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Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(*Continued on next page*)

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.

7 CFR

52 ... 7133
907 ... 7134
908 ... 7135
966 ... 7135
1079 ... 7136

PROPOSED RULES:

905 ... 7168
966 ... 7170
980 ... 7170
1003 ... 7171
1004 ... 7171
1013 ... 7173
1016 ... 7171

14 CFR

71 (8 documents) ... 7121–7124
298 ... 7124

PROPOSED RULES:

121 ... 7175

15 CFR

200 ... 7144

16 CFR

15 (2 documents) ... 7145

17 CFR

PROPOSED RULES:

230 ... 7175
239 ... 7175

21 CFR

120 ... 7165
121 ... 7165

26 CFR

1 ... 7145

33 CFR

110 ... 7146
117 ... 7146

41 CFR

1–3 ... 7147
1–7 ... 7148
1–16 ... 7148
1–20 ... 7148
8–3 ... 7150

42 CFR

81 (3 documents) ... 7150

45 CFR

115 ... 7151

49 CFR

7 ... 7156
71 ... 7157
171 ... 7159
172 ... 7159
173 ... 7159
174 ... 7162
177 ... 7162
178 ... 7163
179 ... 7165

PROPOSED RULES:

1131 ... 7177
1307 ... 7177

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1969 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1969. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR unit (as of Jan. 1, 1969):		Price
3	1936–1938 Compilation	$6.00
	1968 Compilation	.75
4	(Rev.)	.50
7	Parts:	
	46–51 (Rev.)	1.75
	900–944 (Rev.)	1.50
	1000–1029 (Rev.)	1.50
	1060–1089 (Rev.)	1.25
	1090–1119 (Rev.)	1.25
	1500–end (Rev.)	1.50
12	Parts:	
	1–299 (Rev.)	2.00
	300–end (Rev.)	2.00
13	(Rev.)	1.25
14	Parts 1–59 (Rev.)	2.75
16	Part 150–end (Rev.)	2.00
22	(Rev.)	1.75
24	(Rev.)	2.00
26	Parts:	
	1 (§§ 1.641–1.850) (Rev.)	1.50
	2–29 (Rev.)	1.25
	30–39 (Rev.)	1.25
	300–499 (Rev.)	1.25
	500–599 (Rev.)	1.50
27	(Rev.)	.45
28	(Rev.)	1.00
29	Parts 0–499 (Rev.)	1.50
30	(Rev.)	1.50
31	(Rev.)	2.75
32	Parts:	
	400–589 (Rev.)	2.00
	590–699 (Supp.)	.50
	700–799 (Rev.)	3.50
	1200–1599 (Rev.)	1.75
	1600–end (Rev.)	1.00
32A	(Rev.)	1.25
33	Parts 1–199 (Rev.)	2.50
35	(Supp.)	.35
37	(Supp.)	.30
41	Chapters:	
	1 (Rev.)	2.75
	2–4 (Rev.)	1.00
	5–5D (Rev.)	1.25
	6–17 (Rev.)	3.25
	19–100 (Rev.)	1.00
	101–end (Rev.)	1.75
43	Part 1000–end (Rev.)	2.75
44	(Rev.)	.45
46	Parts 146–149 (Rev.)	3.75

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69–WE–31]

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 description of the San Jose, Calif., transition area. This action is necessary due to the relocation of the San Jose VOR.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.181 (34 F.R. 4637) the description of the San Jose, Calif., transition area is amended by deleting "* * * 137° * * *" in the fourth line and substituting "* * * 139° * * *" therefor.

Effective date. This amendment shall be effective 0901 G.m.t., June 26, 1969.

Issued in Los Angeles, Calif., on April 22, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69–5176; Filed, Apr. 30, 1969; 8:47 a.m.]

[Airspace Docket No. 69–WE–32]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to change the geographical coordinates of the Stockton Municipal Airport to conform to recently published surveyed data.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.171 (34 F.R. 4557) the Stockton, Calif., control zone is amended by deleting the geographical coordinates "(latitude 37°53'45" N. longitude 121°14'10" W.)" and substituting "(latitude 37°-53'39" N. longitude 121°14'14" W.)" therefor.

Effective date. This amendment shall be effective 0901 G.m.t., June 26, 1969.

Issued in Los Angeles, Calif., on April 22, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69–5177; Filed, Apr. 30, 1969; 8:47 a.m.]

[Airspace Docket No. 69–SO–19]

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

Designation and Alteration of Transition Areas

On March 12, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 5111), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Alabaster, Ala., transition area and alter the Birmingham and Montgomery, Ala., transition areas.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the geographic coordinate (lat. 33°10'40" N., long. 86°47'00" W.) for Shelby County Airport was obtained from Coast and Geodetic Survey. Additionally, it was determined that the State of Alabama 1,200-foot transition area designation would be made effective concurrent with this action; thus, eliminating the requirement to alter the Birmingham and Montgomery 1,200-foot transition areas. It is necessary to alter the description of the Alabaster transition area by appropriately inserting the geographic coordinate for the Shelby County Airport and deleting the proposed alteration of the Birmingham and Montgomery transition areas.

Since these amendments are editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to reflect these changes.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 26, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

ALABASTER, ALA.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby County Airport (lat. 33°10'40" N., long. 86°47'00" W.).

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

Issued in East Point, Ga., on April 22, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69–5178; Filed, Apr. 30, 1969; 8:47 a.m.]

[Airspace Docket No. 69-SO-16]

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

Designation, Alteration and Revocation of Transition Areas

On March 11, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 5079), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate, alter, and revoke controlled airspace in the State of Mississippi and its coastal waters by designating the Mississippi transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, VOR Federal Airway No. 22 was redesignated as VOR Federal Airway No. 198. It is necessary to alter the description to reflect this change.

Since this amendment is editorial 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., June 26, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

MISSISSIPPI

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Mississippi, including that airspace 3 nautical miles from and parallel to the shoreline, beginning at the intersection of the Mississippi/Alabama State line, extending west along a line 3 nautical miles from and parallel to the shoreline, to and southwest along the southeast boundary of V-198, to and south along long. 88°51'00" W. to lat. 30°07'20" N. (point of intersection of the Mississippi State line and long. 88°51'00" W.).

In § 71.181 (34 F.R. 4637), the following transition areas with floors of 1,200 feet above the surface are revoked and the 700-foot transition areas are amended as follows:

1. Columbus, Miss., all after "* * * longitude 88°23'00" W.)," is deleted and "extending from the 6-mile radius area to 8 miles south of the radio beacon." is substituted therefor.

2. Greenwood, Miss., all after "* * * within 2 miles each side of the Greenwood VORTAC 079° radial," is deleted and "extending from the 10-mile radius area to the VORTAC." is substituted therefor.

3. Hattiesburg, Miss., all after "* * * longitude 89°17'59" W.)," is deleted and "extending from the 7-mile radius area to 8 miles northwest of the RBN." is substituted therefor.

4. Jackson, Miss., all after "* * * within 2 miles each side of a 008° bearing from the Hawkins RBN," is deleted and "extending from the control zone to 8 miles north of the OM." is substituted therefor.

5. Kosciusko, Miss., all after "* * * long. 89°32'25" W.)," is deleted and "extending from the 5-mile radius area to 8 miles southeast and northwest of the RBN." is substituted therefor.

6. Meridian, Miss. (Key Field), all after "* * * within 8 miles southwest and 5 miles northeast of the Meridian VORTAC 315° radial," is deleted and "extending from the VORTAC to 13 miles northwest." is substituted therefor.

7. Tupelo, Miss., all after "* * * within 2 miles each side of the Tupelo VOR 214° radial," is deleted and "extending from the 5-mile radius area to 3 miles southwest of the VOR." is substituted therefor.

8. Yazoo City, Miss., all after "* * * within 2 miles each side of the Jackson, Miss. VORTAC 332° radial," is deleted and "extending from the 6-mile radius area to 16 miles northwest of the VORTAC." is substituted therefor.

In § 71.181 (34 F.R. 4637), the following transition areas are amended as indicated:

1. Greenville, Miss.: "* * * extending from 12 miles north to 4 miles south of the VOR." is deleted and "* * * extending from 12 miles north to 4 miles south of the VOR, excluding the portion within the State of Misssissippi." is substituted therefor.

2. Gulfport, Miss.: "* * * thence west to point of beginning." is deleted and "* * * thence west to point of beginning, excluding the portion within the State of Mississippi." is substituted therefor.

3. McComb, Miss.: "* * * 17 miles west of the VORTAC." is deleted and "* * * 17 miles west of the VORTAC, excluding the portion within the State of Mississippi." is substituted therefor.

4. Natchez, Miss.: "* * * to 23 miles south of the VOR." is deleted and "* * * to 23 miles south of the VOR, excluding the portion within the State of Mississippi." is substituted therefor.

5. Vicksburg, Miss.: "* * * extending from the airport to 12 miles east." is deleted and "* * * extending from the airport to 12 miles east, excluding the portion within the State of Mississippi." is substituted therefor.

In § 71.163 (34 F.R. 4549), the Greenville, Miss., additional control area is revoked.

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

Issued in East Point, Ga., on April 21, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-5179; Filed, Apr. 30, 1969; 8:47 a.m.]

[Airspace Docket No. 69-SO-17]

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

Designation, Alteration and Revocation of Transition Areas

On March 11, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 5078), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate, alter and revoke controlled airspace in the State of Tennessee by designating the Tennessee transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 26, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

TENNESSEE

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Tennessee.

In § 71.181 (34 F.R. 4637), the following transition areas with floors of 1,200 feet above the surface or above are revoked and the 700-foot transition areas are amended as follows:

1. Chattanooga, Tenn., all after "* * * within 8 miles east and 5 miles west of the Daisy RBN 017° bearing," is deleted and "extending from the RBN to 12 miles north." is substituted therefor.

2. Dyersburg, Tenn., all after "* * * within 2 miles each side of the Dyersburg VORTAC 078° radial," is deleted and "extending from the VORTAC to 8 miles east of the VORTAC." is substituted therefor.

3. Jackson, Tenn., all after "* * * (latitude 35°35'55" N.," is deleted and (longitude 88°54'55" W.)." is substituted therefor.

4. Knoxville, Tenn., all after "* * * and on the northeast by a line 5 miles southwest of and parallel to" is deleted and "the Knoxville VORTAC 321° radial." is substituted therefor.

5. Lexington, Tenn., all after "* * * within 2 miles each side of the Jacks Creek VORTAC 165° radial," is deleted and "extending from the 5-mile radius area to 8 miles southeast of the VORTAC." is substituted therefor.

6. Nashville, Tenn., all after "* * * within 5 miles southwest and 8 miles northeast of the Sewart AFB ILS southeast course," is deleted and "extending from the 12-mile radius area to 12 miles southeast of the Sewart RBN." is substituted therefor.

7. The Snowbird, Tenn., transition area is revoked.

8. Tri-City, Tenn., all after "* * * (latitude 36°28'30" N.," is deleted and "longitude 82°24'20" W.)." is substituted therefor.

In § 71.181 (34 F.R. 4637), the following transition areas are amended as indicated:

1. Memphis, Tenn.: "* * * on the west by V-9E." is deleted and "* * * on the west by V-9E, excluding the portion within the State of Tennessee." is substituted therefor.

2. Paris, Tenn.: "* * * excluding the portion that coincides with the Hopkinsville, Ky., and Union City, Tenn., transition areas." is deleted and "* * * excluding the portion within the State of Tennessee." is substituted therefor.

3. Union City, Tenn.: "* * * excluding the portion that coincides with the Dyersburg, Tenn., transition area." is deleted and "* * * excluding the portion within the State of Tennessee." is substituted therefor.

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

Issued in East Point, Ga., on April 21, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-5180; Filed, Apr. 30, 1969; 8:47 a.m.]

[Airspace Docket No. 69-SO-12]

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

Designation of Transition Area

On March 1, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 3698), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Louisville, Miss., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the geographic coordinate (lat. 33°08'45" N., long. 89°03'45" W.) for Louisville-Winston County Airport was obtained from Coast and Geodetic Survey. Additionally, it was determined that the State of Mississippi 1,200-foot transition area designation would be made effective concurrent with this action; thus, eliminating the requirement for designating the 1,200-foot portion of the Louisville transition area. It is necessary to alter the description by appropriately inserting the geographic coordinate for Louisville-Winston County Airport and deleting the 1,200-foot portion of the transition area.

Since these amendments are editorial 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., June 26, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

LOUISVILLE, MISS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Louisville-Winston County Airport (lat. 33°08'45" N., long. 89°03'45" W.); within 2 miles each side of the 177° and 342° bearings from the Louisville RBN (lat. 33°08'59" N., long. 89°03'55" W.), extending from the 5-mile radius area to 8 miles south and 8 miles north of the RBN.

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

Issued in East Point, Ga., on April 22, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-5181; Filed, Apr. 30, 1969; 8:47 a.m.]

