple form of certificate" be approved by the Corporation;

(3) To add a new § 563.3–1 to provide for the issuance by State-chartered insured institutions of certificates evidencing savings deposits bearing a definite rate of return for a fixed period of time; and

(4) To enlarge the provisions of § 563.7–1 to cover approval of savings deposits accepted by Federal savings and loan associations with a definite return and a definite maturity.

Accordingly, it is proposed to amend said Part 563 as follows:

1. Amend § 563.1 by revising it to read as follows:

**§ 563.1 Forms of certificates and passbooks; submission of forms of investment contracts and bylaws; furnishing members with copy of charter and bylaws.**

At the time of the application for insurance, every applicant (except a Federal savings and loan association) shall submit to the Corporation for approval copies of all savings account, share, membership, stock and deposit certificates, passbooks, and other forms of investment contracts proposed to be issued by the applicant as an insured institution; it shall also submit for such approval its charter, constitution, and bylaws, and all amendments thereto, affecting its securities and investment contracts. No insured institution (except a Federal savings and loan association) shall issue any form of savings accounts, share, stock, membership or deposit certificates, passbooks, or other investment contract which has not been submitted to the Corporation for approval. No insured institution shall issue any such form which has been disapproved in writing by the Corporation. Any insured institution which amends its charter, constitution, or bylaws affecting its securities or investment contracts shall promptly transmit such amendments to the Corporation. Except with the written approval of the Corporation, no insured institution may issue or have outstanding any class of insured account having preference, either as to time or amount in the event of liquidation, over any other class of insured account; *Provided*, That where there may be a change from one type of account to another, a reasonable time, to be determined by the Corporation, may be allowed to effect such change. Each insured institution shall cause a true copy of its charter and bylaws and all amendments thereto to be available to members at all times in each office of the institution, and shall upon request deliver to any member a copy of such charter, constitution, bylaws, and amendments.

2. Amend § 563.2 to read as follows:

**§ 563.2 Simple form of certificate; passbooks.**

An insured mutual institution which, in accordance with State law, includes in its charter, constitution, or bylaws a clear provision that all shareholders are members and shall share equally in earnings and in assets (except for bonus payments under a bonus plan) pro rata to paid-in value, plus credited dividends, and that the institution shall not directly or indirectly charge any membership, admission, repurchase, withdrawal, or any other fee or sum of money for the privilege of becoming, remaining, or ceasing to be a member of the institution, may issue a simple form of savings or investment certificate or a passbook, which need not contain any membership certificate or any statement of the dividend, withdrawal, or other rights of members.

3. Add a new § 563.3–1, immediately after § 563.3, to read as follows:

**§ 563.3–1 Savings deposits for fixed periods of time.**

(a) *General approval.* A State-chartered institution which, in accordance with State law, may accept deposits and pay interest thereon and whose board of directors has adopted a resolution providing for the issuance of savings deposits which bear a definite return for fixed periods of time may, subject to the limitations contained in paragraph (b) of this section and to the disclosure provisions contained in paragraph (c) of this section, issue certificates evidencing such savings deposits in such form as the board of directors of the institution may determine.

(b) *Limitations.* In issuing certificates evidencing savings deposits pursuant to the approval contained in paragraph (a) of this section, no insured institution shall:

(1) Provide for the payment of interest on any savings deposit in excess of the applicable maximum rate of return prescribed in Part 569 of this subchapter;

(2) Provide for any forfeiture for breach of condition on the part of any depositor, other than loss of interest, or partial loss thereof, for the term of the savings deposit or other specified time period;

(3) Issue any negotiable form of certificate evidencing a savings deposit;

(4) Deny any member the opportunity to make any savings deposit at the same rate offered to any other member at that time on the same classification of savings deposits;

(5) Accept any fixed term savings deposit for a term of less than 6 months or more than 5 years or in an amount less than $1,000; *Provided*, That any such savings deposit may be renewed, at the option of the institution, for successive periods not exceeding 5 years for each renewal.

(6) Provide for withdrawal from any fixed term savings deposit prior to the expiration of that term, except as provided in paragraph (d) of this section; or

(7) Issue any form of certificate evidencing a savings deposit unless the institution has first (i) obtained a written option by its legal counsel that such form of certificate complies with the requirements of applicable law and regulations and the institution's charter, constitution and bylaws, which opinion shall be retained by the institution so long as it continues to issue certificates in such form, and (ii) submitted a copy of such form of certificate, together with a copy of such legal opinion, to the Federal Savings and Loan Insurance Corporation.

(c) *Disclosure.* Each certificate evidencing a savings deposit accepted pursuant to the approval contained in paragraph (a) of this section shall include in its provisions and display in easily read type:

(1) A full and understandable statement of the method of maturing the contract of deposit;

(2) The rate of interest to be paid;

(3) The amount of the deposit;

(4) The term of the deposit;

(5) The penalty or penalties imposed for withdrawal prior to completion of the fixed term or renewal;

(6) Any provisions relating to renewal at the conclusion of the fixed term; and

(7) Any provisions relating to the interest to be paid after the conclusion of a fixed term or renewal.

(d) *Withdrawal prior to expiration of term.* A certificate issued by an insured institution may provide that, in an emergency where it is necessary to prevent great hardship to the holder of a fixed term savings deposit, the institution may pay, prior to the expiration of the term, such savings deposit or the portion thereof necessary to meet such emergency; *Provided*, That before such payment may be made, the depositor must sign an application describing fully the circumstances constituting the emergency which is deemed to justify the payment of the withdrawal, which application shall be (1) approved by an officer of the association who shall certify that, to the best of his knowledge and belief, the statements in such application are true and (2) retained by the association for a period of not less than 2 years; and that, in the event of emergency withdrawal as provided in this paragraph, the depositor shall forfeit accrued and unpaid interest for a period of not less than 3 months on the amount withdrawn if an amount equal to the amount withdrawn has been on deposit 3 months or more, and the depositor shall forfeit all accrued and unpaid interest on the amount withdrawn if an amount equal

to the amount withdrawn has been on deposit less than 3 months. In the case of emergency withdrawal of only a portion of any such savings deposit, the certificate evidencing such savings deposit shall be canceled, and, if the minimum balance requirements of this section continue to be met, a new certificate shall be issued for the remaining portion of the savings deposit with the same term, rate, and dates as the original savings deposit.

4. Amend § 563.7–1 to read as follows:

**§ 563.7–1 Savings deposits or shares of Federal savings and loan associations.**

Savings deposits or shares of any Federal savings and loan association which are in compliance with the provisions of paragraph (1) of subsection (b) of section 5 of the Home Owners' Loan Act of 1933, the association's charter, and the rules and regulations for the Federal Savings and Loan System (Subchapter C of this chapter), all as now or hereafter in effect, relating to the type, form, return, and maturity thereof are, as to type (as referred to in subdivision (c) of section 401 of the National Housing Act) and form, return, and maturity (as referred to in those parts of the third sentence of subsection (b) of section 403 of said Act, which refer to the form, return, and maturity of securities), hereby approved by the Corporation.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552 by May 16, 1969, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] GREENVILLE L. MILLARD, Jr.,
*Assistant Secretary.*

[F.R. Doc. 69–4467; Filed, Apr. 15, 1969; 8:50 a.m.]

# Notices

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[C-8085]

### COLORADO

### Notice of Classification of Public Lands for Multiple-Use Management

APRIL 8, 1969.

In F.R. Doc. 69-2382 appearing at page 2677 of the issue for Thursday, February 27, 1969, the following changes should be made:

1. Second paragraph No. 2 should be No. 3.
2. Paragraph numbered 3 should be No. 4.
3. Second paragraph No. 3 should be No. 5.

E. I. ROWLAND,
*State Director.*

[F.R. Doc. 69-4456; Filed, Apr. 15, 1969; 8:49 a.m.]

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[C-8085]

### COLORADO

### Notice of Proposed Classification of Public Lands for Multiple-Use Management

APRIL 7, 1969.

The Notice of Proposed Classification appearing as F.R. Doc. 68-14979, page 18631 of the issue for Tuesday, December 17, 1968, is hereby amended to include the following lands which were inadvertently omitted.

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

SAN JUAN AND OURAY COUNTIES

T. 42 N., R. 6 W.,
Secs. 4, 9, 15, 16, and 21.
T. 43 N., R. 6 W.,
Secs. 4, 5, 6, 7, 8, and 9;
Secs. 19, 28, 29, 30, 31, 32, and 33.
T. 43 N., R. 7 W.,
Secs. 12, 13, and 24.

The area described aggregates approximately 4,300 acres of public land.

E. I. ROWLAND,
*State Director.*

[F.R. Doc. 69-4457; Filed, Apr. 15, 1969; 8:49 a.m.]

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

### IMPORT QUOTAS

### Submission of Information for Review of Historical Quota Share of Licensees for Importation of Certain Cheese

Import Regulation 1, Rev. 4, Amendment 1 (34 F.R. 923) provides for the issuance of historical licenses for the importation of cheese subject to the import quotas provided for in items 950.10B, 950.10C, and 950.10D of Appendix 3 of the Tariff Schedules of the United States on the basis of eligibility established in accordance with the provisions of the notice published in the FEDERAL REGISTER of November 5, 1968 (33 F.R. 16163). These import quotas, in general, cover Swiss or Emmenthaler cheese with eye formation, Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from, such cheese, and "Other" cheese and substitutes for cheese provided for in items 117.75 and 117.85, Part 4C, Schedule 1 of the Tariff Schedules of the United States, having a purchase price under 47 cents per pound.

The notice of November 5, 1968, provided for the submission of records evidencing the quantity and purchase price of such cheese imported during 1967. The notice stated that copies of duty paid Customs Entry Forms No. 7501 or Customs Warehouse Withdrawal Forms No. 7505 provided the most acceptable evidence but provided for the submission of other records if these forms were not available.

Examination of certain invoices associated with the respective Forms No. 7501 has revealed that in some cases adjustment in the historical quota shares of importers would appear to be justified. Any person who has reason to believe that his base period imports were not accurately reflected in his Customs Forms 7501 or the Customs Warehouse Withdrawal Forms 7505 may elect to submit for review all of the invoices of his importations in 1967 of the cheeses specified. Invoices must be furnished for all importations of the cheeses specified above regardless of price; a selective review covering less than an importer's total importations of such cheeses from all countries will not be made.

The historical quota share of licensees for the cheeses described above will be determined, beginning July 1, 1969, on the basis of the records submitted pursuant to the notice of November 5, 1968, adjusted on the basis of records submitted pursuant to this notice. Requests for review, accompanied by full and complete documentation, must be received not later than May 1, 1969, by the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Issued at Washington, D.C., this 10th day of April 1969.

RAYMOND A. IOANES,
*Administrator,*
*Foreign Agricultural Service.*

[F.R. Doc. 69-4474; Filed, Apr. 15, 1969; 8:51 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### CHEMAGRO CORP.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 9F0310) has been filed by Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, proposing the establishment of tolerances (21 CFR Part 120) for negligible residues of the insecticide *O*-ethyl *O*-2,4,5-trichlorophenyl ethylphosphonothioate in or on the raw agricultural commodities: Leafy vegetables, sugar beets, and sweetpotatoes at 0.1 part per million; and corn (grain and fodder) at 0.03 part per million.

The analytical method proposed in the C. A. Anderson published in "Journal of Agricultural and Food Chemistry," vol. petition for determining residues of the insecticide is that of D. B. Katague and 14, pages 505-508 (1966).

Dated: April 9, 1969.

R. E. DUGGAN,
*Acting Associate Commissioner for Compliance.*

[F.R. Doc. 69-4404; Filed, Apr. 15, 1969; 8:45 a.m.]

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### GLIDDEN CO.

### Notice of Filing of Petition Regarding Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9H2401) has been filed by The Glidden Co., 900 Union Commerce Building, Cleveland, Ohio 44115, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of dichlorodifluoromethane as a carrier gas for and diluent of ethylene oxide used as a fumigant for the control of micro-organisms and insect infestation in ground spices and other processed natural seasoning materials except mixtures with added salt.

Dated: April 9, 1969.

R. E. DUGGAN,
*Acting Associate Commissioner for Compliance.*

[F.R. Doc. 69-4405; Filed, Apr. 15, 1969; 8:45 a.m.]

[Docket No. FDC-D-117; NDA No. 15-497]

## VASCULAR PHARMACEUTICAL CO., INC. AND EDISON PHARMACEUTICAL CO., INC.

### Cothyrobal; Notice of Scheduling of Hearing and Prehearing Conference

Notice is hereby given to Vascular Pharmaceutical Co., Inc., 432 Mineola Boulevard, Williston Park, Long Island, N.Y. 11596, and Edison Pharmaceutical Co., Inc., Chrysler Building, 42d and Lexington Avenues, New York, N.Y., 10017, that in accordance with the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and Part 130, the new-drug regulations (21 CFR Part 130), a hearing will be held in the matter of the proposal of the Commissioner of Food and Drugs to refuse to approve new-drug application No. 15-497 for marketing the drug Cothyrobal. Said hearing will begin at 10 a.m., May 19, 1969, in Room 4169, North Building, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

Evidence and arguments may be produced at the hearing to show why the proposed order of the Commissioner to refuse to approve said application on the grounds and for the reasons set forth in the notice of opportunity for hearing published in the FEDERAL REGISTER of January 8, 1969 (34 F.R. 273), should not be issued. The Food and Drug Administration may also produce evidence and argument relevant and material to the subject matter of the hearing.