[Docket No. 68-SO-15]

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

Designation and Revocation of Transition Areas

On March 11, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 5079), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate and revoke controlled airspace in the State of Alabama and its coastal waters by designating the Alabama transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, it was determined that the proviso to exclude the portion within R-2908 was inadvertently omitted from the description. It is necessary to alter the description by appropriately inserting this proviso.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 26, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

ALABAMA

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Alabama, including that airspace within 3 nautical miles from and parallel to the shoreline of Alabama, excluding the portions within R-2101, R-2103, R-2908, and R-3002A.

In § 71.181 (34 F.R. 4637), the following transition areas with floors of 1,200 feet above the surface or above are revoked and the 700-foot transition areas are amended as follows:

1. Birmingham, Ala., all after "* * * centerline of Runways 18/36;" is deleted and "thence north along this line to the point of beginning." is substituted therefor.

2. Eufaula, Ala., all after "* * * within 2 miles each side of the Eufaula, Ala., VOR 014° radial," is deleted and "extending from the 4-mile radius area to 8 miles northeast of the VOR." is substituted therefor.

3. Fort Rucker, Ala., all after "* * * longitude 86°24'30" W.;" is deleted and "to the point of beginning." is substituted therefor.

4. Gadsden, Ala., all after "* * * within 2 miles each side of the Gadsden VORTAC 233° radial," is deleted and "extending from the 8-mile radius area to 11 miles southwest of the VORTAC." is substituted therefor.

5. Huntsville, Ala., all after "* * * within 8 miles west and 5 miles east of the Decatur VOR 352° radial," is deleted and "extending from the VOR to 12 miles north." is substituted therefor.

6. Mobile, Ala., all after "* * * Fairhope Municipal Airport 8-mile radius area" is deleted and "to the Brookley AFB 8-mile radius area." is substituted therefor.

7. Monroeville, Ala., all after "* * * VOR to 8 miles northeast" is deleted and "and 8 miles southwest." is substituted therefor.

8. Montgomery, Ala., all after "* * * extending from the LOM to 17 miles west," is deleted and "excluding the portion which coincides with the Selma, Ala., transition area." is substituted therefor.

9. Muscle Shoals, Ala., all after "* * * (latitude 34°44'41" N.," is deleted and "longitude 87°36'39" W.)." is substituted therefor.

10. Atlanta, Ga., all after "* * * within 2 miles each side of the 114° bearing from the Runway 33 LOM," is deleted and "extending from the 15-mile radius area to 17 miles southeast of the LOM." is substituted therefor.

11. Columbus, Ga., all after "* * * within 8 miles west and 5 miles east of the Lawson ILS localized southeast course," is deleted and "extending from the 9-mile radius area to 10 miles southeast of the LOM." is substituted therefor.

12. Pensacola, Fla., all after "* * * Runways 6/24 and 18/36 extended centerlines," is deleted and "extending from the 9-mile radius area to 12 miles northeast, south, and southwest of the airport." is substituted therefor.

In § 71.163 (34 F.R. 4549), the Langston, Ala., and Piedmont, Ala., additional control areas are revoked.

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

Issued in East Point, Ga., on April 21, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-5182; Filed, Apr. 30, 1969; 8:47 a.m.]

[Airspace Docket No. 69-SO-38]

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

Redesignation and Alteration of Control Zones

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Atlanta, Ga. (Dobbins AFB/NAS Atlanta), control zone and alter the Atlanta, Ga. (Fulton County Airport), control zone.

The above control zones are described in § 71.171 (34 F.R. 4557).

The Atlanta, Ga. (Dobbins AFB/NAS Atlanta), control zone is presently effective 24 hours per day. Since the Airport Traffic Control Tower will begin operating from 0700 to 2300 hours, local time, daily, effective May 15, 1969, it is necessary to alter the description to redesignate it as a part-time control zone. Additionally, it is necessary to insert a proviso to exclude the portion within the Atlanta, Ga. (Fulton County Airport), control zone since it will continue in effect 24 hours per day.

In the Atlanta, Ga. (Fulton County Airport), control zone description, there is a proviso to exclude the portion within the Dobbins AFB/NAS Atlanta control zone. Since this control zone will continue in effect 24 hours per day, it is necessary to alter the description to eliminate this proviso.

Since these amendments are either editorial or less restrictive in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the control zones accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 15, 1969, as hereinafter set forth.

In § 71.171 (34 F.R. 4557), the Atlanta, Ga. (Dobbins AFB/NAS Atlanta), control zone is redesignated as follows:

ATLANTA, GA. (DOBBINS AFB/NAS ATLANTA)

Within a 5-mile radius of Dobbins AFB/NAS Atlanta (lat. 33°55'00" N., long. 84°31'00" W.); within 2 miles each side of the 105° bearing from Lost Mountain, Ga., RBN, extending from the 5-mile radius zone to the RBN; within 2 miles each side of the NAS Atlanta TACAN 301° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN, excluding the portion within the Fulton County Airport control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

In § 71.171 (34 F.R. 4557), the Atlanta, Ga. (Fulton County Airport), control zone is amended to read:

ATLANTA, GA. (FULTON COUNTY AIRPORT)

Within a 5-mile radius of Fulton County Airport (lat. 33°46'47" N., long. 84°31'20" W.); within 2 miles each side of the Fulton County VOR 276° radial, extending from the 5-mile radius zone to 7 miles west of the VOR.

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

Issued in East Point, Ga., on April 22, 1969.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 69-5183; Filed, Apr. 30, 1969; 8:47 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-574]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of April 1969.

In a notice of proposed rule making issued December 5, 1967, EDR-130, Docket 19352, and published at 32 F.R. 17598, the Board announced its intention to amend Part 298 of the Economic Regulations (14 CFR Part 298) so as to require Board-regulated air taxi operators to carry liability insurance and to register with the Board. The notice invited interested persons to submit pertinent information and data with respect to the proposed rule. Thirty-four comments were recieved including 20 from air taxi operators,[1] five from trade associations,[2] five from insurance underwriters[3] and and comments from the Washington State Aeronautics Commission, the Secretary of Transportation, and the publisher of the Official Airline Guide.

Subsequently, by supplemental notice EDR-144, dated September 3, 1968, 33 F.R. 12745, the Board proposed to designate a subclassification of air taxi operators to be known as "scheduled small aircraft operators" and to require them to file with the Board quarterly traffic reports as well as flight schedules. Pursuant to the supplemental notice, 35 comments were received including 17 from air taxi operators,[4] 13 from civic parties,[5] two from air taxi trade associations,[6] and from The Flying Tiger Line Inc., the publisher of the Official Airline Guide and the Federal Aviation Administration (FAA).

By ER-548 adopted November 29, 1968, and effective on March 7, 1969, 33 F.R. 18231, the Board adopted the liability insurance provisions proposed in EDR-130 with certain modifications.[6a] Upon consideration of the remaining issues in EDR-130 and the issues in EDR-144, we have determined to amend Part 298 so as to: (1) Require all air taxi operators to register annually with the Board on a prescribed form and to pay an annual filing fee of $10 which will partially recoup the costs to the Board of administering the registration and insurance provisions; and (2) provide for a subclassification of air taxi operators which offer scheduled services to be designated "commuter air carriers" and which shall, in addition to filing an annual registration statement, file quarterly traffic reports and flight schedules. Except as modified herein, the tentative findings of fact set forth in the explanatory statements to the proposed rules (EDR-130 and EDR-144, supra) are incorporated herein by reference and made final.

Annual registration of all air taxi operators. As indicated above, EDR-130 proposed, inter alia, to require all air taxi operators to register annually with the Board. This was to enable the Board to identify air taxi operators and to assure compliance with the new liability insurance requirements with a minimum of burden on the carriers and within the limits of the Board's budgetary capability. It would also provide the Board with very basic information as to the nature of the operations of this large class of carriers.

The Board proposed to require all air taxi operators to register with the Board annually by filing a prescribed form in duplicate which includes items such as their name and place of business, whether they carry the prescribed amount of liability insurance, and whether they perform any scheduled services. The form was to be accompanied by a currently valid certificate of liability insurance and a $10 filing fee. The Board would then stamp and return to the carrier one of the copies of the form submitted, indicating compliance with the registration requirement.

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[1] Air Wisconsin, Inc. (initial and reply comments), Antilles Air Boats, Inc., Cape & Islands Flight Service, Inc., Commuter Airlines, Eagle Flightways, Inc., Executive Air Travel, Hall Aero Enterprises, Horizon Aviation, Inc., Klamath Aircraft, Inc., Lane Aviation Corp., Lemmon Aircraft Co., Longenette Flying Service, Mercury Aviation Corp., Provincetown-Boston Airline, Inc., Clio P. Rebmen, Suburban Airlines, Trans-East Airlines, Wylie's Flying Service, Wright Air Lines, Inc., Jackson County Piper Inc. (Richard C. Spring).

[2] American Trial Lawyers Association, Association of Commuter Airlines, Louisiana Surplus Line Association, National Air Taxi Conference (now known as National Air Transportation Conferences, Inc.), and The New England Council.

[3] Allman Brothers Inc., Associated Aviation Underwriters, Insurance Company of North America, National Aviation Underwriters, U.S. Aviation Underwriters.

[4] Air Wisconsin, Inc., Amistad Airlines Inc., Antilles Air Boats, Inc., Cable Commuter Airlines, Command Airways, Inc., Commuter Airlines, Davis Airlines, Inc., Executive Airlines, Inc., Pilgrim Airlines, Princeton Airways, Provincetown-Boston Airlines, Inc., Shawnee Airlines, Inc., Sky Tours Hawaii, Suburban Airlines, Sun Airline Corp., Trans Central Airlines, Washington Airlines.

[5] Brown County Board of Supervisors (Wis.), Greater Cincinnati Chamber of Commerce and Airport, City of Dayton, Ohio, City and County of Denver, Colo., City of Fresno, Calif., City of Kansas City, Mo., Louisville and Jefferson County Air Board (Ky.), Massachusetts Aeronautics Commission, Massachusetts Port Authority, Montana Aeronautics Commission, City of Philadelphia, Pa., City of Redlands, Calif., Virginia State Corporation Commission, Division of Aeronautics.

[6] Association of Commuter Airlines; National Air Taxi Conference.

[6a] ER-564 adopted March 3, 1969, effective March 7, 1969, 34 F.R. 4955, modified one of the permissible exclusions in the insurance rule.

There has been no significant objection to a general registration requirement[7] and we shall adopt substantially the procedure proposed.

Two air taxi operators, one air taxi trade association and the Federal Aviation Administration (FAA) request that additional data be called for in the registration statement. The air taxi operators and the trade association would have the Board require such items as financial reports, a list of the markets served, the total number of passengers and pounds of cargo, the types of aircraft used, the load factors and whether the operator is "FAA manualized" for visual flight rule (VFR) or instrument flight rule (IFR) operation. In addition, the FAA would have the Board require of all air taxis the number of flights, the number of passengers making scheduled interline connections, the hours flown and the number of gallons of fuel consumed, or, in the alternative, that the "scheduled small aircraft operators" be required to provide information concerning their nonscheduled operations as a separate item on their quarterly traffic reports and provide such information at least annually. In that connection, the FAA points out that its 1966 Census of Air Taxi Operators showed that 82 percent of the flights and 68 percent of the passengers carried by air taxis were on nonscheduled flights.

We shall not make the requested modifications. Admittedly, the extent of the data called for in the registration statement is a judgment determination and it is our considered opinion that, taking into account the Board's regulatory needs, its budgetary limitations and the burden imposed on this large class of relatively small operators, the data called for in the registration form in the notice is the proper quantum of information to be furnished at this time. With respect to FAA's request concerning the reporting of nonscheduled operations of the scheduled air taxi operators, the Board's primary concern at this time is the reporting of the scheduled services of air taxi operators. We shall not, therefore, expand the coverage of data called for in the registration statement. Except for certain editorial modifications, the registration form[8] adopted herein is substantially the same as the form attached to the notice.

Special report for scheduled operations. The Board in EDR-144 proposed that carriers providing service pursuant to published schedules should be required to furnish traffic reports as well as copies of published schedules. A number of comments were filed with respect to the designation to be applied to scheduled air taxi operators as well as numerous comments with respect to the reporting requirement. Concerning the designation of this class of carriers, the Board proposed that they be called "scheduled small aircraft operators," but indicated that consideration would be given to other names. Upon consideration of all the comments, the Board has determined to employ the name "commuter air carrier." We have selected this name because it appears to be descriptive of this class of carriers, should not result in confusion with other classes, and is generally supported by the industry.

The proposed rule defined "scheduled small aircraft operators" (now "commuter air carriers") as air taxi operators which perform service between two or more points pursuant to published schedules or which perform service pursuant to a contract with the Post Office Department for the transportation of mail. The Association of Commuter Airlines objects to this definition as embracing too large a class of air taxi operators since it would include an operator which performs only one flight one day a week between two points pursuant to published flight schedules. This objection has merit. Accordingly, we shall restrict this subclassification to air taxi operators which perform at least five round trips per week between two or more points pursuant to published schedule, or which carry mail pursuant to a contract with the Post Office Department (see § 298.2, infra).