Notice is further given to Vascular Pharmaceutical Co., Inc., and Edison Pharmaceutical Co., Inc. that, in accordance with § 130.18 *Prehearing and other conferences* (21 CFR 130.18), a prehearing conference in this matter will be held beginning at 10 a.m., April 23, 1969, in Room 5169, North Building, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All documentary evidence to be offered at the hearing shall be marked for identification at this prehearing conference.

The hearing and prehearing conference will be open to the public, except that any portion thereof that concerns a method or process which the Commissioner of Food and Drugs finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specified otherwise in filing his appearance.

The undersigned, a duly appointed Hearing Examiner as provided in 5 U.S.C. 3105 (80 Stat. 415), has been designated to conduct the hearing and prehearing conference announced herein, with full authority to administer oaths, to take affirmations, and to do all other things appropriate to the conduct of said proceedings as set forth in Part 130 (21 CFR Part 130).

Dated: April 9, 1969.

WILLIAM E. BRENNAN,
*Hearing Examiner.*

[F.R. Doc. 69-4445; Filed, Apr. 15, 1969; 8:48 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Office of the Secretary

## ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

### Notice of Designation of Acting Administrator

I hereby designate Brendon T. Jose, Assistant Administrator, St. Lawrence Seaway Development Corporation, to act as Administrator, St. Lawrence Seaway Development Corporation, and to perform the duties and exercise the powers of the Administrator until further notice.

This designation becomes effective on April 5, 1969.

Issued in Washington, D.C., on April 2, 1969.

JOHN A. VOLPE,
*Secretary of Transportation.*

[F.R. Doc. 69-4434; Filed, Apr. 15, 1969; 8:47 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-219]

## JERSEY CENTRAL POWER & LIGHT CO.

### Notice of Issuance of Provisional Operating License

Notice is hereby given that no request for a hearing by the applicant or petition for leave to intervene by any interested person having been filed following publication of the notice of proposed action in the FEDERAL REGISTER, the Atomic Energy Commission has issued Provisional Operating License No. DPR-16 to Jersey Central Power & Light Co. (Jersey Central) authorizing the licensee to possess, use, and operate the Oyster Creek Nuclear Power Plant Unit No. 1, a single cycle, forced circulation, boiling water nuclear reactor, located on Jersey Central's site in Lacey Township, Ocean County, N.J. The reactor is designed to operate at approximately 1600 megawatts thermal, but initial operation will be limited to five megawatts thermal and without the reactor head in place, to permit initial fuel loading and testing pending (1) modification of the standby gas treatment system, (2) additional review of the quality of certain piping in the facility, and (3) evaluation of preoperational testing of containment isolation valves.

The Commission has inspected the facility and, for low power operation, has determined it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-15.

Since publication of the notice of the proposed action, Jersey Central filed license application Amendments Nos. 50, 51, and 52, dated February 27, 1969, March 25, 1969, and March 25, 1969, respectively, submitted at the Commission's request to document completely the design of penetrations through the primary containment and to provide additional information on the startup organization and on secondary containment leakage tests. On the basis of the review of this information, the Commission has concluded that there should be no change in the conclusions as to the safety of the facility. The Division of Reactor Licensing has prepared an addendum to the safety evaluation dealing with the penetration design change. Copies of both the application amendments and addendum are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

The license was issued as set forth in the Notice of Proposed Issuance of Provisional Operating License published in the FEDERAL REGISTER on December 27, 1968, 33 F.R. 19860, except for (1) the addition of a reference to application Amendments Nos. 50, 51, and 52 in paragraph a. of the findings, (2) the correction of clerical errors on page 2, paragraphs 1. and 2.C. of the proposed license, (3) the revision of paragraph 3.A. to reflect the limitation of power level to five megawatts thermal, and (4) the correction of certain typographical and clerical errors in the Technical Specifications, as set forth in the errata sheet attached to the Technical Specifications as issued with Provisional Operating License No. DPR-16. A copy of the license, complete with Technical Specifications and errata sheet, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of April 1969.

For the Atomic Energy Commission.

PETER A. MORRIS,
*Director,*
*Division of Reactor Licensing.*

[F.R. Doc. 69-4425; Filed, Apr. 15, 1969; 8:47 a.m.]

# CIVIL AERONAUTICS BOARD

[Docket 18650; Order 69-4-55 [1]]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Commodity Description and Codification System

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1969.

By Order 68-12-1, dated December 2, 1968, the Board announced its intention to approve, subject to conditions, certain agreements embodied in the resolutions of the carrier members of the International Air Transport Association (IATA) relating to the IATA specific commodity rate system codification. In general, the agreements provided for the

[1] Agreement CAB 20705, covering a mail vote of the carriers to implement the WACCC system on Mar. 1, 1969, was not previously cited by the Board in Order 69-1-32, dated Jan. 9, 1969.

transition of the current numbering system to a system based on the Standard International Trade Classification (SITC) of the United Nations. The proposed program has been identified as the Worldwide Air Cargo Commodity Classification (WACCC).

Subsequently, in response to air freight forwarder [2] and shipper [3] complaints, and in the absence of formal carrier responses, the Board by Order 69–1–32, dated January 9, 1969, deferred approval of the agreements. This was done with the view that public interest considerations indicated that further refinements might be appropriately considered at the upcoming worldwide cargo conference to be held this month in Athens.

On February 17, 1969, Braniff Airways, Inc., Trans World Airlines, Inc., and Pan American World Airways, Inc., filed a motion for leave to file an unauthorized document; namely, a petition for reconsideration of the Board's order deferring approval.[4] Only Emery Air Freight Corp. (Emery) responded to the carriers' pleadings, objecting to both the motion to file an unauthorized document and the petition urging approval of the agreements upon reconsideration.

The Board has concluded to approve the agreements subject to conditions hereinafter discussed and which are substantially the same as those proposed in the Board's initial order.

Emery's objections to the carriers' pleading and protests received during the course of the proceedings, to sum up, reflect views that the WACCC would be unnecessarily cumbersome, time consuming, and costly in its application; that many specific articles heretofore accorded specific commodity rates within the context of broad generic descriptions have been omitted, thus resulting in rate increases; and that the shipping public had not been given sufficient time to study the WACCC program prior to its intended effectiveness.

We observe that there is room for improvement under the current system. As stated in the initial order and commented on by the carriers, we believe that the WACCC program through the use of more refined descriptions will contribute to improved accuracy in rating and that it will facilitate the compilation of needed statistical data. As discussed below the Board will attach conditions to its approval which should, to a significant degree, meet the objections noted in the protests received. In these circumstances the Board believes that the carriers should have an opportunity to introduce this new system which, among other things, calls for greater specificity in commodity descriptions.

We share the complainants' concern to the extent that the transition to the new system may result in increased rates for some commodities by the departure from generic classifications now used. We will, therefore, retain our earlier proposed conditions to require that any appropriate description on any article which is currently being accorded a specific commodity rate in any market by any direct air carrier member of IATA, and which may be omitted in the introduction of tariffs implementing the WACCC system, shall be reinstated by such carrier(s) prior to the effectiveness date of the new tariff upon request and presentation of appropriate evidence, such as a carrier's air waybill on a previous shipment showing the description(s) and the rate(s) assessed.[5] (A simple notification to interested carriers describing the facts and action taken should suffice for all concerned.)

In order to provide the shipping public opportunity to request such reinstatement, as well as to give them the opportunity to become familiar with the WACCC system of tariff filing, we will condition our approval of the agreements so as to require that tariffs implementing the WACCC system in air transportation be filed at least 60 days prior to the proposed effective date of the tariff. The Board further believes that the shipping public should have ample opportunity to review the WACCC program as it would be reflected in tariffs unencumbered by any revisions in the rate structure that may be agreed upon at Athens. Accordingly, the Board would expect that tariffs implementing the WACCC system in air transportation become effective prior to the effectiveness generally of any revisions of the commodity rates structure agreed upon at Athens. It is by no means our intention by this condition to preclude subsequent changes by the carriers in the WACCC program or their rate tariffs through their normal rate-making machinery, but rather to assure that rate increases will not result by virtue of the transition from one system to another.

The carriers in their petition object to the proposed condition in Order 68–12–1 requiring a numerical index of the WACCC system be filed as a tariff. We believe the condition is essential. The WACCC system encodes all commodities into numerals, and, of course, with the alphabetical index a transition can be made from any item to its numerical equivalent. However, without the numerical index a person could not ascertain in an orderly manner the identity of a commodity taking a certain rate, since it would be indicated only by number. The basic scheme of the Act and the Board's regulations is that carriers must file for public inspection rates and charges for all traffic carried. This requires that the public be able to ascertain what commodities qualify for a certain rate, as well as to ascertain the rate applicable to a specific commodity. We will, therefore, retain the condition as initially proposed.

The Board would also remind the carriers of its earlier comments relating to the interplay of varying rates and minimum weights on particular articles under different but generically related specific commodity descriptions, as well as the additional interplay of general commodity rates at still other minimum weights. These problems would be avoided by tariff publication which sets forth in one place the intended rate for each commodity at each normal weight break and assures that shippers will always be accorded the lowest rate to which they are entitled, irrespective of the weight of the shipment, and without having to resort to a change in description. Our approval of the WACCC agreements is accordingly conditioned.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 412, and 414 thereof:

*It is ordered*, That:

Agreements CAB 20705, 20380, and 20557 are approved: *Provided*, That insofar as air transportation as defined by the Act is concerned, approval shall be subject to the following conditions:

(a) Implementation thereof in the tariffs of the carriers shall be filed at least 60 days prior to the intended effective date of the tariff, which shall not be earlier than August 15, 1969;

(b) Any article now accorded a specific commodity rate at a stated minimum weight in a given market, which may have been omitted from the WACCC compilation and/or the rate tariffs of the carriers, shall be promptly reinstated upon request of a shipper or consignee;

(c) Both the alphabetical and numerical versions of the WACCC system and subsequent amendments thereto or reissues thereof shall be filed with the Board in tariff form as a single publication, and the primary listing of generic descriptions in the numerical list shall be accompanied by a listing of those articles which are embraced with such generic descriptions;

(d) Upon the implementation of the WACCC system, tariff publications shall set forth the intended rate for each commodity at each normal weight break;

(e) Amendments to or reissues of the WACCC indices shall be filed with the Board as agreements pursuant to section 412 of the Act, and approved by the Board prior to being placed into effect or filed in tariff form in air transportation; and

(f) Approval of the agreements shall not constitute approval of the form or content of tariffs, nor approval of the specific commodity descriptions contained in the WACCC indices for purposes of tariff publication.

[2] Panalpina Airfreight System, Emery Air Freight Corp., Deutsches Luftfrachtkontor G.m.b.H & Co.

[3] Honeywell, Inc., Radio Corp. of America, Control Data Corp., J. C. Penney Co., Inc., AMF International, Squibb International, Western Electric, and Pfizer International, Inc.; the National Export Traffic League, Inc.

[4] The Board will accept the carriers' filings and Emery's opposition thereto, since the substantive issues are of such import as to warrant consideration on their merits.

[5] The Board also notes that a mixture of several commodities under current tariffs might be charged rates based on the aggregate weight of the entire shipment, whereas under the WACCC system such mixed shipments might result in the separate (and higher) rating of the separate articles at their separate weights. In such instances, the Board intends that the carrier(s) reinstate such "mixtures" of articles as a composite commodity item.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 69-4469; Filed, Apr. 15, 1969; 8:50 a.m.]

[Docket 18650; Order 69-4-54]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Specific Commodity Rates

Issued under delegated authority April 10, 1969.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated March 25, 1969, names an additional specific commodity rate which reflects a significant reduction from the general cargo rates and, in addition, cancels other rates. These rates are set forth below.

R-59 Canceled Rate:
Commodity Item 4700—Machinery and Tools, n.e.s.—Excluding Steamship and/or Motorship Machinery Parts. 270 cents per kg., minimum weight 500 kgs. New York to Addis Ababa.

R-60 Additional Rate:
Commodity Item 0600—Meat, including Slaughtered Poultry and Game. 75 cents per kg., minimum weight 2,000 kgs. Sydney to West Coast. 100 cents per kg., minimum weight 2,000 kgs. Sydney to East Coast.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it tentatively is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

*Accordingly, it is ordered* That:

Action on Agreement CAB 20745, R-59, and R-60, be and hereby is deferred with a view toward eventual approval, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 69-4470; Filed, Apr. 15, 1969; 8:50 a.m.]

[Dockets Nos. 20582, 20431; Order 69-4-58]

## AIR WEST, INC.

### Order Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1969.

By this order we are directing interested persons to show cause why Air West, Inc. (Air West), should not be awarded the route authority requested in two recent applications of the carrier: Docket 20582, in which Air West requests the consolidation of segments 1 and 4 of its route 76;[1] and Docket 20431, in which Air West requests that the coterminal point San Francisco on segments 1 and 4 be redesignated as the hyphenated point San Francisco-San Jose.

Air West's application requesting the consolidation of segments 1 and 4 was filed on December 20, 1968, and the carrier contemporaneously filed a petition requesting the above-described authority by show cause order.

Numerous civic parties have filed answers in support of Air West's petition for a show cause order. Braniff Airways, Inc., has filed an answer stating that Braniff does not object to the proposed consolidation provided that the restrictions concerning nonstop operations between Seattle, Portland, San Francisco, Los Angeles, and San Diego are preserved. Western Air Lines, Inc., has filed a letter stating that Western does not object to the proposed consolidation: *Provided*, That restriction 7, requiring that flights between Seattle and a point south of Portland also serve Portland, is preserved.

With respect to the hyphenation of San Jose with San Francisco, Air West's petition for a show cause order granting this authority was denied by the Board in Order 69-2-39, dated February 10, 1969, on the ground, inter alia, that the hyphenation would give Air West one-stop authority in the San Jose-Portland market and two-stop authority in the San Jose-Seattle market[2] and that these two markets are in issue in the pending Pacific Northwest-California Investigation, Docket 18884.

On March 3, 1969, Air West filed a petition for reconsideration of Order 69-2-39. In support of its petition Air West alleges, in pertinent part, that the carrier is now willing to accept a restriction which would assure that the carrier would not receive improved authority in the San Jose-Portland/Seattle markets.

Western Air Lines, Inc., has filed a letter in opposition to Air West's petition for reconsideration.

Upon consideration of the foregoing and other relevant facts, we have decided to grant the petitions of Air West and to issue an order to show cause why the coterminal point San Francisco on Air West's segments 1 and 4 should not be redesignated as the hyphenated point San Francisco-San Jose and why segments 1 and 4 should not be consolidated. The foregoing route award will be subject to a two-stop restriction in the Portland-San Jose market and a three-stop restriction in the Seattle-San Jose market.[3]

For the reasons set forth below, we tentatively find and conclude that the public convenience and necessity require, and that the Board should order, the above-described amendments of Air West's certificate for route 76. With respect to the hyphenation of San Jose with San Francisco, we tentatively find that the proposed redesignation will permit Air West to obtain greater operational flexibility,[4] and that the proposed redesignation will contribute to the alleviation of congestion at the San Francisco airport.[5] Additionally, we find that the hyphenation of San Jose, as restricted herein, will not result in any prejudice to the applicants in the Pacific Northwest-California Investigation, Docket 18884, in which nonstop service between San Jose and Portland/Seattle is in issue. The route award proposed herein will be subject to a two-stop restriction in the Portland-San Jose market and a three-stop restriction in the Seattle-San Jose market. Air West's existing authority permits two-stop

[1] Air West's segment 1 reads:
"Between the coterminal points San Francisco and Oakland, Calif., the intermediate points Sacramento, Santa Rosa, Marysville-Yuba City, Chico, Red Bluff-Redding, Eureka-Arcata, and Crescent City, Calif., and the terminal point Portland, Oreg."
Segment 4 reads:
"Between the terminal point Seattle, Wash., the intermediate points Tacoma, Olympia, and Aberdeen-Hoquiam, Wash., Astoria-Seaside, Portland, Albany-Corvallis, Eugene, Bend-Redmond, North Bend-Coos Bay, Roseburg, Medford, and Klamath Falls, Oreg., and Sacramento, Calif., and the coterminal points Oakland and San Francisco, Calif."

[2] Air West presently has two-stop authority in the San Jose-Portland market and three-stop authority in the San Jose-Seattle market.

[3] Additionally, existing restrictions applying to points on segments 1 and 4 will be preserved.

[4] For example, in the San Jose-Portland/Seattle markets in which Air West presently provides service via San Francisco and other intermediate points, one of the carrier's hops is between San Jose and San Francisco, a distance of only 32 miles.

[5] Cf. Order E-25644, dated Sept. 7, 1967, in which the Board amended the certificates of six air carriers to redesignate San Francisco as the hyphenated point San Francisco-San Jose in order to mitigate the congestion problem at San Francisco International Airport.

Portland-San Jose service and three-stop Seattle-San Jose service.

In support of our ultimate conclusion that segments 1 and 4 should be consolidated, we tentatively find that the consolidation will result in increased operating flexibility for Air West, enabling the carrier to offer improved service to the public; that as a result of consolidation the carrier will have new support traffic available from certain adjacent intermediate points between some of which Air West will provide the first direct service;[6] that the consolidation will permit Air West to achieve a more effective utilization of its aircraft by eliminating circuitous routings between low-density markets; that the improved service offered to the public will attract additional traffic and increase the carrier's revenues; and that consolidation of segments 1 and 4 will not result in any meaningful diversion of revenues from any other carrier.

Accordingly, we tentatively find that the public convenience and necessity require the amendment of Air West's certificate in the manner requested, and therefore direct that interested persons show cause on or before April 21, 1969, why the Board should not make final its tentative findings herein and issue an amended certificate to Air West containing the below-described revisions.[7] We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

*Accordingly, it is ordered,* That:

1. All interested persons are directed to show cause on or before April 21, 1969, why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending the certificate of public convenience and necessity held by Air West for route 76 so as to

(a) Redesignate the coterminal point San Francisco on segments 1 and 4 as the hyphenated point San Francisco-San Jose, and consolidate segments 1 and 4 into a single segment; and

(b) Make any service operated by Air West pursuant to an award amending its certificate of public convenience and necessity as set forth in (a) above subject to a two-stop restriction in the San Jose-Portland market and a three-stop restriction in the San Jose-Seattle market;

2. Any interested person having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within ten (10) days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; [8]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon the city of San Jose, and points on Air West's segments 1 and 4 and upon carriers certificated to serve these points.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 69-4471; Filed, Apr. 15, 1969; 8:50 a.m.]

[6] For example, the first direct service between North Bend-Coos Bay and Crescent City and between Red Bluff-Redding and Klamath Falls will be offered by Air West. Formerly, these adjacent north-south points were precluded from direct service because they were on different segments.

[7] Air West should submit an estimate of the first year's gross transport revenues increase, within the ranges specified in § 389.25 (a) (2) (i) of the Board's regulations.

[8] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing of objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket No. 20905; Order 69-4-56]

## CIA. RUTAS INTERNACIONALES PERUANAS, S.A. (RIPSA)

### Statement of Tentative Findings and Conclusions and Order to Show Cause Regarding Cancellation of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1969.

By Order E-18158, adopted March 12, 1962, and approved by the President March 27, 1962, the Board issued a foreign air carrier permit to Cia. Rutas Internacionales Peruanas, S.A. (RIPSA) to engage in foreign air transportation with respect to property only between a point or points in Peru, the intermediate point Panama City, Panama, and the terminal point Miami, Fla. The permit also authorizes its holder to engage in off-route charter trips of property in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's economic regulations.

The Board has been notified by the Federal Aviation Administration that a communication has been received from the Ministry of Aeronautics of Peru which states that the Government of Peru has canceled the operating authorization which had been given to RIPSA to engage in foreign air transportation of property over the above described route. In addition, the Peruvian Government has stated that it has no objection to the cancellation of RIPSA's permit by the U.S. Government.

Based upon the foregoing, the Board tentatively finds that the foreign air carrier permit now held by RIPSA should be canceled, and that, unless objections are received within 20 days from the date of service of this order, the Board should make such tentative findings final and submit to the President for his approval a final order canceling the said permit.

*Accordingly, it is ordered:*

1. That all interested persons are directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to the approval of the President, cancel the foreign air carrier permit held by Cia. Rutas Internacionales Peruanas, S.A. (RIPSA);

2. That any interested persons having objection to the issuance of such an order shall file with the Board a statement of objections supported by evidence within 20 days of service of this order; [1]

3. That if timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. That in the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. That copies of this order shall be served upon the following: Cia. Rutas Internacionales Peruanas, S.A. (RIPSA); and the Ambassador of the Government of Peru.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R.. Doc. 69-4472; Filed, Apr. 15, 1969; 8:50 a.m.]

[Docket No. 20831]

## INTERNACIONAL DE AVIACION, S.A.

### Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on May 5, 1969, at 10 a.m., d.s.t., in Room

[1] Since provision is made for a response to this order, petitions for reconsideration of this order will not be entertained.

911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., April 10, 1969.

[SEAL] JOHN E. FAULK,
*Hearing Examiner.*

[F.R. Doc. 69-4473; Filed, Apr. 15, 1969; 8:50 a.m.]

# CIVIL SERVICE COMMISSION

## DEPARTMENT OF COMMERCE

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary of Commerce.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4453; Filed, Apr. 15, 1969; 8:49 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under the authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Public Information.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4454; Filed, Apr. 15, 1969; 8:49 a.m.]

## SYSTEMS TRAINING ADMINISTRATOR, AUTOMATED LOGISTICS MANAGEMENT SYSTEMS AGENCY, ST. LOUIS, MO.

### Manpower Shortage

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on March 19, 1969, for the single position of Systems Training Administrator (Chief, Systems Training Division), ADP Systems Integration and Conversion Directorate, GS-301-13, USAMC Automated Logistics Management Systems Agency, Department of the Army, St. Louis, Mo. This finding is self-canceling when the position is filled.

Assuming other legal requirements are met, the appointee to this position may be paid for the expense of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 69-4455; Filed, Apr. 15, 1969; 8:49 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18520; FCC 69-338]

## CUMBERLAND GAP BROADCASTING CO.

### Order Designating Application for Hearing on Stated Issues

Regarding application of Cumberland Gap Broadcasting Co., Middlesboro, Ky., Requests: 92.7 mcs, No. 224; 2.97 kw; 84 feet, Docket No. 18520, File No. BPH-6026, for construction permit.

1. The Commission has under consideration the above-captioned application for a new FM station at Middlesboro, Ky.

2. The applicant corporation is licensee of one of Middlesboro, Ky.'s two AM stations and is applying for the only FM channel assigned to the community. In addition, applicant's controlling stockholders publish Middlesboro's only newspaper, a daily.

3. After careful consideration of the application before us, we have concluded that the multiple ownership situation here involved raises substantial questions as to concentration of control of media of mass communications and as to whether a grant would serve the public interest.

4. The applicant is qualified in other respects, but in view of the foregoing, we find that the applicant must be designated for evidentiary hearing on the issues set forth below.

5. *It is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues.

1. To determine whether a grant of this application would tend to create an undue concentration of control over media of mass communications.

2. To determine in light of the evidence adduced pursuant to the foregoing issue, whether a grant of the subject application would serve the public interest, convenience and necessity.

6. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 2, 1969.

Released: April 11, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 69-4466; Filed, Apr. 15, 1969; 8:50 a.m.]

# FEDERAL MARITIME COMMISSION

[Docket No. 69-13]

## LYKES BROS. STEAMSHIP CO. INC.

### General Increases in Rates in U.S. Gulf/Puerto Rico Trade; Order of Investigation

There recently have been filed with the Federal Maritime Commission by Lykes Bros. Steamship Co., Inc., the following revised pages to its Tariff FMC-F No. 11 which generally increase rates and charges in the subject trade:

Fifth Revised Page No. 49.
Fourth Revised Page No. 53.
Ninth Revised Page No. 57-A.
Tenth Revised Page No. 57-B.
Fourth Revised Page No. 73.
Fifth Revised Page No. 74.
Fourth Revised Page No. 48-A.
Third Revised Page No. 65.
Third Revised Page No. 65-A.
Seventh Revised Page No. 36.
Third Revised Page No. 55.
Sixth Revised Page No. 40.
Fourth Revised Page No. 63.
Fifth Revised Page No. 55.
Fifth Revised Page No. 75.
Fourth Revised Page No. 79.
First Revised Page No. 43-A.

Upon consideration of said schedules and a protest thereto filed by Edward Schmeltzer and Mario F. Escudero, 1140 Connecticut Avenue NW., Washington, D.C. 20036, attorneys for the Commonwealth of Puerto Rico, there is reason to believe that the above-designated increased rates should be made the subject of a public investigation and hearing to determine whether they are unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing therefore;

*It is ordered*, That pursuant to the authority of section 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said increased rates with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the

[1] Commissioners Bartley and Robert E. Lee dissenting. Commissioner Wadsworth absent.

matter hereby placed under investigation is further changed, amended, or reissued matter will be included in this investigation.

*It is further ordered*, That Lykes Bros. Steamship Co., Inc., be named as respondent in this proceeding;

*It is further ordered*, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

*It is further ordered*, That (I) a copy of this order shall forthwith be served on the respondent and protestant herein; (II) the said respondent and protestant be duly notified of the time and place of the hearing; and (III) this order be published in the FEDERAL REGISTER and notice of said hearing be served upon respondent.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with rule 5(1) of the Commission's rules of practice and procedure [46 CFR 502.72] with a copy to all parties to this proceeding.

By the Commission.

[SEAL] THOMAS LISI,
*Secretary.*

[F.R. Doc. 69-4433; Filed, Apr. 15, 1969; 8:47 a.m.]