With respect to the reporting requirements themselves, the principal controversy reflects concern of some of the commuter carriers that the reporting of traffic will encourage competitors to "skim off" the good routes since there is freedom of entry in all domestic markets and no route protection is afforded air taxi operators. Accordingly, these carriers, along with two air taxi trade associations, ask that the traffic data in Schedule T-1 of CAB Form 298-C be treated as confidential and withheld from public disclosure. The issue as to whether the traffic data schedules should be accorded confidential treatment was not raised in the notice (EDR-144), and the Board wishes to have the benefit of the comments of interested persons thereon before resolving it. Therefore, the Board will finalize the rule in all respects except as to the issue of public disclosure of the traffic data in the quarterly reports of commuter air carriers. We shall in the near future institute a supplemental rule making proceeding dealing with this issue. If the question is not resolved before the first quarterly reports are due under the new rule, the Board will treat Schedule T-1 as confidential pending resolution of this issue.

We are making certain modifications in the proposed rule in light of the comments received. Thus, we shall (1) permit a carrier to substitute a computerized format for the forms attached to the rule,[9] subject to the written approval of the Director, Bureau of Accounts and Statistics; (2) substitute the term "aircraft registration number" in Schedule A-1 of CAB Form 298-C for the term "airframe license number" in order to avoid confusion with a state license number; (3) provide traffic data totals and subtotals in the schedules attached to CAB Form 298-C; and (4) require that flight schedules be filed on a continuing basis so that the Board will have available at all times the complete and current flight schedules of commuter air carriers. Also, since we shall require commuter air carriers in Hawaii to file quarterly traffic reports with the Board, we are deleting the existing reporting requirement applicable to their scheduled services (§ 298.21(e)).

The following suggestions are included among those which the Board has determined not to adopt. We shall reject (1) the request that the reporting be on an annual basis after one year because we believe that the discipline of filing a quarterly report is required for an indefinite period in view of the novelty of reporting for this class of carriers; (2) the request that great circle mileages be provided between origin and destination points, since these data are readily available; (3) the suggestion that the report include the number of flights scheduled and a performance factor, since an approximate performance factor can be ascertained from a copy of the published schedules filed with the Board and the traffic reports which show the number of flights operated; (4) the proposal that the report call for only the number of flights scheduled and the number of flights completed, rather than a list of all flights operated over each segment, because we believe the more detailed information is needed in order to ascertain the degree of regulation which should be accorded this segment of the industry; and (5) the request that financial reports as well as traffic data be required either from all air taxi operators or at least from commuter air carriers, since the Board is of the view that in imposing for the first time a reporting requirement on this class of carriers, the minimum amount of data should be requested.[10]

Further, we shall reject the suggestion that cargo capacity should be reported in terms of cubic feet, rather than pounds, when the aircraft is operated in all-cargo configuration. While it is argued that the reporting of cargo capacity in terms of pounds may not be meaningful because of variations in density and length of trip, the same problem exists in the case of the proposed space method. Moreover, since cargo traffic must be reported on a pound basis, consistency requires that capacity be reported on the same basis.

Other modifications were sought with respect to the publication of schedules. Several proposals designed to influence the manner of publication of commuter air carrier schedules in the Official Airline Guide should more appropriately be addressed to that publication. Certain

[7] Except for objections of several air taxi operators to the payment of the $10 registration fee and an allegation by one air taxi operator that the requirements of EDR-130 would impose an extra burden on small air taxi operators.

[8] We shall provide the same registration form for both commuter air carriers and for other air taxi operators.

[9] Schedules A-1, T-1 and T-2 of CAB Form 298-C.

[10] We recognize that future developments in this field may require the reporting of financial data of commuter air carriers.

commuter air carriers as well as the Official Airline Guide wish us to take steps to insure that the carriers' operations conform with their schedules. It is obvious that to the extent that the public cannot rely on the published schedules of commuter air carriers, the usefulness of such schedules is impaired. The carriers are cautioned to make every effort to publish schedules which are kept current and complete and in conformity with actual operations. However, further regulatory action on our part is beyond the scope of this proceeding. Moreover, we are not prepared at this time to attempt to impose additional regulatory burdens on commuter air carriers. Rather, we believe that such matters must await a sufficient period of time for us to gain experience under the limited registration and reporting requirements which we are imposing herein.

Clarification of certain terms in the rule has been requested. With respect to reporting capacity on Schedule A–1, the carrier should report actual capacity, i.e., the cargo capacity in the case of all-cargo configuration, the capacity in passengers and cargo for combination aircraft, and the number of passenger seats (excluding crew) for all-passenger aircraft. We have amended the rule to clarify the method for computing available pounds (see § 298.64(b)(4)).

Certain comments indicate some uncertainty with respect to the Board's jurisdiction over "intrastate carriers" and the applicability of Part 298 to air taxis operating solely within the boundaries of a single State. Accordingly, we believe that a brief explanation of the Board's jurisdiction is desirable.

Under the Federal Aviation Act of 1958, the Board has jurisdiction over air taxi operators engaged in "air transportation", which includes "interstate air transportation" and the "transportation of mail by aircraft." [11] The full statutory definition of "interstate air transportation" is set forth in the margin,[12] but for present purposes it will be noted that it includes the carriage by aircraft of persons or property (1) "as a common carrier for compensation or hire," (2) "in commerce" between the States.

The test, which the Board uses in determining whether a carrier operates "as a common carrier for compensation or hire" was succinctly described by the United States Court of Appeals for the Ninth Circuit in Las Vegas Hacienda, Inc. v. CAB [13] as follows:

> The test which the Board applies is an objective one, relying upon what the carrier actually does rather than upon the label which the carrier attaches to its activity or the purpose which motivates it. So long as the air carrier is competing commercially in the market for the patronage of the general public, the Board holds that it is immaterial that the service offered will be attractive only to a limited group; or that it may be performed pursuant to special contract. And it is also immaterial that in terms of the carrier's own bookkeeping the transportation may be furnished at cost, at a loss, or even without charge. The Board thus interprets the Act in a way which makes effective economic regulation under the statute possible by bringing within the regulatory scheme all those who compete in the business of offering air transportation to the public generally.

With respect to this test, it is to be further noted that a carrier need not undertake to serve all the public in order to be considered a common carrier, but may limit its transportation services to a class or segment of the general public, so long as it expresses a willingness to provide transportation for all within this class or segment indiscriminately.[14]

If an air carrier meets the above test and engages in the transportation of persons or property only between places within a State, these operations are in "air transportation" and subject to the Board's jurisdiction, if the aircraft flies outside the State's boundaries or if the traffic carried is moving as part of a continuous journey in interstate commerce.[15] Thus, transportation wholly within the same State constitutes "air transportation" if in those operations the carrier transports more than a de minimis volume of traffic moving as part of a continuous journey in air commerce.[16] In sum, the question of whether a carrier engages in interstate commerce does not depend on whether it operates aircraft only within a State, but whether the traffic it transports is interstate in character.[17]

Finally, certain other requests are rejected both on their merits and because they pertain to issues which are beyond the scope of this proceeding. With respect to a request to increase the maximum certificated weight for aircraft used by air taxi operators from 12,500 pounds to 25,000 pounds, the Board in a recent amendment to Part 298 (ER–549 adopted Nov. 29, 1968, effective Jan. 6, 1969) has authorized the use of turbojet aircraft under 27,000 pounds in charter operations only, provided that the maximum passenger capacity of the aircraft did not exceed 12 persons. A proposal to base the exemption on payload capacity of 7,500 pounds rather than the present 12,500 pounds maximum certificated weight of the aircraft would roughly double the payload capacity of small aircraft used by air taxi operators and would thus alter substantially the nature of the permissible operations by such air taxis. While the Board's policy is not immutable, facts have not been presented which would warrant the Board's taking the action requested.[18]

Reissuance of part. Inasmuch as Part 298 has not been reissued since December 1960, and in view of the large number of outstanding amendments to the part and the amendments made herein, the Board believes that the part should be reissued at this time.

Therefore, in consideration of the foregoing, the Board hereby amends and reissues Part 298 of its Economic Regulations (14 CFR Part 298), effective July 1, 1969, as set forth below: [19]

Subpart A—General

Sec.
298.1 Applicability of part.
298.2 Definitions.
298.3 Classification.
298.4 Requests for statement of authority.
298.5 Separability.

Subpart B—Exemptions

298.11 Exemption authority.
298.12 Effect of exemption on anti-trust laws.
298.13 Duration of exemption.
298.14 Approval of certain interlocking relationships.

Subpart C—Limitations on Exemptions

298.21 Scope of service authorized; geographical, equipment and mail service limitations; insurance and reporting requirements.
298.22 Operation of large aircraft.
298.23 Business name of air taxi operator.
298.24 Authority to carry mail in competitive markets.

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[11] 49 U.S.C. 1301. Air transportation also includes "overseas" and "foreign" air transportation.

[12] "* * * the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between * * *.

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia * * * whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation."

[13] 298 F. 2d 430, 434 (C.A. 9, 1962), cert. den. 369 U.S. 885 (1962).

[14] Transocean A. L., Enforcement Proceeding, 11 C.A.B. 350, 353 (1950).

[15] Flying Tiger Line, Air-Truck Service, 30 C.A.B. 242, 244 (1959).

[16] Aspen Airways Exemption, Order E–18023, Feb. 14, 1962.

[17] See Chicago Area Service Case, 23 C.A.B. 552, 625 (1956).

[18] The Association of Commuter Airlines filed a petition for rule making (Docket 19730) requesting that the Board adopt a new Part 286 to be applicable only to scheduled air taxi operators and to grant them a form of route protection. The matter of route protection was considered by the Board when it issued the notice in this proceeding (EDR–130, supra) and it decided therein that route protection would not be granted at this time. Therefore, Docket 19730 will be consolidated herein and the petition of the Association of Commuter Airlines is denied.

Similarly, Trans-East Airlines, Inc. filed a document entitled "Petition for route protection and for amendment of Part 298" (Docket 19354) in which the carrier requests certain amendments to Part 298 which we are making herein and, in addition, seeks "the necessary route protection for the routes shown" in a map attached. It is not understood what the petition seeks in this regard and the "necessary route protection" is not specified. If the petition is construed as an application for a certificate, petitioner has not complied with Part 201. Therefore, Docket 19354 will be consolidated herein and the petition of Trans-East Airlines is denied.

[19] We have also brought up to date § 298.70 entitled "Enforcement" to include a reference to the civil penalties provision of the Act.

Subpart D—Liability Insurance Requirements

Subpart E—Registration for Exemption

Subpart F—Reporting of Scheduled Operations by Commuter Air Carriers

Subpart G—Violations

AUTHORITY: The provisions of this Part 298 issued under sections 204, 406, 407, 409, 411, 416, 901, 902, 72 Stat. 743, 49 U.S.C. 1324; 72 Stat. 763 as amended by 76 Stat. 145, 80 Stat. 942, 49 U.S.C. 1376; 72 Stat. 766, 49 U.S.C. 1377; 72 Stat. 768, 49 U.S.C. 1379; 76 Stat. 769, 49 U.S.C. 1381; 72 Stat. 771, 49 U.S.C. 1386; 72 Stat. 783, as amended by 76 Stat. 149, 49 U.S.C. 1471; 72 Stat. 784, as amended by 75 Stat. 466, 76 Stat. 150, 76 Stat. 921, 49 U.S.C. 1472.

Subpart A—General

§ 298.1 Applicability of part.

This part establishes a classification of air carriers known as "air taxi operators," provides certain exemptions from Title IV of the Federal Aviation Act of 1958, as amended, for such air carriers, and establishes rules and regulations applicable to their operations. This part applies to operations of air taxi operators in air transportation in all States, Territories and possessions of the United States of America.

§ 298.2 Definitions.

As used in this part:

"Act" means the Federal Aviation Act of 1958, as amended.

"Air taxi operator" means an air carrier coming within the classification of "air taxi operators" established by § 298.3.

"Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft. This includes carriage by aircraft as a common carrier between places in the same State (a) through airspace outside that State (over other States or the District of Columbia or the open sea or foreign territory) or (b) where such carriage is part of the movement of the passengers or property carried, in interstate, overseas or foreign air commerce.[30]

"Commuter air carrier" means an air taxi operator which (1) performs at least five round trips per week between two or more points and publishes flight schedules which specify the times, days of the week and places between which such flights are performed, or (2) transports mail by air pursuant to a current contract with the Post Office Department.

"Large aircraft" means an aircraft whose maximum certificated takeoff weight is greater than 12,500 pounds.

"Maximum certificated takeoff weight" means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate. (This is found in the airplane operating record or in the airplane flight manual which is incorporated by regulation into the airworthiness certificate.)