# FEDERAL POWER COMMISSION

[Docket No. CP69-255]

## NATURAL GAS PIPELINE COMPANY OF AMERICA

### Notice of Application

APRIL 9, 1969.

Take notice that on April 1, 1969, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP69-255 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity under section 7(c), and for an order under section 7(b), approving and permitting certain changes in its authorized daily contract quantities of sales to three of its existing customers, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Specifically, Applicant seeks approval to reduce its authorization to sell natural gas to Iowa-Illinois Gas and Electric Co. (Iowa-Illinois) by 1,650 Mcf per day, and seeks a certificate authorizing it immediately to transport 1,650 Mcf of natural gas per day for sale to the New Jersey Zinc Co. (New Jersey Zinc), an existing direct sale customer of Applicant, and authorizing it, effective on or about December 1, 1969, to sell and deliver an additional 2,400 Mcf and 4,334 Mcf of natural gas per day to Iowa-Illinois and Northern Illinois Gas Co. (Northern Illinois), respectively.

The application states that Northern Illinois requires the additional gas in order to supply firm gas to several industrial customers, that Iowa-Illinois requires the changes in its daily contract quantity because of a change in its market development, and that New Jersey Zinc requires the additional gas because of certain problems with new equipment which it has installed.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before May 5, 1969.

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 without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 69-4426; Filed, Apr. 15, 1969; 8:47 a.m.]

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[Docket No. G-3072 etc.]

## HUMBLE OIL AND REFINING CO. ET AL.

### Findings and Order After Statutory Hearing; Correction

APRIL 3, 1969.

Humble Oil & Refining Co. and other Applicants listed, Docket No. G-3072 et al.; Lone Star Producing Co., Docket No. CI67-283.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, dismissing application, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, reinstating proceeding, terminating proceeding, substituting respondent, making successors co-respondents, redesignating proceeding, requiring filing of agreement and undertaking and surety bond, accepting agreement and undertaking and surety bond for filing, and accepting related rate schedules and supplements for filing, issued March 13, 1969, and published in the FEDERAL REGISTER March 22, 1969, F.R. 34(5561), on page 19, 2d column: Change Applicant's name to read "Lone Star Producing Co." in lieu of "Lone Star Production Co." related to Docket No. CI67-283.

GORDON M. GRANT,
*Secretary.*

[F.R. Doc. 69-4402; Filed, Apr. 15, 1969; 8:45 a.m.]

# FEDERAL RESERVE SYSTEM

## FIRST WISCONSIN BANKSHARES CORP.

### Order Approving Application Under Bank Holding Company Act

In the matter of the application of First Wisconsin Bankshares Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of The First National Bank of Rice Lake, Rice Lake, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Wisconsin Bankshares Corp., Milwaukee, Wis., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The First National Bank of Rice Lake, Rice Lake, Wis.

As required by section 3(b) of the Act, the Board notified the Comptroller of the Currency of the application and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on November 2, 1968 (33 F.R. 16130), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

*It is hereby ordered*, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the application so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

Dated at Washington, D.C., this 9th day of April 1969.

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[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

By order of the Board of Governors.[1]

[SEAL] ROBERT P. FORRESTAL,
*Assistant Secretary.*

[F.R. Doc. 69-4427; Filed, Apr. 15, 1969; 8:47 a.m.]

# GENERAL SERVICES ADMINISTRATION

## Property Management And Disposal Service

[Wildlife Order 87]

### PORTION, FORMER OLMSTED AIR FORCE BASE, SPAYDES ISLAND, MIDDLETOWN, PA. D-PA-526C

### Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated March 21, 1969, the property known as Spaydes Island, portion of the former Olmsted Air Force Base, Middletown, Pa., consisting of 1.22 acres of unimproved land, and more particularly described in the deed, has been transferred from the United States to the Commonwealth of Pennsylvania.

2. The above-described property was transferred for wildlife purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667b).

Dated: April 9, 1969.

CURTIS A. ROOS,
*Assistant Commissioner for Real Property Disposal.*

[F.R. Doc. 69-4403; Filed, Apr. 15, 1969; 8:45 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

### COMMERCIAL FINANCE CORPORATION OF NEW JERSEY

### Order Suspending Trading

APRIL 10, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Commercial Finance Corporation of New Jersey (a New Jersey corporation) being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 11, 1969, through April 20, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 69-4429; Filed, Apr. 15, 1969; 8:47 a.m.]

[1] Voting for this action: Chairman Martin and Governors Robertson, Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Daane.

[70-4740]

### GULF POWER CO.

### Notice of Proposed Issue of First Mortgage Bonds for Sinking Fund Purposes

APRIL 10, 1969.

Notice is hereby given that Gulf Power Co. ("Gulf"), Post Office Box 1151, Pensacola, Fla. 32502, a public-utility subsidiary company of The Southern Co. a registered holding company, has filed a declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 thereof as applicable to the proposed transaction. All interested persons are referred to said declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf proposes, on or prior to June 1, 1969, to issue $792,000 principal amount of its first mortgage bonds, 3¼ percent series due 1984, under the provisions of its indenture dated as of September 1, 1941, between Gulf and The Chase Manhattan Bank and the Citizens & Peoples National Bank of Pensacola, as trustees, as amended and supplemented, and to surrender such bonds to the trustees in accordance with the sinking fund provisions. The bonds are to be identical with those authorized by the Commission on June 14, 1954 (Holding Company Act Release No. 12543) and are to be issued on the basis of property additions, thus making available for construction and other purposes cash which would otherwise be required to satisfy the sinking fund requirement or to purchase bonds for such purpose.

The fees and expenses to be paid by Gulf in connection with the issue of the bonds are estimated at $1,075, including charges of trustees of $625 and counsel fee of $250. It is stated that The Florida Public Service Commission must authorize the issue of the bonds, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 1, 1969, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 69-4430; Filed, Apr. 15, 1969; 8:47 a.m.]

### PHOTO MARK COMPUTER CORP.

### Order Suspending Trading

APRIL 10, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Photo Mark Computer Corp., New York, N.Y., and all other securities of Photo Mark Computer Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 10, 1969 at 12 noon e.s.t., through April 19, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 69-4431; Filed, Apr. 15, 1969; 8:47 a.m.]

# SMALL BUSINESS ADMINISTRATION

### MAPLETON CAPITAL CORP.

### Notice of Surrender of License

Notice is hereby given that Mapleton Capital Corp. (Mapleton) has, pursuant to § 107.105 of the regulations governing small business investment companies (13 CFR Part 107, 33 F.R. 326), surrendered its license to operate as a small business investment company.

Mapleton was incorporated on January 4, 1963, under the laws of the State

of California, and issued license No. 14-0075 by the Small Business Administration on March 15, 1963.

Mapleton was licensed solely to operate under the Small Business Investment Act of 1958, as amended (15 U.S.C., 661 et seq.).

Under the authority vested in the Small Business Investment Act of 1958, as amended, and the regulations promulgated thereunder, the surrender of the license of Mapleton is hereby accepted, and accordingly, it is no longer licensed to operate as a small business investment company.

Dated: April 9, 1969.

A. H. SINGER,
*Associate Administrator for Investment.*

[F.R. Doc. 69-4410; Filed, Apr. 15, 1969; 8:45 a.m.]

# INTERSTATE COMMERCE COMMISSION

## FOURTH SECTION APPLICATION FOR RELIEF

APRIL 11, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41614—*Chrome coated tin mill black plate from Minnequa, Colo.* Filed by Southwestern Freight Bureau, agent (No. B-28), for interested rail carriers. Rates on chrome coated tin mill black plate, in carloads, from Minnequa, Colo., to specified points in Texas.

Grounds for relief—Rate relationship.

Tariff—Supplement 101 to Southwestern Freight Bureau, agent, tariff ICC 4753.

By the Commission.

[SEAL] H. NEIL GARSON,
*Secretary.*

[F.R. Doc. 69-4439; Filed, Apr. 15, 1969; 8:48 a.m.]

[Notice 546]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

APRIL 11, 1969.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed 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 42487 (Deviation No. 77), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025, filed April 2, 1969. Carrier's representative: V. R. Oldenburg, Post Office Box 5138, Chicago, Ill. 60680. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Toledo, Ohio, over U.S. Highway 23 to Flint, Mich.; and (2) from junction Interstate Highway 69 and Indiana Highway 67 at or near Pendleton, Ind., over Interstate Highway 69 to junction Interstate Highway 94, thence over Interstate Highway 94 to Detroit, Mich., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Toledo, Ohio, over U.S. Highway 25 to Detroit, Mich.; (2) from Detroit, Mich., over U.S. Highway 10 to junction unnumbered highway (formerly portion U.S. Highway 10), thence over unnumbered highway to junction Michigan Highway 54 (formerly portion U.S. Highway 10), thence over Michigan Highway 54 to Flint, Mich.; (3) from Indianapolis, Ind., over Indiana Highway 67 to junction Indiana Highway 9, thence over Indiana Highway 9 to Anderson, Ind., thence over Indiana Highway 32 to Muncie, Ind., thence over Indiana Highway 67 to the Indiana-Ohio State line, thence over Ohio Highway 29 to St. Marys, Ohio, thence over U.S. Highway 33 to junction unnumbered highway (formerly portion U.S. Highway 33), thence over unnumbered highway to Wapakoneta, Ohio; (4) from Cincinnati, Ohio, over U.S. Highway 42 (formerly portion U.S. Highway 25), to Sharonville, Ohio, thence over unnumbered highway (formerly portion U.S. Highway 25) via Gano, Monroe, Franklin, and Miamisburg, Ohio, to junction U.S. Highway 25 (northeast of West Carrollton, Ohio), thence over U.S. Highway 25 via Dayton, Ohio, to junction unnumbered highway (formerly portion U.S. Highway 25), thence over unnumbered highway via Troy, Piqua, Sidney, Anna, and Botkins, Ohio, to Wapakoneta, Ohio, thence over Ohio Highway 67 (formerly portion U.S. Highway 25) to junction U.S. Highway 25, thence over U.S. Highway 25 to junction unnumbered highway (formerly portion U.S. Highway 25, east of Cridersville, Ohio, thence over unnumbered highway via Lima, Ohio, to junction U.S. Highway 25, thence over U.S. Highway 25 to Findlay, Ohio, thence over unnumbered highway formerly portion U.S. Highway 25) via North Findlay and Van Buren, Ohio, to junction U.S. Highway 25, west of Bardstown, Ohio, thence over U.S. Highway 25 to Toledo, Ohio; and (5) from Toledo, Ohio, over U.S. Highway 25 to Detroit, Mich., and return over the same routes.

No. MC 59680 (Deviation No. 76), STRICKLAND TRANSPORTATION CO., INC., Post Office Box 5689, Dallas, Tex. 75222, filed April 3, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cleveland, Ohio, over U.S. Highway 21 to the Ohio Turnpike, thence over the Ohio Turnpike to junction Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to Exit No. 6 at U.S. Highway 22, thence over U.S. Highway 22 to Harrisburg, Pa., thence over access roads to the Pennsylvania Turnpike, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Cleveland, Ohio, over U.S. Highway 21 to the Ohio Turnpike, thence over the Ohio Turnpike to junction Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to junction New Jersey Turnpike, thence over the New Jersey Turnpike to Newark, N.J.; and (2) from Philadelphia, Pa., over U.S. Highway 1 to Newark, N.J., and return over the same routes.

No. MC 107838 (Deviation No. 2), H. & S. MOTOR FREIGHT, INC., Sixth and Maple Streets, Eldon, Mo. 65026, filed April 1, 1969. Carrier's representative: Herman W. Huber, 101 East High Street, Jefferson City, Mo. 65101. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Eldon, Mo., over Missouri Highway 52 to junction Missouri Highway 5, thence over Missouri Highway 5 to junction U.S. Highway 50 at Tipton, Mo., thence over U.S. Highway 50 to junction U.S. Highway 71 Bypass, thence over U.S. Highway 71 Bypass to junction Interstate Highway 70, thence over Interstate Highway 70 to Kansas City, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Kansas City, Kans., over U.S. Highway 50 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Missouri Highway 52, thence over Missouri Highway 52 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 66, thence over U.S. Highway 66 to East St. Louis, Ill., and return over the same route.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 517), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed March 28, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 35 and relocated U.S. Highway 35 just east of Centerville, Ohio, over relocated U.S. Highway 35 to junction U.S. Highway 35 northwest of Centerville, Ohio; and (2) from junction U.S. Highway 35 and relocated U.S. Highway 35 southeast of Winchester, Ohio, over relocated U.S. Highway 35 to junction U.S. Highway 35 at Jackson, Ohio, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Chillicothe, Ohio, over U.S. Highway 35 to junction relocated U.S. Highway 35 (near Centerville, Ohio), thence over relocated U.S. Highway 35 to junction old U.S. Highway 35 (approximately 2.2 miles southeast of Rio Grande, Ohio), thence over U.S. Highway 35 via Gallipolis to Kanauga, Ohio, and return over the same route.