"Maximum passenger capacity" means the maximum passenger capacity listed in the applicable Federal Aviation Administration (FAA) type certificate data sheet (including supplemental type certificates).

"Point" when used in connection with any territory or possession of the United States, or the States of Alaska and Hawaii, means any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place; when used in connection with the continental United States, except Alaska, it shall have the same meaning except be limited to the area within a 3-mile radius of such airport or place: *Provided*, That for the purposes of this part, West 30th Street Heliport and Pan Am Building Heliport, both located in New York City, shall be regarded as separate points.

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated "air taxi operators" which engage in the direct air transportation of passengers and/or property, and/or in the transportation within the 48 contiguous States or Hawaii of mail by aircraft, and which:

(1) Do not, directly or indirectly, utilize in air transportation large aircraft (other than turbojet aircraft authorized for use by air taxi operators pursuant to § 298.21);

(2) Do not hold a certificate of public convenience and necessity or other economic authority issued by the Board; and

(3) Have and maintain in effect liability insurance coverage in compliance with the requirements set forth in Subpart D of this part.

Provided, however, That any authority granted in this part to engage in the transportation of mail is limited to the carriage of mail on a nonsubsidy basis; i.e., on a service mail rate to be paid entirely by the Postmaster General, and the air taxi operator shall not be entitled to any subsidy payment with respect to any operations conducted pursuant to any authority granted in this part.

(b) A person who does not observe the conditions set forth in paragraph (a) of this section shall not be an air taxi operator within the meaning of this part with respect to any operations conducted by him while such conditions are not being observed, and during such periods is not entitled to any of the exemptions set forth in this part.

§ 298.4 Requests for statement of authority.

In any instance where an air taxi operator is required by a foreign government to produce evidence of its authority to engage in foreign air transportation under the laws of the United States, the Secretary of the Board will, upon request, furnish the carrier with a written statement, outlining its general operating privileges under this part for presentation to the proper authorities of the foreign government.

§ 298.5 Separability.

If any provision of this part or the application thereof to any air transportation, person, class of persons, or circumstances is held invalid, the remainder of the part and the application of such provision to other air transportation, persons, classes of persons, or circumstances shall not be affected thereby.

Subpart B—Exemptions

§ 298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

(a) Subsection 401(a);

(b) Section 403, except that the requirements of that section shall apply to tariffs for through rates, fares, and

[30] Section 401(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1371, prohibits any person from engaging in "air transportation" except to the extent he is authorized to do so by the Board. Air transportation as defined in the Act (see section 101 (10) and (21), 49 U.S.C. 1301) refers to (1) the carriage of mail by aircraft, and (2) the carriage by aircraft of persons or property as a common carrier for compensation or hire. With respect to persons or property, the term "air transportation" includes "interstate," "overseas" and "foreign" air transportation. Operations wholly within the geographic limits of a single State are not considered "air transportation" if in those operations the carrier transports no more than a de minimis volume of traffic moving as part of a continuous journey to or from a point outside the State. For a further discussion of what constitutes air transportation, see the preamble to ER-574, pp. 10-11 (mimeo.), 34 F.R. 7124.

charges filed jointly by air taxi operators and certificated air carriers;

(c) Subsection 404(a), except the requirements that air taxi operators shall provide safe service, equipment, and facilities in connection with air transportation; shall observe and enforce just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices as provided in tariffs filed jointly by air taxi operators and certificated air carriers; and shall establish just, reasonable, and equitable divisions of such joint rates, fares, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers;

(d) Subsection 404(b), except that the requirements of that subsection shall apply to through service provided pursuant to tariffs filed jointly by air taxi operators and certificated air carriers;

(e) Subsection 405(b);

(f) Subsections 407 (b), (c), and (d);

(g) Subsection 408(a); except that no exemption is granted hereby for any air taxi operator to enter into any of the transactions or relationships prohibited by subsection 408(a) with any person who operates large aircraft for compensation or hire, or who engages in air transportation from which the air taxi operator is excluded by the limitations imposed by § 298.21.

NOTE: The above exemption is applicable to air taxi operations only. It does not relieve other persons subject to section 408(a) from the obligations of that section with respect to any relationships they may have with respect to air taxi operators. For additional exemptions from section 408(a) applicable to air taxi operators, see Part 299 of the Board's Economic Regulations.

(h) Subsection 409(a); except that no exemption is granted hereby for any air taxi operator to enter into any of the relationships prohibited by subsection 409(a) with any person who operates large aircraft for compensation or hire, or who engages in air transportation from which the air taxi operator is excluded by the limitations imposed by § 298.21.

(i) Subsection 412(a): *Provided*, That air taxi operators shall not be relieved from filing with the Board a true copy, or, if oral, a true and complete memorandum of every contract or agreement (whether enforceable by provisions of liquidated damages, penalties, bonds, or otherwise) affecting air transportation, between any air taxi operator and any person (excluding air carriers) who operates for compensation or hire, aircraft having a maximum takeoff weight of more than 12,500 pounds.

§ 298.12 Effect of exemption on antitrust laws.

The exemption granted in § 298.11 from sections 408, 409(a), and 412 of the Act, shall not constitute an order under such sections, within the meaning of section 414 of the Act, and shall not confer any immunity or relief from operation of the "antitrust laws," or any other statute (except the Federal Aviation Act of 1958, as amended) with respect to any transaction, interlocking relationship, or agreement otherwise within the purview of such sections.

§ 298.13 Duration of exemption.

The exemption from any provision of Title IV of the Act provided by § 298.11 shall continue in effect only until such time as the Board shall find that enforcement of such provision would be in the public interest or would no longer be a burden on air taxi operators: *Provided*, That upon such a finding as to any air taxi operator or class of air taxi operators, such exemption shall to that extent terminate with respect to such operator or class of operators: *And provided further*, That the authorizations to air taxi operators to engage in the transportation of mail by aircraft within the 48 contiguous States and Hawaii shall terminate on June 30, 1969.

§ 298.14 Approval of certain interlocking relationships.

To the extent that any officer or director of an air taxi operator would be in violation of any of the provisions of section 409(a) (3) and (6) by participating in interlocking relationships covered by the exemption granted in § 298.11(h), such participation is hereby approved by the Board, subject, however, to the provisions of § 298.12.

Subpart C—Limitations on Exemptions

§ 298.21 Scope of service authorized; geographical, equipment and mail service limitations, insurance and reporting requirements.

(a) *General scope.* Subject to the prohibitions of paragraphs (b), (c), (d), (f), and (g) of this section, the exemption authority provided to air taxi operators by this part shall extend to the direct air transportation of persons, property and mail (subject to the limitations imposed in §§ 298.3(a) and 298.13)(1) in aircraft having a maximum takeoff weight of 12,500 pounds or less, and (2) in planeload charter flights in turbojet aircraft having a maximum certificated takeoff weight of over 12,500 pounds and under 27,000 pounds [2] and a maximum passenger capacity of not more than twelve (12) persons: *Provided, however*, That the authorization in subparagraph (2) of this paragraph shall not be applicable to operations within the State of Alaska or Hawaii. For purposes of this section, "charter flight" means air transportation performed by an air taxi operator on a time, mileage or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and property (i) by a person for his own use, or (ii) by a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group.

(b) *Prohibition of regular service in markets served by certificated helicopter carriers.* An air taxi operator is prohibited from providing air transportation, or holding out to the public expressly or by course of conduct, that it provides such transportation regularly or with a reasonable degree of regularity between any points where scheduled helicopter passenger service, or community center and interairport service, is provided by the holder of a certificate of public convenience and necessity either in accordance with such certificate or pursuant to exemption order of the Board. (See also § 298.21(d).)

(c) *Air taxi service in Alaska.* No service in air transportation shall be offered or performed by an air taxi operator between points both of which are in the State of Alaska, or one of which is in Alaska and the other in Canada, unless the air taxi operator also holds authority from the State of Alaska to operate aircraft of a maximum takeoff weight not over 12,500 pounds as a common carrier in intrastate commerce, or has applied to the Board for, and received, special exemption authority (see Subpart D of Part 302 of the procedural regulations): *Provided*, That the operator is prohibited from rendering the above authorized service in air transportation, or holding out to the public expressly or by course of conduct that it renders such service, regularly or with a reasonable degree of regularity. Air taxi operators may also transport over postal routes Nos. 78150 and 78151 or such other designation as may be assigned thereto, and over postal routes designated by the Postmaster General as "gratuitous routes", such mail as may be tendered by the Postmaster of Alaska for transportation over such routes: *Provided*, That the foregoing restrictions on frequency of service in air transportation shall not apply to the carriage of such mail.

(d) *Limitation on use of helicopter, STOL or VTOL aircraft.* No service by helicopter, STOL or VTOL aircraft shall be offered or performed by an air taxi operator between any two points between which scheduled helicopter, STOL or VTOL aircraft service is provided by the holder of a certificate of public convenience and necessity authorizing such service. (See also § 298.21(b).)

(e) [Reserved]

(f) *Limitations on carriage of mail within the 48 contiguous States and Hawaii.* Within the 48 contiguous States and Hawaii, an air taxi operator shall not be authorized to carry mail between any pair of points (1) when there is no final mail rate, or agreed-upon mail rate filed pursuant to § 298.24(e) for such carriage; (2) when an air carrier holds a certificate of public convenience and necessity pursuant to section 401(d) (1) or (2) of the Act which authorizes service between such pair of points and such authority has not been suspended; or (3)

[2] The carriers are cautioned that the safety regulations of the FAA applicable to air taxi aircraft in excess of 12,500 pounds may be different from those applicable to aircraft weighing 12,500 pounds or less and that, as in the case of all operations conducted under this part, the operations with aircraft in excess of 12,500 pounds must be conducted pursuant to applicable safety regulations.

when an air carrier holding a certificate of public convenience and necessity pursuant to section 401(d) (1) or (2) of the Act has authority to serve between such pair of points by reason of an exemption authorization issued pursuant to section 416(b)(1) of the Act: *Provided, however,* That with respect to a market which a certificated helicopter carrier is authorized to serve under an area exemption order, an air taxi operator will be prohibited from carrying mail therein only if there is an approved flight pattern with respect to such market under Part 376 of this chapter (Board's special regulations): *Provided further,* That this paragraph shall not preclude an air taxi operator from carrying mail between any pair of points regarding which there is in effect a notice of intent to use air taxi mail service, as provided in § 298.24. The rules applicable to final mail rate proceedings set forth in Part 302 of this chapter shall govern the procedure for establishing a final mail rate of an air taxi operator for purposes of this part. (See §§ 302.300 through 302.321, excluding § 302.310 of this chapter.)

(g) *Prohibition of services not covered by insurance.* An air taxi operator is prohibited from providing air transportation, or holding out to the public expressly or by course of conduct, that it provides any air transportation for which there is not in effect liability insurance which complies with the requirements of Subpart D of this part and which covers such transportation.

(h) [Reserved]

(i) *Filing of reports by operators of turbojet aircraft.* Air taxi operators which engage in air transportation with turbojet aircraft whose maximum certificated takeoff weight is over 12,500 pounds shall file with the Board's Bureau of Accounts and Statistics, not later than 15 days after the end of each calendar quarter, a report setting forth the points between which each charter flight performed with such aircraft is operated during such quarter and, with respect to each flight, the number of passengers and/or pounds of cargo transported, the charter price, and the model aircraft used.

NOTE: Service shall be deemed to be regular within the meaning of this section unless it is of such infrequency as to preclude an implication of uniform pattern or normal consistency of operations between, or within, such designated points.

§ 298.22 Operation of large aircraft.

(a) *Prohibition of operation of large aircraft in air transportation.* Nothing in this part shall be construed as authorizing the operation of aircraft having a maximum takeoff weight of more than 12,500 pounds by air taxi operators in air transportation other than turbojet aircraft authorized for use by air taxi operators pursuant to § 298.21(a).

(b) *Reporting of interest in large aircraft.* Every air taxi operator shall report to the Board any proprietary interest, direct or indirect, in any large aircraft or any enterprise operating large aircraft. Such reports shall be filed in duplicate within 30 days of the effective date of this part and thereafter within 5 days of acquisition of such interests. They shall be addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention of the Bureau of Operating Rights.

(c) *Reporting of operations with large aircraft.* Any air taxi operator which operates or intends to operate large aircraft for compensation or hire, other than turbojet operations authorized by § 298.21(a), shall file with the Board a description of the method or proposed method of operations and state why such operations are believed not to constitute air transportation. Such reports shall state, among other pertinent matters, whether State lines or the boundaries of the United States will be crossed; the ultimate origin and destination (not only the places between which carriage is provided) of the persons or property carried; and the persons with whom contracts for transportation have been made or are expected to be made. In case operations not falling within the description on file with the Board are to be undertaken, a report containing the same data shall be filed within 3 days after the particulars of such operations have been decided upon. These reports shall be submitted in duplicate, by airmail if mailed more than 200 miles from Washington, D.C., addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention of the Bureau of Operating Rights.