No. MC 1940 (Deviation No. 17), TRAILWAYS OF NEW ENGLAND, INC., 4000 Trailway Building, 1200 Eye Street NW., Washington, D.C. 20005, filed March 28, 1969. Carrier's representative: Bruce E. Mitchell, 1735 K Street NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Worchester, Mass., over Interstate Highway 290 (as an access route) to junction Interstate Highway 90 (Massachusetts Turnpike) and Massachusetts Highway 12, at Interchange No. 10, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From New York, N.Y., over U.S. Highway 1 to New Haven, Conn., thence over U.S. Highway 5 via Hamden, North Haven, and Wallingford, Conn., to junction Alternate U.S. Highway 5, approximately 3 miles south of Meriden, Conn., thence over Alternate U.S. Highway 5 via Meriden to junction U.S. Highway 5, approximately 3 miles north of Meriden, thence over U.S. Highway 5 via Newington and Wethersfield, Conn., to Hartford, Conn. (also from New Haven over U.S. Highway 5 to Hartford; also from New Haven over Connecticut Highway 15 to Middletown, Conn., thence over Connecticut Highway 9 to Hartford), thence over Connecticut Highway 15 via South Windsor, Manchester, and Tolland, Conn., to junction Connecticut Highway 30, thence over Connecticut Highway 30 via Ellington, Conn., to junction Connecticut Highway 20, thence over Connecticut Highway 20 via Stafford, Conn., to junction Connecticut Highway 15, thence over Connecticut Highway 15 to the Connecticut-Massachusetts State line, thence over Massachusetts Highway 15 via Holland, Mass., to Sturbridge, Mass., thence over U.S. Highway 20 to junction Massachusetts Highway 12, thence over Massachusetts Highway 12 via Oxford and Auburn, Mass., to Worcester, Mass., thence over Massachusetts Highway 9 via Northboro, Westboro, and Southboro, Mass., to Framingham, Mass., thence over Massachusetts Highway 135 to Wellesley, Mass., thence over Massachusetts Highway 16 to Newton, Mass., thence over city streets to Waltham, Mass., thence over U.S. Highway 20 to Boston, Mass. (also from Worcester over Massachusetts Highway 9 and U.S. Highway 20 to Boston), and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-4440; Filed, Apr. 15, 1969; 8:48 a.m.]

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[Notice 1285]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 11, 1969.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 123310 (Sub-No. 11) (Correction), filed November 25, 1968, published FEDERAL REGISTER issue of December 12, 1968, and republished this issue. Applicant: VERMON L. HUNT, doing business as HUNT TRUCKING, 1014 Madison Avenue, Cheyenne, Wyo. 82001. Applicant's representative: Robert S. Stauffer, 1510 East 20th Street, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Clearwater, Idaho, Latah, Nez Perce, and Lewis Counties, Idaho, to points in Colorado. NOTE: The purpose of this republication is to show that the proposed service will also originate at points in Clearwater and Idaho Counties, Idaho, inadvertently omitted from previous publication.

*HEARING:* Remains as assigned May 21, 1969, before Joint Board No. 409, or if the Joint Board waives its right to participate, before Examiner Samuel Horwich, at Denver, Colo., in Room 1430, Federal Office Building, 1961 Stout Street.

No. MC 59680 (Sub-No. 166) (Republication), filed November 4, 1968, published in the FEDERAL REGISTER issue of November 21, 1968, and republished this issue. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689, Dallas, Tex. 75222. Applicant's representative: Oscar P. Peck (same address as applicant). By application filed November 4, 1968, Strickland Transportation Co., Inc., of Dallas, Tex., seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of foodstuffs, canned or bottled, other than frozen, from the plantsite of Princeville Canning Co., at or near Belledeau, La., to points in Illinois, Indiana, Kentucky, Michigan, Mississippi, Ohio, Tennessee, and Wisconsin; an Order of the Commission, Operating Rights Board, dated March 20, 1969, and served March 31, 1969, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of unfrozen canned or bottled foodstuffs, from the plantsite of Princeville Canning Co. at Belledeau, La., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin, and Missouri; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is feasible that other parties, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of said publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding.

No. MC 67485 (Sub-No. 5) (Republication), filed February 23, 1966, published FEDERAL REGISTER issues of March 16, 1966, and March 30, 1966, and republished this issue. Applicant: TEXAS FILM SERVICE, INC., 518 South Main Street, San Antonio, Tex. Applicant's representatives: Regan Sayers, 313 Perry-Brooks Building, Austin, Tex. 78701 and Austin L. Hatchell, 1120 Perry-Brooks Building, Austin, Tex. 78701. Applicant, in accordance with the requirements of section 206(a)(6) of the Interstate Commerce Act, as amended, and the Commission's rules and regulations promulgated thereunder, has made timely application for a certificate

of registration as evidence of the right to conduct operations, in interstate or foreign commerce, within limits which do not exceed the scope of the intrastate operations for which applicant holds a State certificate as a common carrier by motor vehicle, solely within the State of Texas. An order of the Commission, Operating Rights Board, dated March 21, 1969, and served March 31, 1969, finds that a certificate of registration shall concurrently be issued to applicant, unless otherwise ordered, as evidence of a right to engage in operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, pursuant to those portions of Certificates of Public Convenience and Necessity Nos. 3000 and 4305 authorized by order dated November 21, 1968, issued by the Railroad Commission of Texas:

Certificate No. 3000: *General Commodities* to, from and between all points along the following described routes, subject to the restrictions noted below: U.S. Highway 281 between San Antonio, Tex., and Johnson City, Tex.; U.S. Highway 290 between Johnson City, Tex., and Fredericksburg, Tex.; State Highway 16 between Fredericksburg, Tex., and Kerrville, Tex.; State Highway 27 between Kerrville, Tex., and Comfort, Tex.; and U.S. Highway 87 between Fredericksburg, Tex., and San Antonio, Tex.; serving all intermediate points along said routes and coordinating the service herein proposed with the service presently being rendered and interchanging with other carriers at any point along the routes above described. Restrictions: (1) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds. (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. Certificate No. 4305: *General Commodities* to, from and between all points along the following described routes, subject to the restrictions noted below: U.S. Highway 77 and U.S. Highway 81 between Dallas, Tex., and San Antonio; U.S. Highway 67 between Dallas, Tex., and Alvarado, Tex.; U.S. Highway 81 between Alvarado, Tex., and Hillsboro, Tex.; State Highway 171 between Hillsboro, Tex., and Coolidge, Tex.; U.S. Highway 84 and F. M. Road 73 between McGregor, Tex., and Coolidge, Tex.; State Highway 317 and F. M. Road 107 between McGregor, Tex., and Moody, Tex.; State Highway 95 between Temple, Tex., and Taylor, Tex.; U.S. Highway 79 between Taylor, Tex., and Round Rock, Tex.; U.S. Highway 183 between Austin, Tex., and Gonzales, Tex.; U.S. Highway 90 between Houston, Tex., and San Antonio, Tex.; F. M. Road 78 and State Highway 46 between San Antonio, Tex., and Seguin, Tex.; State Highway 123 between Seguin, Tex., and Stockdale, Tex.; U.S. Highway 87 between San Antonio, Tex., and Nixon, Tex.; and State Highway 80 and State Highway 97 and Alternate Route U.S. Highway 90 between Nixon, Tex., and Gonzales, Tex.; serving all intermediate points along such routes and coordinating such proposed service with service presently being rendered under existing certificates, and interchanging with other carriers at appropriate points of interchange.

The holder of this authority is authorized to operate over the following alternate routes only for operating convenience without service to any intermediate point: State Highway 97 between Waelder, Tex., and Gonzales, Tex.; State Highway 142 between San Marcos, Tex., and its intersection with U.S. Highway 183 North of Lockhart, Tex.; and F. M. Road 218 between its intersection with U.S. Highway 81 and State Highway 78 near Schertz, Tex. Restrictions: (1) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds. (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. NOTE: Applicant holds a certificate of registration in No. MC-67485 (Sub-No. 2) and by application in No. MC-FC-70734, *Texas Film Service, Inc., Transferee, and William Thomas Hawkins, doing business as Hawkins Film Service, Transferor*, seeks approval to purchase the certificate of registration issued in No. MC-120281 (Sub-No. 1). Applicant is hereby cautioned that this order authorizes issuance of a certificate of registration as evidence of a right to engage in operations, in interstate or foreign commerce, as described substantially, as indicated above, *only insofar as such operations do not duplicate those authorized in certificate of registration No. MC-67485 (Sub-No. 2)*, and that acquired pursuant to the proceeding in No. MC-FC-70734, if and when approved. The publication in the FEDERAL REGISTER of the State authority sought differs to some extent from that authorized by the State Commission and that because it is possible that interested parties, who have relied upon the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in this order, a notice of the authority granted by this order will be published in the FEDERAL REGISTER and issuance of a certificate of registration in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading with this Commission; and good cause appearing therefor.

No. MC 96769 (Sub-No. 3) (Republication), filed February 23, 1966, published FEDERAL REGISTER, issues of March 16, 1966, and March 30, 1966, and republished this issue. Applicant: LIBERTY FILM LINES, INC., 2500 South Harwood Street, Dallas, Tex. Applicant's representatives: Reagan Sayers, 313 Perry-Brooks Building, Austin, Tex. 78701, and Austin L. Hatchell, 1102 Perry-Brooks Building, Austin, Tex. 78701. Applicant, in accordance with the requirements of section 206(a)(6) of the Interstate Commerce Act, as amended, and the Commission's rules and regulations promulgated thereunder, has made timely application for a certificate of registration as evidence of the right to conduct operations, in interstate or foreign commerce, within limits which do not exceed the scope of the intrastate operations for which applicant holds a State certificate as a common carrier by motor vehicle, solely within the State of Texas. An order of the Commission, Operating Rights Board, dated March 21, 1969, and served March 31, 1969, finds that a certificate of registration shall concurrently be issued to applicant, unless otherwise ordered, as evidence of a right to engage in operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, pursuant to that portion of Certificate of Convenience and Necessity No. 2625 authorized by order dated November 21, 1968, issued by the Railroad Commission of Texas:

*General commodities* to, from, and between all points along the following described routes, subject to the restrictions noted below: State Highway 289 between Dallas, Tex., and Celina, Tex.; F.M. Road 455 between Celina, Tex., and Pilot Point, Tex.; State Highway 99 between Pilot Point, Tex., and Whitesboro, Tex.; U.S. Highway 82 between Whitesboro, Tex., and Honey Grove, Tex., U.S. Highway 75 between Dallas, Tex., and Denison, Tex.; U.S. Highway 67 between Dallas, Tex., and Greenville, Tex.; State Highway 24 between Greenville, Tex., and Paris, Tex.; U.S. Highway 69 and State Highway 78 between Greenville, Tex., and Bonham via Leonard, Tex.; U.S. Highway 80 and Interstate 20 between Dallas, Tex., and Marshall, Tex.; F.M. Road 1403 between Longview, Tex., and Gilmer, Tex.; State Highway 155 and U.S. Highway 59 between Gilmer, Tex., and Atlanta, Tex.; U.S. Highway 259 between Daingerfield, Tex., and its intersection with State Highway 155 near Ore City, Tex.; State Highway 11 between Daingerfield, Tex., and Linden, Tex.; U.S. Highway 59 between Linden, Tex., and Marshall, Tex., and between Carthage, Tex., and Garrison, Tex., via Teneha, Tex.; State Highway 149 between Longview, Tex., and Carthage, Tex.; U.S. Highway 79 between Carthage, Tex., and Henderson, Tex.; F.M. Road 124 between Beckville, Tex., and its intersection with U.S. Highway 79; State Highway 64 between Wills Point, Tex., and Henderson, Tex.; U.S. Highway 69 between Mineola, Tex., and Tyler, Tex.; State Highway 31 between Tyler, Tex., and Kilgore, Tex.; State Highway 135 between Troup, Tex., and Gladewater, Tex., via Kilgore, Tex.; U.S. Highway 259 between Kilgore, Tex., and Longview, Tex., and between Henderson, Tex., and Mount Enterprise, Tex.; F.M. Road 95 and U.S. Highway 84 between Mount Enterprise, Tex., and Garrison, Tex.; State Highway 87 between Timpson, Tex., and Center, Tex.; U.S. Highway 96 between Teneha, Tex.,

and San Augustine, Tex.; between Bronson, Tex., and Jasper, Tex.; and between Kirbyville, Tex., and Silsbee, Tex.; State Highway 21 between San Augustine, Tex., and Milam, Tex.; State Highway 87 and F.M. Road 184 between Milam, Tex., and Bronson, Tex.; U.S. Highway 190 between Jasper, Tex., and Newton, Tex.; State Highway 87 and F.M. Road 363 between Newton, Tex., and Kirbyville, Tex., via Bleakwood, Tex.; State Highway 326 and U.S. Highway 90 between Kountze, Tex., and Nome, Tex., and serving all intermediate points along said routes and coordinating the service proposed herein with that now being rendered by the applicant and interchanging with other carriers at appropriate interchange points.