§ 298.23 Business name of air taxi operator.

(a) It shall be an express condition upon the exercise of the privileges herein granted and the operating authorizations issued hereunder, that any air taxi operator, in holding out to the public and in performing air transportation services, shall do so only in a name or names in which its air carrier operating certificate is issued pursuant to section 604 of the Act by the Administrator of the Federal Aviation Administration: *Provided,* That the Board may require an air taxi operator to change such name or names where they appear contrary to the public interest.

(b) Slogans shall not be considered names for the purposes of this section, and their use is not restricted hereby.

(c) Neither the provisions of this section nor the grant of a permission hereunder shall be deemed to constitute a finding for purposes other than for this section, or to effect a waiver of, or exemption from any provisions of the Act, or orders, rules or regulations issued thereunder.

§ 298.24 Authority to carry mail in competitive markets.

(a) *General scope.* An air taxi operator may carry mail between a pair of points named in a notice of intent to use air taxi mail service which is effective pursuant to this section. Such a notice may be filed only by the Post Office Department and shall be conspicuously entitled either regular notice of intent to use air taxi mail service or expedited notice of intent to use air taxi mail service.

(b) *Regular notice of intent to use air taxi mail service.* A notice filed under this subsection shall state the name of the air taxi operator who will engage in the carriage of mail if known; the location of the points between which mail is to be carried; and the reasons, together with supporting data, why the Post Office Department deems the proposed service required to meet the needs of the Postal System.

(c) *Expedited notice of intent to use air taxi mail service.* In addition to the information required by § 298.24(b), a notice filed under this subsection shall contain a factual representation that the Post Office Department has ascertained that no interested certificated route carrier objects to air taxi mail service between the subject pair of points. Such notice shall also identify each interested certificated route carrier with which the Post Office has discussed the proposed air taxi mail service. For purposes of this subsection, an interested certificated route carrier is defined as (1) an air carrier holding a certificate of public convenience and necessity pursuant to section 401(d) (1) or (2) of the Act which authorizes service between such pair of points and such authority has not been suspended; or (2) an air carrier holding a certificate of public convenience and necessity pursuant to section 401(d) (1) or (2) of the Act which has authority to serve between such pair of points by reason of an exemption authorization issued pursuant to section 416(b) of the Act.

(d) *Effective date of notice—protests and objections.* Subject to the provisions of paragraph (e) of this section, a regular notice of intent to use air taxi mail service filed under paragraph (b) of this section shall be effective to authorize the proposed service upon the expiration of 10 days after the filing of such notice, unless within such 10-day period (1) the Board shall issue an order suspending such notice, or (2) any person shall file a written protest and objection setting forth grounds why such service would be contrary to the public interest. Subject to the provisions of paragraph (e) of this section, an expedited notice of intent to use air taxi mail service filed under paragraph (c) of this section shall be effective to authorize the proposed service upon the expiration of 5 days after the filing of such notice, unless within such 5-day period (i) the Board shall issue an order suspending such notice or (ii) any person shall file a telegraphic or other written protest stating opposition to the proposed service. Within 10 days after the filing of a notice under paragraph (c) of this section, any person who filed a timely protest thereto shall also file a written objection setting forth grounds why such service would be contrary to the public interest. Within 7 days after an objection has been filed, the Post Office Department may file an answer thereto. Where a protest has been filed, a notice under paragraph (b) or (c) of this section shall not be effective unless and until the Board so orders.

(e) *Establishment of mail rate.* No notice filed under paragraph (b) or (c)

of this section shall be effective until the Post Office Department and the affected air taxi operator have jointly filed with the Board a petition setting forth a mutually agreed-upon rate for the carriage of mail and requesting the Board to fix a final mail rate pursuant to section 406 of the Act. Where a notice filed pursuant to paragraph (b) or (c) of this section states that the Post Office Department has been authorized to petition for such rate by the affected air taxi operator, the Department may file the petition required herein either separately or as part of said notice. If the Board fails to fix a final mail rate by the date when such notice becomes effective, the mutually agreed-upon rate shall be the basis for temporary payment, subject to upward or downward adjustment upon the determination of a final mail rate which shall be retroactive to the date when service was inaugurated.

(f) *Service of documents.* A copy of each notice or answer filed by the Post Office Department with the Board under paragraph (b), (c), or (d) of this section shall be served upon the chief executive of each interested certificated route carrier, as that term is defined in paragraph (c) of this section. A copy of each protest and objection shall be served upon the Post Office official subscribing the notice and upon any air taxi operator named therein. Service of each notice filed under paragraph (c) of this section shall be made personally or by telegram. Service of each notice filed under paragraph (b) of this section shall be made personally, by airmail, or, if as expeditious as airmail, by first-class mail. Service of any answer or protest upon any person may be made by personal service, or by first-class or airmail. Each copy of a notice served pursuant to this subsection shall be accompanied by a letter of transmittal stating that such service is being made pursuant to this part.

(g) *Filing of documents.* An executed original and nine copies of each notice, answer or objection and protest shall be filed with the Docket Section of the Civil Aeronautics Board, Washington, D.C. 20428. Each such copy shall be accompanied by a statement that service has been made in accordance with the provisions of paragraph (f) of this section.

(h) *Other procedural provisions.* Except as otherwise specifically provided herein, the requirements of Part 302 of the Board's procedural regulations shall govern notices and other pleadings filed pursuant to this section.

Subpart D—Liability Insurance Requirements

§ 298.41 Basic requirements.

(a) Each air taxi operator engaging in air transportation shall maintain in effect liability insurance coverage which complies with the requirements of this subpart and which is evidenced by a currently effective policy of insurance, with an attached standard endorsement, available for inspection by the Board and the public at its principal place of business. Notwithstanding the provisions of § 298.44 (b), (g), (h), and (j), no liability insurance will be deemed to comply with this subpart unless it covers all aircraft which the operator operates in air transportation and all services which the operator performs in air transportation.

(b) "Certificate of insurance," as used herein, means one or more certificates, evidencing the following: Issuance by one or more insurers of one or more currently effective policies of aircraft liability insurance in compliance with this subpart and properly endorsed, which alone or in combination provide the minimum coverage prescribed in §298.42. When more than one insurer is involved in providing the minimum coverage prescribed herein, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. The certificate of insurance shall also state whether the policy of insurance provides coverage for liability for bodily injury to, or death of, aircraft passengers. In addition, the certificate of insurance shall state whether the policy of insurance excludes coverage for operations with any aircraft falling within the groupings specified in § 298.44(j). Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed in ink by an authorized officer or agent of the insurer and shall be on forms prescribed and furnished by the Board.[2]

(c) The insurance coverage and certificate required by this subpart shall be obtained from one or more (1) reputable and financially responsible insurance companies or associations which are licensed to issue aircraft liability policies in any State in the United States or in the District of Columbia, or (2) surplus line insurers named on a current list of approved surplus line insurers promulgated by the insurance regulatory authority of any State in the United States or in the District of Columbia: *Provided*, That if any such surplus line insurer provides more than ten percent (10%) of the liability insurance coverage of an air taxi operator required by this subpart, it shall maintain, in a bank or other financial institution organized or operating under the laws of the United States or a State thereof or the District of Columbia, a trust fund of at least three hundred thousand dollars ($300,000) for the benefit of its policyholders.

(d) Each air taxi operator shall prominently post at each place where it deals with the public a copy of its currently effective certificate or certificates of insurance, and shall file a copy of each with the Board in accordance with the provisions of Subpart E of this part. No certificate of insurance shall be posted unless the policy or policies of insurance to which it relates remain in effect.

[2] CAB Forms 257 and 262 are filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

§ 298.42 Minimum limits of liability.

(a) The minimum limits of liability coverage maintained by an air taxi operator who carries passengers in air transportation shall be:

(1) *Liability for bodily injury to or death of aircraft passengers.* A limit for any one passenger of at least seventy-five thousand dollars ($75,000), and a limit for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying seventy-five thousand dollars ($75,000) by seventy-five percent (75%) of the total number of passenger seats installed in the aircraft.

(2) *Liability for bodily injury to or death of persons (excluding passengers).* A limit of at least seventy-five thousand dollars ($75,000) for any one person in any one occurrence, and a limit of at least three hundred thousand dollars ($300,000) for each occurrence.

(3) *Liability for loss of or damage to property.* A limit of at least one hundred thousand dollars ($100,000) for each occurrence.

(b) The minimum limits of liability coverage maintained by an air taxi operator who restricts his operations in air transportation to the carriage of mail or property, or both, shall be those specified in paragraphs (a)(2) and (3) of this section.

§ 298.43 Terms and conditions of insurance coverage.

Liability insurance coverage required by this part shall meet the following minimum requirements:

(a) Insurance contracts shall provide for payment by the insurer on behalf of the insured air taxi operator, within the specified limits of liability, of all sums which the insured carrier shall become legally obligated to pay as damages for bodily injury to or death of persons, or for loss or damage to property of others (except as exclusion of coverage is permitted by § 298.44) resulting from the insured operator's negligent operation, maintenance or use of aircraft in "air transportation," as that term is defined by the Federal Aviation Act of 1958.

(b) The liability of the insurer shall apply to all operations by the insured operator in "air transportation," as that term is defined by the Federal Aviation Act of 1958. The liability of the insurer shall not be subject to any exclusion by virtue of violations, by the insured operator, of any applicable safety or economic provision of the Federal Aviation Act or of any applicable safety or economic rule, regulation, order, or other legally imposed requirement prescribed thereunder by the Federal Aviation Administration or the Civil Aeronautics Board or any other State or Federal law or regulation. No special waiver or exemption issued by the Federal Aviation Administration or the Civil Aeronautics Board shall affect the insurance afforded by the policy.

(c) The liability of the insurer shall not be contingent upon the financial condition, solvency, or freedom from bankruptcy of the insured. The limits of the

insurer's liability for the amounts prescribed herein shall apply separately to each occurrence. Any payment made under the policy because of any one occurrence shall not reduce the liability of the insurer for payment of other damages resulting from any other occurrence.

(d) Within the limits of liability herein prescribed, the insurer shall not be relieved from liability by any condition, warranty, or exclusion in the policy or any endorsement thereon, or violation thereof by the insured air taxi operator, other than by the exclusions set forth in § 298.44 or such other exclusions as may be individually approved by the Board.

(e) The policy of insurance shall state that, pursuant to any statute of any State, Territory, or District of the United States which makes provision therefor, the insurer designates the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute (or his successor or successors in office) as the insurer's attorney upon whom may be served process in any action arising out of the policy of insurance.

§ 298.44 Authorized exclusions of liability.

Unless other exclusions are individually approved by the Board, no policy or certificate of insurance required by this part shall contain any exclusion other than the following authorized exclusions:

(a) Any loss against which the named insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be in excess of the limits provided by such other valid and collectible insurance up to the limits certified in a certificate of insurance, but in no event exceeding the limits of liability expressed elsewhere in this policy;

(b) Any loss arising from the ownership, maintenance, or use of any large aircraft except, subject to the provisions of paragraph (j) of this section, turbojet aircraft having a maximum takeoff weight of over 12,500 pounds authorized for use by air taxi operators pursuant to § 298.21;

(c) Liability assumed by the named insured under any contract or agreement, unless such liability would have attached to the insured even in the absence of such contract or agreement;

(d) Bodily injury, sickness, disease, mental anguish, or death of any employee of the named insured while engaged in the duties of his employment, or any obligation for which the named insured or any company as his insurer may be held liable under any workmen's compensation or occupational disease law;

(e) Loss of or damage to property owned, rented, occupied, or used by, or in the care, custody, or control of the named insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies;

(f) Personal injuries or death, or damage to or destruction of property, caused directly or indirectly by hostile or warlike action, including action in hindering, combating, or defending against an actual, impending or expected attack by any government or sovereign power, de jure or de facto, or military, naval, or air forces, or by an agent of such government, power, authority, or forces; the discharge, explosion, or use of any weapon of war employing atomic fission or atomic fusion, or radioactive materials; insurrection, rebellion, revolution, civil war, or usurped power, including any action in hindering, combating, or defending against such an occurrence; or confiscation by any government or public authority;

(g) Any loss arising from operations within any geographic areas other than the following:

(1) Between points in the 48 contiguous States, the District of Columbia, Canada, and Mexico;

(2) Between points in Puerto Rico and the Virgin Islands;

(3) Between points within the States of Alaska and Hawaii;

(4) Between points in Alaska and points in Canada; and

(5) Within any other geographic area for which coverage is specified in the policy of insurance;

Provided, That a loss caused by mere misadventure in flying over or landing in any geographic area not specified in subparagraphs (1) through (5) of this paragraph shall not be excluded;

(h) Any loss arising from operations by the named insured to or from installations of the Distant Early Warning System (DEW line) or the Ballistic Missile Early Warning System (BMEWS);

(i) Any loss arising from operation of an aircraft (1) without a copilot, if one is required under the policy of insurance or (2) by a pilot (or pilot and copilot) not named in or meeting the qualification, experience, and currency requirements provided in the policy of insurance;

(j) Any loss arising from the operation of an aircraft falling within any of the following aircraft groupings, if specified in the policy of insurance: Piston engine rotary-wing; turbine engine rotary-wing; single engine piston fixed-wing; multiengine piston fixed-wing; single engine turbo prop fixed-wing; multiengine turbo prop fixed-wing; multiengine turbo jet fixed-wing; multiengine center line thrust fixed-wing; single engine water alighting fixed-wing; multiengine water alighting fixed-wing: *Provided*, That no grouping shall be so specified if any aircraft type falling within such grouping is included within the coverage of the policy;

(k) Any loss arising from operations other than the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail by aircraft, in interstate, overseas, or foreign air transportation;

(l) Any loss arising from operations with aircraft for which an airworthiness certificate has not been issued, has been surrendered, or has been suspended or revoked by the Administrator of the Federal Aviation Administration, or has expired by its terms;

(m) Any loss arising from operations with aircraft which, at takeoff, have not had inspections, maintenance, preventive maintenance, and alterations performed when required by the Federal Aviation Regulations, or which have not had such inspections, maintenance, preventive maintenance, and alterations performed by persons authorized by the Federal Aviation Regulations.

§ 298.45 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.

(a) Each policy of insurance shall specify that, unless replaced as provided in paragraph (b) of this section, it may not be canceled or withdrawn, or modified to reduce the limits of liability, until after 10 days' written notice by the insurer to the Board's Bureau of Operating Rights, Washington, D.C. 20428, which 10-day notice period shall commence to run from the date such notice is actually received by the Board. Each policy shall further provide that the insurer will notify the Board, 10 days before the expiration date of the policy, unless the policy has been renewed.

(b) Policies of aircraft liability insurance, and certificates of insurance accepted by the Board under this part, may be replaced by other policies of insurance and certificates of insurance conforming to this subpart. The liability of the retiring insurer shall be considered terminated as of the effective date of the replacement policy of aircraft liability insurance and certificate of insurance.

Subpart E—Registration for Exemption

§ 298.50 Filing for registration by air taxi operators.

(a) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) who is operating in air transportation as of July 1, 1969, shall, on or before that date register with the Board and shall re-register annually thereafter on or before July 1 of each succeeding year.

(b) Any person (whether or not he is a commuter air carrier as defined in this part) who commences operations under this part after July 1, 1969, shall, within 30 days after commencing such operations, register with the Board and shall re-register each year thereafter on the anniversary date of the original registration.

(c) Registration shall be accomplished by filing the following with the Board's Bureau of Operating Rights, Washington, D.C. 20428:

(1) A "Registration for Exemption under Part 298 of the Economic Regulations of the Civil Aeronautics Board" (CAB Form 298–A) executed in duplicate.[2] This form shall be certified by a responsible official of such carrier and shall include the following information: (i) Name of the individual or corporation operating the carrier and trade name of the carrier; (ii) the carrier's Federal

[2] CAB Form 298–A is filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

Aviation Administration certificate number; (iii) address of its principal place of business and its mailing address; (iv) whether the carrier has performed at least 5 round trips per week pursuant to published schedules during the previous 12-month period; and (v) whether the carrier has currently effective insurance which complies with Subpart D of this part.

(2) A currently effective certificate of insurance as defined by § 298.41(b).

(3) A ten ($10) dollar registration fee. This shall be in the form of a check, draft, or postal money order, payable to the Civil Aeronautics Board.

§ 298.51 Processing by the Board.

After examination of an operator's filing under § 298.50, the Board will stamp and return to the carrier the duplicate copy of the CAB Form 298–A filed thereunder. This will serve to confirm that the carrier is registered with the Board in compliance with § 298.50 and will establish the date for annual re-registration.

Subpart F—Reporting of Scheduled Operations by Commuter Air Carriers

§ 298.60 Report of scheduled air taxi operations.

(a) Each "commuter air carrier" shall file CAB Form 298–C,[24] entitled "Report of Scheduled Operations of Commuter Air Carriers" in accordance with the provisions of this part and in the manner set forth in said form, which is made a part hereof and annexed hereto.

(b) CAB Form 298–C shall be prepared for the quarter ending March 31, June 30, September 30 and December 31 of each calendar year.[25] It shall be completed in triplicate and filed with the Board (i.e., postmarked) not more than forty (40) days after the end of each calendar quarter, and shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

§ 298.61 Filing of flight schedules—current schedules and subsequent modifications.

On or before July 1, 1969, or within 30 days after commencing operations as a commuter air carrier, whichever is later, each commuter air carrier shall file with the Director, Office of Facilities and Operations, Civil Aeronautics Board, Washington, D.C. 20428, a copy of its most recent published flight schedules, along with a statement of rates and fares charged for transportation on scheduled flights. Thereafter, if any modification in such schedules or statement of rates or fares is made, a copy of such modifications shall be filed (i.e., postmarked) not later than ten (10) days after the modification becomes effective.

[24] CAB Form 298–C is filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[25] The first report required to be filed under this subpart shall be for the quarter commencing July 1, 1969.

§ 298.62 Extension of filing time.

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor, addressed to the Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

§ 298.63 Certification.

The certificate contained in CAB Form 298–C shall be executed by the officer in charge of the carrier's accounts.

§ 298.64 Reporting instructions.

(a) Schedules A–1, T–1, and T–2 of CAB Form 298–C shall be filed quarterly by each reporting carrier. The information included in each schedule shall cover only flights performed pursuant to published schedules or contracts with the Post Office Department for the transportation of mail.

(b) Schedule A–1 shall describe the aircraft used in scheduled service or mail service by the carrier.

(1) Column (1) shall set forth the aircraft registration number of each aircraft.

(2) Column (2) shall set forth the type and model of each aircraft listed in Column (1).

(3) Column (3) shall set forth the capacity in passenger seats of each aircraft. Crew seats should not be counted.

(4) Column (4) shall set forth the carrier's best estimate in pounds as to total capacity available for cargo in both cargo and passenger compartments of each aircraft under normal operating conditions over the carrier's system. Estimates should take into consideration both limitations on lift capacity of aircraft as well as limitations imposed by the space available for cargo and average density per cubic feet of cargo carried. If passenger aircraft are also employed in all-cargo configuration, give the cargo capacity with all seats in place and with all seats removed.

(c) Schedule T–1 shall set forth the traffic carried, in each direction, between the points served by the carrier's operation.

(1) Definitions: On-line origin is the point of initial boarding of traffic on the reporting carrier's operation. On-line destination is the point of final deplanement of traffic in the reporting carrier's operation.

(2) Columns (1) and (2) shall reflect the points of on-line origin and on-line destination, respectively, of traffic which was carried during the reporting period.

(3) Columns (3), (4), and (5) shall reflect the total number of revenue passengers, pounds of cargo, and pounds of mail, respectively, carried from the point of on-line origin to the point of on-line destination shown in Columns (1) and (2).

(d) Schedule T–2 shall set forth all routings for scheduled and mail flights performed by the reporting carrier, with the number of flights performed and the aircraft type(s) used on each routing.

(1) Column (1) shall set forth the origin point of each routing.

(2) Column (2) shall set forth the intermediate points on each routing whose origin is listed in Column (1). When there are two or more intermediate points on a routing they should be listed from top to bottom in the order in which the stops are performed.

(3) Column (3) shall set forth the destination point of the routing.

(4) Column (4) shall set forth the total number of flights performed in the reporting quarter over the routing indicated in Columns (1)–(3). In instances where more than one type of aircraft is operated between a pair of points, a subtotal shall indicate the total number of flights by all types of aircraft between each pair of points.

(5) Column (5) shall set forth the type of aircraft used on the routing.

§ 298.65 Data processing.

The information requested in Schedules A–1, T–1, or T–2 of CAB Form 298–C as provided in § 298.64 may be submitted on any comparable form prepared on automatic data processing equipment: *Provided, however,* That such substitute form has been approved by the Director, Bureau of Accounts and Statistics, Washington, D.C. 20428. Data in any approved format shall be submitted in triplicate and shall contain the same columnar headings arranged in the same sequence as the schedules called for in CAB Form 298–C.

Subpart G—Violations

§ 298.70 Enforcement.

In case of any violation of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding pursuant to sections 1002 and 1007 of the Act before the Board or a U.S. District Court, as the case may be, to compel compliance therewith; or to civil penalties pursuant to the provisions of section 901(a) of the Act; or, in the case of a willful violation, to criminal penalties pursuant to the provisions of section 902(a) of the Act; or other lawful sanctions including revocation of operating authority.

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

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 69-5203; Filed, Apr. 30, 1969; 8:49 a.m.]

Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Standards for Grades of Canned Clingstone and Freestone Peaches [1]

COLOR

During the period of July 26, 1967 to January 1, 1969, two notices of proposed rule making to amend the U.S. Standards For Grades of Canned Clingstone Peaches and of Canned Freestone Peaches were published in the FEDERAL REGISTER (32 F.R. 10935 and 33 F.R. 2608). An extension of time until March 1, 1969, to permit interested persons to submit data, views, and comments on the proposals was published in the FEDERAL REGISTER of December 27, 1968 (33 F.R. 19846).

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notices, the U.S. Standards For Grades of Canned Clingstone Peaches and of Canned Freestone Peaches are hereby amended, pursuant to the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), as follows:

Statement of consideration leading to the amendments. Upon request of the peach canning industry in California the U.S. Department of Agriculture proposed changes in 1967 and 1968 relative to color requirements for Grades A, B, and C in the U.S. Standards for Grades of Canned Clingstone Peaches and of Canned Freestone Peaches. Previous grade standards provided for the same minimum color level for Grade A and Grade B in both canned clingstone and freestone peaches.

The changes, as proposed, provided for separate levels for Grade A and Grade B. The minimum color level proposed for Grade A was slightly higher, while the minimum level proposed for Grade B was considerably lower than previously required. The proposed Grade C limit was slightly more restrictive than the previous minimum color limit for that grade.

In addition, the U.S. Department of Agriculture proposed a limiting rule to be applied to the Grade B level for color. Previous standards did not provide for a limiting rule in that grade classification.

The proposed changes were studied by the industry and the Department of Agriculture during the 1967 and 1968 canning seasons. The following comments have been received regarding the latest proposed changes of 1968:

(1) The Canners League of California indicates the color limits for both canned clingstone and freestone peaches as proposed are acceptable provided the limiting rule proposed for Grade B classification for both canned clingstone and freestone peaches is eliminated.

(2) The Georgia Canners Association, representing the freestone peach canners in the southeastern United States, indicates the color limits for the Grade A and Grade B classifications for canned freestone peaches are acceptable. The Association requests, however, that the minimum color limits for the Grade C classification in the previous standards remain unchanged. The Association states the limits as proposed for Grade C for canned freestone peaches are too restrictive and would create a hardship on the peach canners in the southeastern area of the United States.

The U.S. Department of Agriculture concludes that the amendments to the U.S. Standards for Grades of Canned Clingstone Peaches and of Canned Freestone Peaches—as proposed and hereby adopted with the following exceptions—will best serve current production and marketing practices as well as the consumer:

(1) The limiting rule in the Grade B classification for both canned clingstone and canned freestone peaches is eliminated.

(2) The minimum color level for Grade C in the previous canned freestone peach grade standards is retained.

No other changes from the proposals except of an editorial nature and to incorporate the aforementioned modifications are being made at this time.

Subpart—U.S. Standards for Grades of Canned Clingstone Peaches

Change § 52.2572 in its entirety and substitute the following:

§ 52.2572 Color.

(a) *General.* (1) The color of canned clingstone peaches other than canned "spiced" peaches refers to the predominant and characteristic color on the surface of whole units, and the outside surfaces of other units, except the cut surfaces of such units are also considered when adversely affected by discoloration. Units other than whole on which the pit cavity is abnormally discolored are considered under the factor of absence of defects only.

(2) The factor of color for canned "spiced" peaches is not based on any detailed requirement and is not scored but the color shall be normal for canned "spiced" peaches; the other three factors (uniformity of size and symmetry, absence of defects, and character as applicable) are scored and the total is multiplied by 100 and divided by 80, dropping any fractions to determine the total score.

(b) (*A*) *Classification.* Canned clingstone peaches that possess a good color may be given a score of 18 to 20 points. Mixed pieces of irregular sizes and shapes that score 18 to 20 points shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule). "Good color" means that the peaches possess a bright color ranging from yellowish orange to orange yellow; and that there may be present units which possess "reasonably good color" as follows:

(1) In the style of halves, quarters, slices, or whole, not more than 10 percent, by count, of the units may possess "reasonably good color"; or one unit in a container is permitted to possess "reasonably good color": *Provided,* That in all containers comprising the sample such units do not exceed an average of 10 percent of the total number of units; and

(2) In the styles of diced or mixed pieces of irregular sizes and shapes, not more than 10 percent, by weight, of the drained peaches may possess "reasonably good color."