The holder of this authority is authorized to operate over the following alternate routes only for operating convenience without service to any intermediate point: U.S. Highway 69 between Bells and Denison; U.S. Highway 96 between San Augustine, Tex., and Bronson, Tex.; and between Jasper, Tex., and Kirbyville, Tex.; and U.S. Highway 259 between Kilgore, Tex., and Henderson, Tex. Restrictions: (1) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds. (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. NOTE: Applicant hold certificate of public convenience and necessity No. MC-96769 (Sub-No. 1), issued by the Interstate Commerce Commission, authorizing transportation of certain commodities, in interstate or foreign commerce, between points solely within the State of Texas, and a certificate of registration in No. MC-96769 (Sub-No. 2). Applicant is hereby cautioned that this order authorizes issuance of a certificate of registration as evidence of a right to engage in operations, in interstate or foreign commerce, as described substantially above, *only insofar as such operations do not duplicate those authorized in Certificate MC-96769 (Sub-No. 1) and the Certificate of Registration in No. MC-96769 (Sub-No. 2)*. The publication in the FEDERAL REGISTER of the State authority sought is somewhat more limited than that authorized by the State Commission and that because it is possible that interested parties, who have relied upon the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in this order, a notice of the authority granted by this order will be published in the FEDERAL REGISTER and issuance of a certificate of registration in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading with this Commission.

No. MC 103993 (Sub-No. 357) (Republication), filed November 21, 1968, published in the FEDERAL REGISTER issue of December 12, 1968, and republished this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Robert G. Tessar (same address as applicant). By application filed November 21, 1968, Morgan Drive-Away, Inc., of Elkhart, Ind., seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of trailers designed to be drawn by passenger automobiles, on initial moves, from points in Lincoln County, Nebr., to points in the United States (excluding Alaska and Hawaii); an order of the Commission, Operating Rights Board, dated March 20, 1969, and served April 4, 1969, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of trailers designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Lincoln County, Miss., to points in the United States (excluding Alaska and Hawaii); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding.

No. MC 128528 (Sub-No. 1) (Republication), filed April 24, 1968, published in the FEDERAL REGISTER issue of May 16, 1968, and republished, this issue. Applicant: ALPINE COACH LINES, LTD., 229 West First Street, North Vancouver, British Columbia, Canada. Applicant's representative: Donald F. Reid (same address as applicant). By application filed April 24, 1968, Alpine Coach Lines, Ltd, of North Vancouver, British Columbia, Canada, seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of passengers and their baggage, in round-trip charter operations, beginning and ending at ports of entry on the international boundary line between the United States and the Province of British Columbia, Canada, located in Washington, and extending to Portland, Oreg. A report and order of the Commission, Review Board No. 1, decided March 28, 1969, and served April 4, 1969, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of passengers and their baggage in round-trip charter operations beginning and ending at points in Washington on the international boundary line between the United States and Canada and extending to points in Washington and to Portland, Oreg.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; because it is possible that other persons who may have relied upon the notice of the application as published in the FEDERAL REGISTER may have an interest in and would be prejudiced by the lack of proper notice of the authority actually granted herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 29079 (Sub-No. 54), filed March 24, 1969. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union Street, Kokomo, Ind. 49601. Applicant's representative: Jack Goodman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives household goods as defined by the Commission, and liquid commodities in bulk), between Toledo, Ohio, on the one hand, and, on the other, points in Ohio. NOTE: Applicant states tacking or joinder can be accomplished at any point in Ohio. This is a matter directly related to MC-F-10432, published in the FEDERAL REGISTER issue of April 3, 1969. If a hearing is deemed necessary, applicant requests it be held at Columbus or Toledo, Ohio.

No. MC 111545 (Sub-No. 115) (Clarification), filed January 22, 1969, published in the FEDERAL REGISTER issue of March 19, 1969, and republished as clarified this issue. Applicant: HOME TRANSPORTATION COMPANY, INC., Post Office Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born, 1425 Franklin Road SE., Marietta, Ga. 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oilfield and pipeline commodities* as defined by the Commission in *Mercer Extension Oilfield Commodities*, 74 M.C.C. 459; *pipe; trenching machines; tractors; drag lines; back fillers; caterpillars; road building machinery; ditching machinery; bulldozers; cranes; heavy machinery; graders; construction equipment; scrapers; road maintainers;*

*bridge construction equipment; heavy tanks; erection machinery and equipment; threshing machines; sawmill machinery; rollers; power shovels; lift equipment; commodities* which because of size or weight require the use of special equipment; and *self-propelled articles* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, between all points in Texas. NOTE: Applicant states it does not intend to tack, and avers there is no tacking possibility between the authority and that presently held by purchaser. The instant application is a matter directly related to MC-F-10376, published in the FEDERAL REGISTER issue of January 29, 1969, in which applicant seeks approval of authority to purchase the certificate of registration of Dennis Fuchshuber, doing business as: Equipment Transport Co., under MC 125288 (Sub-No. 1). This republication is for the purpose of reflecting the new tacking information. If a hearing is deemed necessary, applicant does not specify location.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

Nos. MC-F-9857 and MC-F-9759. (Republication) (INTERLINES-BLANKENSHIP MOTOR EXPRESS (Now system 99)—Purchase—LOM THOMPSON) and (INTERLINES-BLANKENSHIP MOTOR EXPRESS—Purchase—SAN DIEGO-IMPERIAL EXPRESS, INC.), published in the August 23, 1967, issue of the FEDERAL REGISTER on pages 12144 and 12145. This notice is in substitution for the prior notice. Applicants amended their applications at the suggestion of the Commission in order to provide a more clear-cut definition of the operating rights to be certified. The revised proposal, which uses all or parts of county boundaries, later mentioned, in lieu of mileage laterals, goes beyond and broadens the scope of the certificates of convenience and necessity and certificates of registration of System 99, San Diego-Imperial Express, Inc., and Lom Thompson, of the prior notice. The Commission has a present intention to designate the applications for the modified procedure, following expiration of the protest period. To the extent that the Applicants need evidence in support of a showing of public convenience and necessity, they may submit it. Authority is sought for purchase by INTERLINES-BLANKENSHIP MOTOR EXPRESS (Now system 99) 2600 Eighth Street, Berkeley, Calif. 94710, of the operating authorities of the vendors named in the above-stated caption. Operating rights sought by System 99, and those to be purchased, are described in the attached appendix, being the combined authority of the certificates of registration and Certificate of Public Convenience and Necessity in Nos. MC-121243 (Sub-1), MC-98234 (Sub-4) and MC-98327 (Subs-2 and 3). This authority extends beyond that presently authorized in parts of all of the following California counties: Modoc, Shasta, Trinity, Humboldt, Tehama, Glenn, Butte, Lake, Colusa, Yuba, Nevada, El Dorado, Amador, Calaveras, Tuolumne, Mariposa, Marion, Solano, Madera, Fresno, Kings, San Benito, Merced, Stanislaus, Kern, San Luis, Obispo, Santa Barbara, Los Angeles, San Diego, Riverside, and Imperial.

APPENDIX

*Regular routes—General Commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, motor vehicles, and livestock, between points in California, serving all intermediate points except as stated herein, as follows: From San Ysidro over U.S. Highway 101 to Cotati. From Los Angeles over U.S. Highway 99 to Sacramento. From Los Angeles over U.S. Highway 66 to San Bernardino. From San Bernardino over U.S. Highway 66 to Victorville. From Los Angeles over Interstate Highway 10 to Beaumont. From Los Angeles over U.S. Highway 60 to Blythe. From San Francisco over U.S. Highway 50 to Placerville. From Pinole over California Highway 4 to Angels Camp. From San Francisco over Interstate Highway 80 to Auburn. From Sacramento over U.S. Highway 99E and 99W and 99 to Redding. From Alturas over U.S. Highway 299 to Arcata. From Bartle over California Highway 89 to its junction with U.S. Highway 299. From Marysville over State Highway 70 to Pulga. From Arcata over U.S. Highway 101 to Scotia. From Grass Valley over California Highway 20 to Upper Lake. From Upper Lake over California Highway 29 to Middletown. From Lower Lake over California Highway 53 to its junction with California Highway 20. From junction of California Highway 175 and California Highway 29 at a point approximately 5 miles south of Kelseyville over California Highway 175 to Middletown. From Winterhaven over U.S. Highway 80 to San Diego. From Indio over California Highway 86 to Calexico. From junction U.S. Highway 60 near Whitewater over California Highway 111 to Calexico. From junction U.S. Highway 80 near Midway Wells over California Highway 98 to its junction with U.S. Highway 80 near Mountain Springs. From Los Angeles over Interstate Highway 5 to Redding. From Watsonville over California Highway 152 to its junction with U.S. Highway 99 near Chowchilla.

From San Lucas over California Highway 198 to Lemon Cove. From Paso Robles over California Highway 46 to Famosa. From junction U.S. Highway 101 near Santa Maria over California Highway 166 to its junction with U.S. Highway 99 near Wheeler Ridge. From Ventura over California Highway 33 to its junction with U.S. Highway 50 near Banta. From Bakersfield over State Highway 58 to Kramer. From Vallejo over California Highway 29 to Napa. From Glen Ellen over California Highway 12 to San Andreas. From Calipatria over California Highway 115 to its junction with California Highway 98 at Bonds Corner. From San Bernardino over U.S. Highway 395 to San Diego. From Los Angeles over California Highway 11 to San Pedro. From San Francisco over California Highway 1 to San Juan Capistrano. From San Rafael over California Highway 17 to Santa Cruz. From San Jose over Interstate Highway 680 to Vallejo. From Benicia over California Highway 21 to Cordelia. From Vallejo over California Highway 37 to its junction with U.S. Highway 101 near Navato. From Oakhurst over California Highway 49 to its junction with the Sierra and Butte County line near Camptonville. From Oakhurst over California Highway 41 to Morro Bay. From Salinas over California Highway 68 to Monterey. From Redlands over California Highway 38 to Big Bear Lake. From Blythe over California Highway 78 to Brawley. From Running Springs over California Highway 30 to its junction with U.S. Highway 66 near San Dimas. From San Bernardino over California Highway 18 to its junction with California Highway 138 near Llano. From Palmdale over California Highway 138 to its junction with U.S. Highway 66 near Cajon. From Mojave over California Highway 14 to its junction with U.S. Highway 99 near Newhall.

From Riverside over California Highway 91 to Hermosa Beach. From San Fernando over Interstate Highway 405 to its junction with U.S. Highway 101 near Irvine. From Saticoy over California Highway 118 to Pasadena. From Ventura over California Highway 126 to its junction with U.S. Highway 99 near Saugus. From Long Beach over California Highway 7 to Pasadena. From Long Beach over California Highway 19 to its junction with U.S. Highway 66 near Pasadena. From Newport Beach over California Highway 55 to its junction with California Highway 91 near Olive. From Oceanside over California Highway 78 to Escondido. From Santa Paula over California Highway 150 to Ojai. From Tulare over California Highway 63 to Orange Cove. From Woodlake over California Highway 65 to its junction with U.S. Highway 99 north of Bakersfield. From Visalia over California Highway 216 to Woodlake. From Bakersfield over California Highway 58 to McKittrick. From Greenfield over California Highway 119 to Taft. From Mendota over California Highway 180 to Fresno. From Salinas over California Highway 183 to Castroville. From Hollister over California Highway 156 to Castroville. From Napa over California Highway 121 to its junction with California Highway 37. From Vacaville over California Highway 505 to its junction with Interstate Highway 5 near Dunnigan. From Gustine over California Highway 140 to Mariposa. From Menlo Park over California Highway 84 to its junction with U.S. Highway

50 near Livermore. From San Mateo over California Highway 92 to Hayward. From Sacramento over California Highway 160 to its junction with California Highway 4 near Antioch. From Los Gatos over California Highway 9 to Santa Cruz. From Sunnyvale over California Highway 85 to Saratoga. From San Francisco over California Highway 82 to San Jose. From San Francisco over Interstate Highway 280 to San Jose. From Oakland over California Highway 24 to Walnut Creek.

From San Francisco over U.S. Highway 101 to Scotia, serving no intermediate points except as otherwise authorized. From San Francisco over U.S. Highway 101 to Hopland, thence over unnumbered highway to its junction with California Highway 29 near Finley, serving no intermediate points except as otherwise authorized. From Napa over California Highway 29 to Middletown, serving no intermediate points except as otherwise authorized. From Redding over U.S. Highway 99 to its junction with California Highway 89 near Mount Shasta, serving no intermediate points except as otherwise authorized. From junction U.S. Highway 99 near Mount Shasta over California Highway 89 to Bartle, serving no intermediate points except as otherwise authorized. With intermediate service to all off-route points situated in the counties of Alameda, Butte, Colusa, Contra Costa, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Los Angeles, Madera, Marin, Merced, Modoc, Monterey, Orange, Riverside, Sacramento, San Benito, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Solono, Stanislaus, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo, Yuba; and off-route points in the following counties west of California Highway 49: Amador, Calaveras, El Dorado, Nevada, Mariposa, Placer, Tuolumne; and off-route points in San Bernardino County south of California Highway 18 and west of California Highway 38. *Lumber and forest products*, between Eureka and the California-Oregon State line serving all intermediate points and all off-route points in Del Norte County, Calif., from Eureka over U.S. Highway 101 to the California-Oregon State line and return over the same route.