(c) (*B*) *Classification.* Canned clingstone peaches that possess a reasonably good color may be given a score of 16 or 17 points. Mixed pieces of irregular sizes and shapes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule). "Reasonably good color" means that the canned clingstone peaches possess a reasonably bright color that may fail to meet minimum color requirements for Grade A but is equal to or better than light orangish-yellow, that the units may possess slight discoloration due to oxidation, pit pigmentation, or other causes which does not more than slightly affect the appearance or edibility, or both, of the product; and that there may be present units which possess "fairly good color" as follows:

(1) In the style of halves, quarters, slices, or whole, not more than 10 percent, by count, of the units may possess "fairly good color"; or one unit in a container is permitted to possess "fairly good color": *Provided,* That in all containers comprising the sample such units do not exceed an average of 10 percent of the total number of units; and

(2) In the style of diced or mixed pieces of irregular sizes and shapes, not more than 10 percent, by weight, of the drained peaches may possess "fairly good color."

(d) (*C*), (*D*), *and* (*C–SP*) *Classification.* Canned clingstone peaches and canned solid-pack clingstone peaches that possess a fairly good color may be given a score of 14 or 15 points. Canned clingstone peaches or canned "solid-pack" clingstone peaches that fall into this classification shall not be graded above U.S. Grade C or U.S. Grade C Solid-Pack, whichever is applicable, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the peaches possess a color that may fail to meet minimum color requirements for Grade B but is equal to or better than greenish-yellow;

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

that the units may possess slight discoloration due to oxidation, pit pigmentation, or other causes which do not materially affect the appearance or edibility, or both, of the product; and that the units may possess other color as follows:

(1) In the style of halves, quarters, slices, or whole, not more than 10 percent, by count, of the units may fail to meet the minimum color for Grade C or may be off-color; or one unit in a container is permitted to possess such color: *Provided*, That in all containers comprising the sample such units do not exceed an average of 10 percent of the total number of units.

(2) In the style of diced or mixed pieces of irregular sizes and shapes, not more than 10 percent, by weight, of the drained peaches may consist of units that fail to meet the minimum color for Grade C or may be off-color: *Provided*, That such units do not materially affect the appearance of the product.

(e) *(SStd) and (SStd–SP) Classification.* Canned clingstone peaches and canned "solid-pack" clingstone peaches that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard or Substandard Solid-Pack, whichever is applicable, regardless of the total score for the product (this is a limiting rule).

Subpart—U.S. Standards for Grades of Canned Freestone Peaches

Change § 52.2610 in its entirety and substitute the following:

§ 52.2610 Color.

(a) *General.* (1) The color of canned freestone peaches other than canned "spiced" peaches refers to the predominant and characteristic color on the surface of whole units and the outside surfaces of other units, except the cut surfaces of such units are also considered when adversely affected by discoloration. Units other than whole on which the pit cavity is abnormally discolored are considered under the factor of "absence of defects" only.

(2) The factor of color for canned "spiced" peaches is not based on any detailed requirement and is not scored but the color shall be normal for canned "spiced" peaches; the other three factors (uniformity of size and symmetry, absence of defects, and character as applicable) are scored and the total is multiplied by 100 and divided by 80, dropping any fractions to determine the total score.

(b) *(A) Classification.* Canned freestone peaches that possess a good color may be given a score of 18 to 20 points. Mixed pieces of irregular sizes and shapes that score 18 to 20 points shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule). "Good color" means that the peaches possess a bright color ranging from pale yellowish-orange to orange-yellow; and that there may be present units which possess "reasonably good color" as follows:

(1) In the style of halves, quarters, slices, or whole, not more than 10 percent, by count, of the units may possess "reasonably good color"; or one unit in a container is permitted to possess "reasonably good color": *Provided*, That in all containers comprising the sample such units do not exceed an average of 10 percent of the total number of units; and

(2) In the style of diced or mixed pieces of irregular sizes and shapes, not more than 10 percent, by weight, of the drained peaches may possess "reasonably good color."

(c) *(B) Classification.* Canned freestone peaches that possess a reasonably good color may be given a score of 16 or 17 points. Mixed pieces of irregular sizes and shapes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule). "Reasonably good color" means that the canned freestone peaches possess a reasonably bright color that may fail to meet minimum color requirements for Grade A but is equal to or better than pale yellow; that the units may possess slight discoloration due to oxidation, pit pigmentation, or other causes which does not more than slightly affect the appearance or edibility, or both, of the product; and that there may be present units which possess "fairly good color" as follows:

(1) In the style of halves, quarters, slices, or whole, not more than 10 percent, by count, of the units may possess "fairly good color"; or one unit in a container is permitted to possess "fairly good color": *Provided*, That in all containers comprising the sample such units do not exceed an average of 10 percent of the total number of units; and

(2) In the style of diced or mixed pieces of irregular sizes and shapes, 10 percent, by weight, of the drained peaches may possess "fairly good color."

(d) *(C), (D), and (C–SP) Classification.* Canned freestone peaches that possess a fairly good color and canned "solid-pack" freestone peaches that possess a fairly good color or better color may be given a score of 14 or 15 points. Canned freestone peaches or canned "solid-pack" freestone peaches that fall into this classification shall not be graded above U.S. Grade C or U.S. Grade C Solid-Pack, whichever is applicable, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the peaches possess a color that may fail to meet minimum color requirements for Grade B but is equal to or better than a dull greenish yellow; that the units may possess slight discoloration due to oxidation, pit pigmentation, or other causes which does not materially affect the appearance or edibility, or both, of the product; and that the units may possess other color as follows:

(1) In the style of halves, quarters, slices, or whole, not more than 10 percent, by count, of the units may fail to meet the minimum color for Grade C or may be off-color; or one unit in a container is permitted to possess such color: *Provided*, That in all the containers comprising the sample such units do not exceed an average of 10 percent of the total number of units; and

(2) In the style of diced or mixed pieces of irregular sizes and shapes, not more than 10 percent, by weight, of the drained peaches may consist of units that fail to meet the minimum color requirements for Grade C or may be off-color: *Provided*, That such units do not materially affect the appearance of the product.

(e) *(Sstd.) and (Sstd–SP) Classification.* Canned freestone peaches and canned "solid-pack" freestone peaches that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard or Substandard Solid-Pack, whichever is applicable, regardless of the total score for the product (this is a limiting rule).

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624)

These amendments shall be effective June 1, 1969.

Dated: April 28, 1969.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 69-5214; Filed, Apr. 30, 1969; 8:50 a.m.]

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

[Navel Orange Reg. 180]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.480 Navel Orange Regulation 180.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said

amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interest persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 29, 1969.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period May 2, 1969, through May 8, 1969, are hereby fixed as follows:

(i) District 1: 664,000 cartons;

(ii) District 2: 136,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: April 30, 1969.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 69-5337; Filed, Apr. 30, 1969; 11:26 a.m.]

[Valencia Orange Reg. 274]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.574 Valencia Orange Regulation 274.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 33 F.R. 19829), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 29, 1969.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 2, 1969, through May 8, 1969, are hereby fixed as follows:

(i) District 1: 424,000 cartons;

(ii) District 2: 168,000 cartons;

(iii) District 3: 208,000 cartons.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: April 30, 1969.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 69-5338; Filed, Apr. 30, 1969; 11:26 a.m.]

[966.306, Amdt. 5]

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth is necessary and this action is being taken to effectuate the declared policy of the act in the circumstances now presented.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because (1) the time intervening between the date when the information upon which this amendment is based became

available and the time when this amendment must become effective in order to effectuate the declared policy of the Act is insufficient, (2) compliance with this amendment will not require any special preparation by handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of production area tomatoes.

Order, as amended. In § 966.306, *Limitation of shipments* (33 F.R. 16330, 17310, 19161; 34 F.R. 128, 6326), paragraphs (a) and (b) are hereby amended to read as follows:

§ 966.306 **Limitation of shipments.**

* * * * *

(a) *Minimum grade and size.* No person shall handle any lot of tomatoes for shipment outside of the regulation area unless they meet one of the following minimum grade and size requirements:

(1) U.S. No. 3 grade, 2⅝ inches minimum diameter; or

(2) U.S. No. 2, or better grade, 2⅛ inches minimum diameter.

(3) Not more than 10 percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter.

(b) *Size classification.* (1) No person shall handle for shipment outside the regulation area any tomatoes unless they are sized within one or more of the following ranges of diameters (expressed in terms of minimum and maximum). Measurement of minimum and maximum diameter shall be in accordance with the method prescribed in paragraph (c) of § 51.1860 of U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

Size classification:	*Diameter (inches)*
7 x 7	2⅛ to 2⅝, inclusive.
6 x 7	Over 2⅝ to 2⅞, inclusive.
6 x 6	Over 2⅞ to 2⅝, inclusive.
5 x 6	Over 2⅝.

* * * * *

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

Effective date. Dated: April 25, 1969, to become effective April 25, 1969.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 69-5189; Filed, Apr. 30, 1969; 8:48 a.m.]

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

[Milk Order 79]

PART 1079—MILK IN DES MOINES, IOWA, 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 Des Moines, Iowa, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 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 recommended decision of the Deputy Administrator was issued April 14, 1969, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued April 25, 1969. The changes 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 May 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. (5 U.S.C. 553(d)(1966))

(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 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 Des Moines, Iowa, 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:

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS AND FACILITIES

CLASSIFICATION

MINIMUM PRICES

APPLICATION OF PROVISIONS

DETERMINATION OF UNIFORM PRICE

PAYMENT FOR MILK

EFFECTIVE TIME, SUSPENSION OR TERMINATION

MISCELLANEOUS PROVISIONS

AUTHORITY: The provisions of this Part 1079 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1079.1 Act.

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

§ 1079.2 Secretary.

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

§ 1079.3 Department.

"Department" means the U.S. Department of Agriculture or any other Federal Agency authorized to perform the price reporting functions of the U.S. Department of Agriculture.

§ 1079.4 Person.

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

§ 1079.5 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members.

§ 1079.6 Des Moines, Iowa, marketing area.

"Des Moines, Iowa, marketing area" (hereinafter called the "marketing area"), means all the territory within the boundaries of the city of Grinnell and the counties of Adair, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Guthrie, Jasper, Lucas, Madison, Mahaska, Marion, Monroe, Polk, Story, Union, Warren, Wapello, and Wayne, all in the State of Iowa, including territory within such boundaries which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 1079.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received by a handler as producer milk.

§ 1079.8 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1079.9 Supply plant.

"Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1079.10.

§ 1079.10 Pool plant.

"Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts or an average of not less than 7,000 pounds per day, whichever is less, is so disposed of to such outlets in the marketing area: *Provided*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May, or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year: *And provided further*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

§ 1079.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1079.12 Handler.

"Handler" means: (a) Any person in his capacity as the operator of one or more pool plants, (b) any cooperative association with respect to the milk of producers diverted by the association for the account of such association from a pool plant to a nonpool plant, or (c) any person as the operator of a partially regulated distributing plant.

§ 1079.13 Producer-handler.

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

§ 1079.14 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk received at a pool plant directly from a dairy farmer: *Provided*, That milk diverted under the conditions set forth in paragraphs (a), (b), and (c) of this

section from a pool distributing plant to a nonpool plant for the account of either the operator of the pool distributing plant or a cooperative association shall also be producer milk and shall be deemed to have been received by the diverting handler at the plant to which diverted.

(a) A handler pursuant to § 1079.12(b) may divert for its account without limit during the other days of the month the milk of any member producer whose milk is received at a pool distributing plant for at least one delivery during the month. The total quantity of milk so diverted may not exceed 50 percent in September through March and 100 percent in April through August of the larger of the following amounts: (1) The total quantity of its member milk received at all pool distributing plants during the current month, or (2) the average daily quantity of its member milk received at all pool distributing plants during the previous month multiplied by the number of days in the current month.

(b) A handler in his capacity as the operator of a pool distributing plant may divert for his account the milk of any producer other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section whose milk is received at his pool distributing plant for at least one delivery during the month without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 50 percent in September through March and 100 percent in April through August of the larger of the following amounts: (1) The total quantity of producer milk received at such plant during the current month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, or (2) the average daily quantity of producer milk received at such plant during the previous month multiplied by the number of days in the current month from producers who are not members of a cooperative association which has diverted milk in the current month pursuant to paragraph (a) of this section.

(c) Any milk so diverted by the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1079.12(b) in excess of the limits prescribed pursuant to paragraphs (a) and (b) of this section shall not be producer milk and if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler during the month shall be producer milk.

§ 1079.15 Fluid milk product.

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

§ 1079.16 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

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

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

§ 1079.17 Base zone.

"Base zone" means all the territory within the marketing area except Boone and Story Counties, Iowa.

§ 1079.18 Chicago butter price.

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

MARKET ADMINISTRATOR

§ 1079.25 Designation.