No. MC–F–10440. Authority sought for purchase by THE MASON & DIXON LINES, INCORPORATED, Eastman Road (Post Office Box 969), Kingsport, Tenn., of the operating rights and property of THOMAS MEYER and KINGDON MEYER, doing business as NEW BRUNSWICK TRANSFER, Super Highway (Post Office Box 531), New Brunswick, N.J., and for acquisition by E. WARD KING, E. WILLIAM KING, JOHN R. KING, and MARGARET K. NORRIS, all also of Kingsport, Tenn., of control of such rights and property through the purchase. Applicants' attorney: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points in Monmouth, Ocean, Union, Hudson, Essex, Somerset, and Middlesex Counties, N.J. Vendee is authorized to operate as a *common carrier* in Tennessee, North Carolina, Georgia, Virginia, South Carolina, New York, New Jersey, Maryland, Delaware, Pennsylvania, Ohio, Indiana, Alabama, West Virginia, Michigan, Kentucky, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10441. Authority sought for purchase by WEATHERS BROS. TRANSFER CO., INC., 2728 Northeast Freeway NE., Atlanta, Ga. 30329 of the operating rights of CHARLES F. JOHNSON and GEORGE A. HARRIS, doing business as MORIARTY VAN LINES, 16 Marmion Street, Boston (Jamaica Plain), Mass., and for acquisition by R. L. WEATHERS, W. M. WEATHERS, GLORIA DOBBS, all of Atlanta, Ga., and L. W. WEATHERS, 1268 Druid Park Avenue, Augusta, Ga., of control of such rights through the purchase. Applicants' attorney: Robert J. Gallagher, 111 State Street, Boston, Mass. 02109. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier* over irregular routes, between Boston, Mass., and points within 15 miles thereof, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania. Vendee is authorized to operate as a *common carrier* in Tennessee, Alabama, Delaware, Florida, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas, Virginia, Arkansas, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Missouri, Ohio, Rhode Island, District of Columbia, Connecticut, Oklahoma, West Virginia, Georgia, Arizona, California, and New Mexico. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10442. Authority sought for control by WESTBURNE INTERNATIONAL INDUSTRIES, LTD. (a noncarrier), of (1) H. M. TRIMBLE & SONS, LTD., 1510 40th Avenue SE., Calgary, Alberta, Canada; (2) OIL AND INDUSTRY SUPPLIERS, LTD., 955 Maginot Street, St. Boniface, Manitoba, Canada; and (3) MERCURY TANKLINES, LIMITED, 5505 Sixth Street SE., Calgary, Alberta, Canada; and for acquisition by J. R. McCaig, 2320 Sunset Avenue, Calgary, Alberta, Canada, J. A. SCRYMGEOUR, 5929 Elbow Drive, Calgary, Alberta, Canada, M. W. McCAIG, Box 5, Rural Route 2, Site 9, Calgary Alberta, Canada, R. W. McCAIG, 13 Turnbull Place, Regina, Saskatchewan, Canada, and W. H. ATKINSON, deceased (J. W. SCRYMGEOUR and F. R. MATHEWS, Executors), of control of H. M. TRIMBLE & SONS, LTD., OIL AND INDUSTRY SUPPLIERS, LTD., and MERCURY TANKLINES, LIMITED, through the acquisition by WESTBURNE INTERNATIONAL INDUSTRIES, LTD. Applicants' attorney: Ray F. Koby, 314 Montana Building, Post Office Box 2567, Great Falls, Mont. 59401. Operating rights sought to be controlled: (1) *Petroleum* and *petroleum products* (except liquefied petroleum gases), as defined in appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, as a *common carrier*, over irregular routes, from ports of entry on the United States-Canada boundary line at or near Portal and Noonan, N. Dak., to points in North Dakota on and west of North Dakota Highway 3; *liquefied petroleum gases*, in bulk, in tank vehicles, from junction Alaska Highway 7 and the United States-Canada boundary line near Porcupine, Alaska, to Haines, Alaska, from junction Alaska Highway 2 and the United States-Canada boundary line, near Tok Junction, Alaska, to Fairbanks, Alaska; from the ports of entry on the United States-Canada boundary line located at or near Eastport, Idaho, and Metaline Falls, Wash., to Spokane, Wash., and certain specified points in Idaho, with restriction; from junction Alaska Highway 2 and the United States-Canada boundary line, near Tok Junction, Alaska, to Anchorage, Alaska;

*Vermiculite ore*, in bulk, in tank vehicles, from points in Montana within 5 miles of Libby, Mont., to ports of entry on the United States-Canada boundary line at or near Roosville, Mont., and Eastport and Porthill, Idaho, with restrictions; *commodities* in bulk, between ports of entry on the United States-Canada boundary line located in North Dakota, Montana, and Idaho, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming; *sulphur*, in bulk, from the port of entry on the United States-Canada boundary line at Blaine, Wash., to Bellingham, Wash.; and *lignin liquor*, in bulk, from Bellingham, Wash., to the port of entry on the United States-Canada boundary line at Blaine, Wash.; (2) *soybean oil, edible animal fats, edible animal and vegetable oils and blends thereof*, in bulk, in tank vehicles, as a *common carrier*, over irregular routes, from Belmond and Sioux City, Iowa, and South St. Paul, Minn., to the United States-Canada boundary line at the port of entry at or near Noyes, Minn.; *animal fats, oils, lards, tallows or greases, or blends or combinations thereof*, in bulk, in tank vehicles, from Chicago (except that part of its commercial zone, as defined by the Commission, lying within Indiana), and Rochelle, Ill., certain specified points in Minnesota, South Dakota, Iowa, and Madison, Wis., to the port of entry on the United States-Canada boundary line located in Minnesota and North Dakota; *molasses*, in bulk, in tank vehicles, from certain specified points in Minnesota, and Pierce and St. Croix Counties, Wis., to the port of entry on

the United States-Canada boundary line at or near Noyes, Minn., with restrictions;

*Liquefied petroleum gas*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and the Province of Manitoba, Canada, located in Minnesota and North Dakota, to points in Minnesota and North Dakota; and *agricultural chemicals*, from ports of entry on the United States-Canada boundary line located in Minnesota and North Dakota, to points in Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, South Dakota, Minnesota, Wisconsin, Utah, Colorado, Nebraska, Kansas, Iowa, Missouri, Illinois, Indiana, New Mexico, Texas, Oklahoma, and Arkansas, with restriction; and (3) *alcoholic beverages*, in bulk, in tank vehicles, as a *contract carrier*, over irregular routes, from ports of entry on the United States-Canada boundary line located in Montana, North Dakota, and Minnesota, to Baltimore, Md., and Detroit, Mich., with restrictions; between Bardstown, Ky., and El Segundo, Calif., on the one hand, and, on the other, points on the United States-Canada boundary line at or near the ports of entry at Sweetgrass, Mont., Portal, N. Dak., Noyes, Minn., Detroit, Mich., and Buffalo and Ogdensburg, N.Y., with restriction; from ports of entry on the United States-Canada boundary line, at or near Detroit, Mich., Buffalo and Ogdensburg, N.Y., and Blaine, Wash., to Owensboro, Ky., and Pekin, Ill., with restrictions; from the ports of entry on the United States-Canada boundary line at or near Sweetgrass, Mont., Portal, N. Dak., Noyes, Minn., and Detroit, Mich., to Cincinnati, Ohio, with restriction; from the ports of entry on the United States-Canada boundary line at or near Port Huron and Detroit, Mich., Buffalo and Ogdensburg, N.Y., to Sausalito, Calif., with restriction; from Cincinnati, Ohio, to ports of entry on the United States-Canada boundary line at or near Sweetgrass, Mont., Portal, N. Dak., and Noyes, Minn., between Louisville and Frankfort, Ky., on the one hand, and, on the other, ports of entry on the United States-Canada boundary line at or near Sweetgrass, Mont., Portal, N. Dak., and Noyes, Minn., with restriction;

*Wine, and wine spirits*, in bulk, in tank vehicles, from Trocha, Calif., to the port of entry on the United States-Canada boundary line at or near Sweetgrass, Mont., with restrictions; *edible oil*, from Jacksonville, Ill., to the port of entry on the United States-Canada boundary line at or near Sweetgrass, Mont., and Portal, N. Dak., with restriction; and *white oil*, from Petrolia, Pa., to ports of entry on the United States-Canada boundary line, located at or near Portal, N. Dak., and Sweetgrass, Mont., with restriction. Application has not been filed for temporary authority under section 210a(b). NOTE: See also MC-F-10380 (TRIMAC TRANSPORTATION LTD.—Control—MERCURY TANKLINES LTD.), published in the February 5, 1969, issue of the FEDERAL REGISTER, on page 1754. A Motion of Applicant To Dismiss Application or for Alternative Relief is also included.

No. MC-F-10443. Authority sought for purchase by B. F. WALKER, INC., 650 17th Street, Denver, Colo. 80202, of a portion of the operating rights of ASBURY TRANSPORTATION CO., 2222 East 38th Street, Los Angeles, Calif. 90058, and for acquisition by the SAMUEL ROBERTS NOBLE FOUNDATION, Post Office Box 878, Ardmore, Okla. 73401, of control of such rights through the purchase. Applicants' attorneys: Jerry Prestridge, Richard Kissinger, both of Post Office Box 1148, Austin, Tex. 78767, and James W. Wade, 453 South Spring Street, Los Angeles, Calif. 90013. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, equipment, materials, and supplies*, used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, as a *common carrier*, over irregular routes, between points in Los Angeles, Orange, Ventura, Santa Barbara, San Luis Obispo, Kern, and King Counties, Calif., and those in that part of Fresno County, Calif., within 40 miles of Coalinga, Calif., on the one hand, and, on the other, points in Colorado, Montana, Nevada, Utah, and Wyoming. Vendee is authorized to operate as a *common carrier* in Texas, Arkansas, Oklahoma, Louisiana, Mississippi, Kansas, Colorado, New Mexico, Wyoming, and Nevada. Application has been filed for temporary authority under section 210a(b). NOTE: Petition To Dismiss Certain Parties and To Excuse the SAMUEL ROBERTS NOBLE FOUNDATION From Accounting, Reporting, and Securities Provisions of Part II of the Act, also included.

No. MC-F-10444. Authority sought for (1) control by ALLEGHANY CORPORATION, 350 Park Avenue, New York, N.Y. 10022, of (A) JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475, and (B) ERIE TRUCKING COMPANY, Bridge Street and Schuylkill Road, Spring City, Pa. 19474; and (2) purchase by ALLEGHANY CORPORATION, 350 Park Avenue, New York, N.Y. 10022, of the operating rights and property of JONES MOTOR CO., Inc., Bridge Street and Schuylkill Road, Spring City, Pa. 19475, and for acquisition by FRED M. KIRBY, also of New York, N.Y., and ALLAN P. KIRBY, JR., 17 De Hart Street, Morristown, N.J., of control of such rights and property through the transaction. Applicants' attorneys: David G. MacDonald, 1000 16th Street NW., Washington, D.C. 20036, and M. Lauck Walton, 2 Wall Street, New York, N.Y. 10005. Operating rights sought to be (1) controlled and (2) transferred. (1)(A) and (2) *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of New Jersey, Pennsylvania, New York, Maryland, Vermont, Connecticut, Massachusetts, Rhode Island, Missouri, Michigan, Ohio, Illinois, Indiana, New Hampshire, West Virginia, Virginia, North Carolina, Delaware, Maine, South Carolina, Tennessee, Iowa, and the District of Columbia, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-4963 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof; and (A) and (B) *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Buffalo, N.Y., and Erie, Pa., serving no intermediate points, between Erie, Pa., and New York, N.Y., serving the intermediate point of Kane, Pa., and the off-route points in the New York City commercial zone, as defined by the Commission, Port Chester, N.Y., and points in New Jersey within 20 miles of Columbus Circle, N.Y.; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Erie, Pa., on the one hand, and, on the other, points in New York and Pennsylvania within 80 miles of Erie, except Bradford and Custer City, Pa., and Buffalo, N.Y., between Kane, Pa., on the one hand, and, on the other, points in Pennsylvania within 80 miles of Erie, Pa., except Bradford and Custer City, Pa.; *rough rolled glass*, from Sergeant, Pa., to certain specified points in New Jersey, Rochester, and Elmira, N.Y., and points in the New York, N.Y., commercial zone, as defined by the Commission, certain specified points in Ohio, and Baltimore, Md.; and *uncrated furniture*, from Kane, Pa., to Jamestown, N.Y. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10445. Authority sought for purchase by VICTORY EXPRESS, INC., 2600 Willowburn Avenue, Dayton, Ohio 45427, of the operating rights and certain property of GLENN WEAVER, doing business as WEAVER TRUCKING SERVICE, Post Office Box 146, Washington, Ill., and for acquisition by CARL C. SCHAEFER, SR., also of Dayton, Ohio, of control of such rights and property through the purchase. Applicants' representative: W. L. Jordan, 205 Merchants Savings Building, Terre Haute, Ind. 47801. Operating rights sought to be transferred: *Sweeping compounds, waxes and soaps*, in packages, and *janitor maintenance supplies*, as a *contract carrier*, over irregular routes, from the plantsite of Frank Miller & Sons, Inc., at Riverdale, Ill., to points in Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Michigan, Mississippi, New

York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, with restriction. Vendee is authorized to operate as a *contract carrier* in all points in the United States (except Washington, Oregon, California, Arizona, Nevada, Idaho, Montana, Wyoming, New Mexico, Texas, Oklahoma, Alaska, and Hawaii). Application has been filed for temporary authority under section 210a (b).

No. MC-F-10446. Authority sought for control and merger by HUMBOLDT EXPRESS, INC., Faydur Court, Nashville, Tenn. 37210, of the operating rights and property of COVINGTON TRUCKING COMPANY, INC., Post Office Box 504, Covington, Tenn. 38019, and for acquisition by DAVID D. DORTCH, also of Nashville, Tenn., of control of such rights and property through the transaction. Applicants' attorney: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Covington, Tenn., and Memphis, Tenn., serving all intermediate points and the off-route point of Munford, Tenn., with restriction; and under certificates of registration, in Docket No. MC-108016 Sub-3 and Sub-5, covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Tennessee. HUMBOLDT EXPRESS, INC., is authorized to operate as a common carrier under certificates of registration, within the State of Tennessee. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10447. Authority sought for control and merger by TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316, of the operating rights and property of E. A. SCHLAIRET TRANSFER CO., 701 Harcourt Road, Post Office Box 271, Mount Vernon, Ohio 43050, and for acquisition by AMERICAN COMMERCIAL LINES, INC., Box 13244, Houston, Tex. 77019, and, in turn by TEXAS GAS TRANSMISSION CORPORATION, 3800 Frederica Street, Post Office Box 1160, Owensboro, Ky. 42301, of control of such rights and property through the transaction. Applicants' attorneys and representative: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603, K. Edward Wolcott, 248 Chester Avenue SE., Atlanta, Ga. 30316, John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215, T. Randolph Buck, Post Office Box 13244, Houston, Tex. 77019, and Robert O. Koch, 3800 Frederica Street, Owensboro, Ky. 42301. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Delaware, Ohio, and Sunbury, Ohio, between Worthington, Ohio, and junction Ohio Highways 3 and 161, serving all intermediate points, between Marion, Ohio, and Mount Vernon, Ohio, serving the intermediate points of Fredericktown, Ohio, between Columbus, Ohio, and Marion, Ohio, serving all intermediate points, between Columbus, Ohio, and Mount Vernon, Ohio, serving all intermediate points and certain off-route points, between junction new Ohio Highway 3 and old Ohio Highway 3 north of Westerville, Ohio, and junction new Ohio Highway 3 and Ohio Highway 61 north of Sunbury, Ohio, between Galena, Ohio, and new Ohio Highway 3, between Sunbury, Ohio, and junction new Ohio Highway 3 and Ohio Highway 37, serving no intermediate points; and *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Mount Vernon, Ohio, on the one hand, and, on the other, points in Knox County, Ohio, between points in Morrow County, Ohio (except Edison, Cardington, Mount Gilead, and Iberia, Ohio), on the one hand, and, on the other, points in Ohio; and under a certificate of registration, in Docket No. MC-32839 Sub-13, covering the transportation of property as a common carrier, in intrastate commerce, within the State of Ohio. TERMINAL TRANSPORT COMPANY, INC., is authorized to operate as a *common carrier* in Kentucky, Indiana, Illinois, Tennessee, Georgia, Alabama, Florida, and Ohio. Application has been filed for temporary authority under section 210a(b). NOTE: MC-32839 Sub-17 is a matter directly related.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-4441; Filed, Apr. 15, 1969; 8:48 a.m.]

[Notice 814]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 11, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

### MOTOR CARRIERS OF PROPERTY

No. MC 41870 (Sub-No. 7 TA), filed April 1, 1969. Applicant: VICTOR L. LANGE, doing business as LANGE TRUCK LINE, Post Office Box 28, Pleasanton, Tex. 78064. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, *General commodities*, except classes A and B explosives, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Poth, Tex., and Kenedy, Tex., from Poth over U.S. Highway 181 to Kenedy and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant will tack authority in MC-41870 at Poth, Tex., and will interline with other carriers at San Antonio, Tex. Supporting shippers: Karnes Mercantile Co., Inc., Karnes City, Tex. 78118; Sellers Drug Store, 121 West Main, Kenedy, Tex. 78119; Kauffmann Motor Co., Post Office Box 630, Kenedy, Tex. 78119; Witte Implement Co., Karnes City, Tex. 78118; City Parts & Service, Karnes City, Tex. 78118; Ruhmann Store, Post Office Box 479, Kenedy, Tex. 78119; Red Ewald Tractor Co., Karnes City, Tex. 78118; Kuhnels Hardware, Box 1038, Karnes City, Tex. 78118; G. E. Pogue Seed Co., Kenedy, Tex. 78119. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, Tex. 78205.

No. MC 82337 (Sub-No. 1 TA) (Correction), filed March 17, 1969, published in FEDERAL REGISTER, issue of March 27, 1969, and republished as corrected this issue. Applicant: MOELLER TRANSFER AND STORAGE CO., a corporation, 212 Coosa Street, Montgomery, Ala. 36104. Applicant's representatives: Harris & Harris, 410-412 Bell Building, Montgomery, Ala. 36104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and commodities injurious or contaminating to other lading, from points in Dallas County, Ala., to Montgomery, Ala., restricted to shipments having an immediately prior or subsequent movement by rail, for 180 days. NOTE: The purpose of this republication is to include certain exceptions in commodity description, which was inadvertently omitted in previous publication. Supporting shipper: Alament Division, Post Office Box 348, Selma, Ala. 36701. Send protests to: B. R. McKenzie, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 87720 (Sub-No. 91 TA), filed April 3, 1969. Applicant: BASS TRANSPORTATION CO., INC., Star Route A, Old Croton Road, Post Office Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar

Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard and byproducts thereof, fiberboard and byproducts thereof, and paperboard and byproducts thereof*, from Akron, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, Connecticut, Massachusetts, Rhode Island, and the District of Columbia. Restriction: Under contract with Packaging Corporation of America, for 180 days. Supporting shipper: Packaging Corporation of America, 1632 Chicago Avenue, Evanston, Ill. 60204. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 94201 (Sub-No. 66 TA), filed April 7, 1969. Applicant: BOWMAN TRANSPORTATION, INC., Post Office Box 2188, East Gadsden, Ala. 35903. Applicant's representative: Maurice F. Bishop, 325–29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clorox* (Sodium hypochlorite solution), in bottles, in cartons, from the plantsite, warehouse and storage facilities of the Clorox Corp. at or near Atlanta, Ga., to points in Mississippi, for 180 days. Supporting shipper: The Clorox Co., Oakland, Calif. 94603, Attention: Mr. Earl M. Matson, Vice President, Traffic. Send protests to: B. R. McKenzie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 107544 (Sub-No. 83TA), filed April 7, 1969. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, Va. 24354. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products*, in bulk, from Bristol, Va., to points in Carter, Cocke, Greene, Hamblen, Hawkins, Johnson, Sullivan, Washington, and Unicoi Counties, Tenn.; Alleghany, Ashe, Surry, Watauga, and Wilkes Counties, N.C.; McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming Counties, W. Va.; Bell, Floyd, Harlan, Letcher, Knott, and Pike Counties, Ky., for 180 days. Supporting shipper: Shell Oil Co., 1250 Sixth Avenue, New York, N.Y. 10020. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 116073 (Sub-No. 94 TA), filed April 7, 1969. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as above). 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 movement, from New Ulm, Minn., to points in North Dakota, South Dakota, Wisconsin, and Iowa, for 180 days. Supporting shipper: Skyline Corp., Box 111, New Ulm, Minn. 56073. Send protests to: J. H. Ambs, District Supervisor, Interstate Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 95 TA), filed April 7, 1969. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, and *pickup campers*, by truckaway and towaway, in initial movement, from Caldwell, Idaho, to points in Washington, Oregon, California, Utah, Colorado, Montana, Wyoming, Nevada, and Arizona, for 180 days. Supporting shipper: Kit Manufacturing Co., Caldwell, Idaho 83605. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 118524 (Sub-No. 5 TA), filed April 4, 1969. Applicant: SIG WOLD STORAGE & TRANSFER, INC., 1301 Wells Street, Fairbanks, Alaska 99701. Applicant's representative: Lloyd I. Hoppner, Suite A, Teamsters Building, Post Office Box 516, Fairbanks, Alaska 99701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Alaska, on the one hand, and, between points in the Seattle-King County-Puget Sound area, on the other, by all highways, using all existing gateways between Canada and the State of Washington, or by a combination of highways and marine transportation, including the vessels of the Alaska Ferry System, using all available ports of entry in the Puget Sound area, for 180 days. NOTE: The proposed authority overlaps the authority presently held by applicant. Supporting shippers: Military Transportation and Military Terminal Service, Washington, D.C.; Wayne Bloom, Safeway Stores, Inc., Manager, 315 Barnett, Fairbanks, Alaska 99701; Kenneth W. Hatch, Hatch Drilling Co., Owner, 908 Smyth Street, Fairbanks, Alaska 99701. Send protests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 1532, Anchorage, Alaska 99501.

No. MC 118527 (Sub-No. 5 TA), filed April 4, 1969. Applicant: SOURDOUGH EXPRESS, INC., 508 12th Street, Post Office Box 288, Fairbanks, Alaska 99701. Applicant's representative: Lloyd I. Hoppner, Suite A, Teamsters Building, Post Office Box 516, Fairbanks, Alaska 99701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission between points in Alaska, on the one hand, and between points in the Seattle-King County-Puget Sound area, on the other, by all highways, using all existing gateways between Canada and the State of Washington, or by a combination of highways and marine transportation including the vessels of the Alaska Ferry System, using all available ports of entry in the Puget Sound area, for 180 days. NOTE: The proposed authority overlaps the authority presently held by applicant. Supporting shippers: Military Transportation and Military Terminal Service, Washington, D.C.; Robert L. Hufman, General Manager, Golden Valley Electric Association, Inc.,758 Illinois Street, Fairbanks, Alaska 99701; Lloyd A. Burgess, Chairman, Burgess Construction Co., 392–394 Hamilton Graehl, Fairbanks, Alaska 99701. Send protests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 1532, Anchorage, Alaska 99501.

No. MC 123057 (Sub-No. 9 TA), filed April 2, 1969. Applicant: JAMES RICCIARDI & SONS, INC., 203 Fillmore Street, Staten Island, N.Y. 10301. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, joint treatment products, and paint products, and such products*, as are used in the manufacture, installation, and distribution of the aforementioned products (except in bulk), from the plants and warehouses of the United States Gypsum Co., Staten Island, N.Y., to points in New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, Pennsylvania, Delaware, Maryland, and the District of Columbia, *returned shipments of the same commodities* in the opposite direction, for 180 days. Supporting shipper: United States Gypsum Co., 600 Madison Avenue, New York, N.Y. 10022. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 124078 (Sub-No. 377 TA), filed April 8, 1969. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from Wilsonville, Ala., to points in Georgia, for 150 days. Supporting shipper: Southern Fly Ash Co., Inc., Post Office Drawer 70, Wilsonville, Ala. 35186, (Robert W. Styron, Technical Director). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 128213 (Sub-No. 2 TA), filed April 7, 1969. Applicant: T. LINDSAY MOVING & STORAGE, INC., 74 Illinois Avenue, Paterson, N.J. 07503. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07012. Authority sought to operate as a *common*

*carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, trunks, and duffle bags*, between Milford, Pa., and Lake Como, Pa., for 180 days. NOTE: Applicant proposes to tack this authority at Milford, Pa., with its authority in certificate MC-128213 authorizing the transportation, over irregular routes of the commodities named above, between Milford, Pa., on the one hand, and, on the other, points in New Jersey, for 180 days. Supporting shipper: The New Jersey YMHA-YWHA Camps, 589 Central Avenue, East Orange, N.J. 07018. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-4442; Filed, Apr. 15, 1969; 8:48 a.m.]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

APRIL 11, 1969.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 10397, filed March 31, 1969. Applicant: CLAUDE GULLEY, JR., 180 Arthur Drive, Shreveport, La. 71105. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Shreveport, La., and Lake Charles, La., over U.S. Highway 171, serving all intermediate points and the off-route point of Fort Polk, subject to the following restrictions: (1) No commodity shall be transported in bulk, in tank vehicles; (2) no commodity shall be transported from Shreveport, La., destined to Lake Charles, La.; (3) no commodity shall be transported from Lake Charles, La., destined to Shreveport, La.; and (4) commodities moving in intrastate commerce will be assessed charges as published by the regular motor freight tariff bureau. NOTE: The traffic may move in the same vehicle in which applicant is transporting U.S. Mail under contract. Both intrastate and interstate authority sought.

*HEARING:* Not yet assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Louisiana Public Service Commission, Baton Rouge, La., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-4444; Filed, Apr. 15, 1969; 8:48 a.m.]

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