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

§ 1079.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1079.27 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds provided by § 1079.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1079.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1079.30 and 1079.31 or payments pursuant to §§ 1079.62, 1079.80, 1079.84, 1079.86, 1079.87, and 1079.88;

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

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

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

(j) Publicly announce and notify each handler in writing on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 1079.50(b) and the Class I butterfat differential pursuant to § 1079.51(a), both for the current month; and the minimum price for Class II milk pursuant to § 1079.50(c) and the Class II butterfat differential pursuant to § 1079.51(b) both for the preceding month; and

(2) The 10th day after the end of each month, the uniform price pursuant to § 1079.72, and the butterfat differential pursuant to § 1079.81;

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

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and

butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1079.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS AND FACILITIES

§ 1079.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for such month, reporting separately for each of his pool plants, in the detail and on forms prescribed by the market administrator:

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

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

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

(d) The quantities of skim milk and butterfat contained in or represented by producer milk diverted to nonpool plants pursuant to § 1079.14;

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

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

(g) Each handler operating a partially regulated distributing plant shall report as required in this section substituting receipts from dairy farmers for receipts of producer milk.

§ 1079.31 Other reports.

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

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his plants his producer (or dairy farmer) payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, (iii) the number of days, if less than the entire month, for which milk was received from such producer, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product;

(3) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted; and

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

§ 1079.32 Records and facilities.

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

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

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

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

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

§ 1079.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market adminstrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1079.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1079.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1079.41 to 1079.46.

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (b) (2) of this section; and

(2) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk disposed of for livestock feed or dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping;

(3) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(4) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(5) Skim milk and butterfat in shrinkage not in excess of two percent of the receipts of (i) producer milk (except milk diverted to a nonpool plant pursuant to § 1079.14), (ii) fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(6) Skim milk and butterfat, respectively, in shrinkage assigned pursuant to § 1079.42(b) (2).

§ 1079.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat at each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1079.41(b) (5); and

(2) Remaining receipts of other source milk.

§ 1079.43 Responsibility of handlers and reclassification of milk.

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

§ 1079.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1079.46(a)(3) and the corresponding step of § 1079.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1079.46(a) (7) and (8) and the corresponding steps of § 1079.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa;

(d) As Class I milk, if transferred or diverted from a pool plant in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles by the shortest highway distance, as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1079.30 for the month within which such transaction occurred;

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

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded cream disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1079.41.

§ 1079.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for each pool plant and for producer milk diverted to each nonpool plant and shall compute the pounds of butterfat and skim milk in each class at each such plant: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water reasonably associated with such solids in the form of whole milk.

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator shall determine the classification of producer milk received by each handler each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1079.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract successively from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (exclusive of Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Substract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

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

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

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1079.27(1); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1079.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1079.50 Basic formula and class prices.

Subject to the provisions of §§ 1079.51 and 1079.52 the basic formula and class prices per hundredweight for the month shall be as follows:

(a) *Basic formula price.* The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent at the rate of the Chicago butter price times 0.12. The basic formula shall be rounded to the nearest cent. For the purpose of computing Class I prices from the effective date hereof the basic formula price shall not be less than $4.33.

(b) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $1.25 and plus 20 cents.

(c) *Class II milk price.* The Class II milk price shall be the basic formula price for the month.

§ 1079.51 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 1079.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

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

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

§ 1079.52 Location differentials to handlers.

(a) For producer milk received at a plant located inside the marketing area but outside the base zone or a plant located outside the marketing area and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator, from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for

which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents. For plants outside the marketing area such price shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition remaining at the transferee plant after computations pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b) in excess of 95 percent of receipts of producer milk at such plant, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1079.53 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1079.60 Producer-handler.

Sections 1079.40 to 1079.46, 1079.50 to 1079.52, and 1079.80 to 1079.88 shall not apply to a producer-handler.

§ 1079.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 1079.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Des Moines marketing area than in the marketing area regulated pursuant to such other order: *Provided*, That the operator of a distributing plant or a supply plant which is exempt from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 1079.30) and allow verification of such reports by the market administrator.

§ 1079.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1079.30 and 1079.31(b)(1) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1079.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1079.70(e) and a credit in the amount specified in § 1079.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1079.30 and 1079.31(b)(1) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1079.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II price).

DETERMINATION OF UNIFORM PRICE

§ 1079.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.51 and 1079.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to §1079.46(a)(10) and the corresponding step of § 1079.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(5) and the corresponding step of § 1079.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1079.46(a)(3) and the corresponding step of § 1079.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(7) and the corresponding step of § 1079.46(b).

§ 1079.71 Computation of aggregate value used to determine uniform price.

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plants located within the base zone, as follows:

(a) Combine into one total the values computed pursuant to § 1079.70 for all pool plants for which the reports prescribed in § 1079.30 for such month were made, except those in default of payments required pursuant to § 1079.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1079.72 (a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 1079.82; and

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

§ 1079.72 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content, f.o.b. pool plants located within the base zone, as follows:

(a) Divide the aggregate value computed pursuant to § 1079.71 by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1079.70(e); and

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the uniform price for milk received from producers.

PAYMENT FOR MILK

§ 1079.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 15th day after the end of each month, for producer milk received during such month, an amount computed at not less than the uniform price pursuant to § 1079.72 adjusted pursuant to §§ 1079.81, 1079.82 and 1079.87, and less the payment made pursuant to subparagraph (1) of this paragraph.

(b) Each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 13th day after the end of each month for milk received during such month.

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

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

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

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

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

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

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

§ 1079.81 Butterfat differentials to producers.

The uniform price pursuant to § 1079.72 shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1079.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth cent.

§ 1079.82 Location differentials to producers.

(a) The uniform price for producer milk pursuant to § 1079.72 received at a pool plant or diverted from a pool plant shall be reduced according to the location of the plant of actual receipt at the rates set forth in § 1079.52.

(b) For purposes of computations pursuant to §§ 1079.84 and 1079.85 the uniform price shall be adjusted at the rates set forth in § 1079.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1079.83 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund and out of which he shall make all payments from such fund pursuant to §§ 1079.62, 1079.84, 1079.85, and 1079.86: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1079.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1079.70 for such handler; and

(b) The sum of

(1) The amount of the obligation pursuant to § 1079.80 of such handler for producer milk received during the month; and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to §1079.70(e).

§ 1079.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1079.84(b) exceeds the amount computed pursuant to § 1079.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1079.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1079.86 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1079.84 and 1079.85, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 15 days of such billing, make payments to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or to a cooperative association discloses payment of an amount less than is required by § 1079.80 the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

§ 1079.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1079.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu

of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1079.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1079.46(a) (3) and (7) and the corresponding steps of § 1079.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1079.89 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraph (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator received the handler's utilization report on milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files pursuant to section 8c(15)(A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1079.90 Effective time.

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

§ 1079.91 Suspension or termination.

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

§ 1079.92 Continuing power and duty of the market administrator.

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

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

§ 1079.93 Liquidation after suspension or termination.

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

MISCELLANEOUS PROVISIONS

§ 1079.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1079.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Effective date: May 1, 1969.

Signed at Washington, D.C., on April 28, 1969.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 69-5230; Filed, Apr. 30, 1969; 8:51 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER A—MEASUREMENT SERVICES

PART 200—POLICIES, SERVICES, PROCEDURES, AND FEES

Broadcasts

Pursuant to the authority contained in 15 U.S.C. 275a and 277, Subchapter A is amended as set forth below.

Effective upon publication in the FEDERAL REGISTER, Chapter II of Title 15 of the Code of Federal Regulations is amended with respect to Subchapter A, Part 200, § 200.108, *Broadcasts*, by revising paragraph (a) thereof to reflect a change in policy by discontinuing the publication of advance monthly radio notices in the FEDERAL REGISTER. Section 200.108(a) will read as follows:

§ 200.108 Broadcasts.

(a) (1) The NBS Time and Frequency Division broadcasts various types of standard frequency and time signals as a service from three radio stations: WWV, WWVH, and WWVB. A fourth station, WWVL, is engaged in an experimental program to evaluate precise time synchronization techniques. NBS Special Publication 236, "NBS Frequency and Time Broadcast Services,"[1] contains information concerning the signals broadcast from these four stations. WWVH is located at Maui, Hawaii. WWV, WWVL, and WWVB are located at Fort Collins, Colo.

(2) Advance notices of coordinated adjustments in phase and offset and other planned changes in radio emissions are provided in the Standards and Calibrations column of the "NBS Technical News Bulletin,"[1] which is published monthly.

* * * * *

A. V. Astin,
Director.

April 25, 1969.

[F.R. Doc. 69-5282; Filed, Apr. 30, 1969; 8:51 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Disclosure of Origin of Imported Motors

§ 15.341 Disclosure of origin of imported motors.

(a) In response to a request for an advisory opinion, the Commission ruled that it would not be necessary to disclose the foreign origin of certain electric motors or components thereof which are imported from Poland.

(b) According to the facts presented by the requesting party, the imported motors will be attached in the United States to domestically made gear trains. Moreover, the imported motor will represent approximately one-third of the total cost of the finished unit, i.e., the motor and the gear train.

(c) Concluding that a disclosure would not be required under these circumstances, the Commission said: "In the absence of any affirmative representation that the imported motors are made in the United States, or any other representation that might mislead purchasers as to the country of origin, the Commission is of the opinion that, under the facts presented, the failure to mark the origin of the imported motors or components thereof will not be regarded by the Commission as deceptive."

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

Issued: April 30, 1969.

By direction of the Commission.[1]

[SEAL] Joseph W. Shea,
Secretary.

[F.R. Doc. 69-5150; Filed, Apr. 30, 1969; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Location of Term "Irregular" To Describe Shirts

§ 15.342 Location of term "irregular" to describe shirts.

(a) In response to a request for an advisory opinion, the Commission advised a manufacturer that irregular men's dress and sport shirts should be stamped "irregular" on the neck band, not on the shirttail.

(b) Whenever an affirmative disclosure is required, the Commission said, it is a well-established principle that it must be made with such clarity that it will likely be observed by prospective purchasers making a casual inspection of the merchandise prior to, not after, the purchase thereof. Because of the manner in which shirts are ordinarily folded and displayed at the point of sale, the Commission added, an "irregular" stamp on the shirttail would not normally be seen by prospective purchasers until after the sale has been consummated.

(c) Concluding that the disclosure should be made in the neck band, the Commission said: "Although the disclosure may be placed in any location so long as it complies with the aforementioned principle, experience indicates that the best possible location in most cases would be in the neck band. This is where most prospective purchasers look at a shirt because this is where the size and fiber identification normally are placed. Under these circumstances, therefore, the Commission would not accept a disclosure made on the shirttail. It would, however, accept a legible disclosure made in the neck band as being in compliance with sec. 5 of the FTC Act."

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

Issued: April 30, 1969.

By direction of the Commission.

[SEAL] Joseph W. Shea,
Secretary.

[F.R. Doc. 69-5151; Filed, Apr. 30, 1969; 8:45 a.m.]

[1] For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[1] Chairman Dixon and Commissioner MacIntyre disagree because they believe the advice is improper.

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7010]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Deductions for Costs of Advertising in Programs of Certain Political Conventions

On January 18, 1969, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform paragraph (b) of § 1.276-1 thereof, relating to deductions for costs of advertising in programs of political conventions, to section 108 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 268) and to the Act of June 18, 1968 (Public Law 90-346, 82 Stat. 183), was published in the Federal Register (34 F.R. 863). No comments thereon were received from the public. The amendment of the regulations as proposed is hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] Randolph W. Thrower,
Commissioner of Internal Revenue.

Approved: April 23, 1969.

Edwin S. Cohen,
Assistant Secretary of the Treasury.

In order to conform § 1.276-1 of the Income Tax Regulations (26 CFR Part 1) to section 108 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 268) and to the Act of June 18, 1968 (Public Law 90-346, 82 Stat. 183), new subparagraph (2) is inserted in § 1.276-1 (b) in the place reserved therefor immediately after subparagraph (1). This new provision reads as follows:

§ 1.276-1 Disallowance of deductions for certain indirect contributions to political parties.

* * * * *

(b) *Advertising in convention program.* * * *

(2) *Amounts paid or incurred on or after January 1, 1968, for advertising in programs of certain national political conventions.* (i) Subject to the limitations in subdivision (ii) of this subparagraph, a deduction may be allowed for any amount paid or incurred on or after January 1, 1968, for advertising in a convention program of a political party distributed in connection with a convention held for the purpose of nominating candidates for the offices of President and Vice President of the United States, if the proceeds from the program are actually used solely to defray the costs of conducting the convention (or are set

aside for such use at the next convention of the party held for such purpose) and if the amount paid or incurred for the advertising is reasonable. If such amount is not reasonable or if any part of the proceeds is used for a purpose other than that of defraying such convention costs, no part of the amount is deductible. Whether or not an amount is reasonable shall be determined in light of the business the taxpayer may expect to receive either directly as a result of the advertising or as a result of the convention being held in an area in which the taxpayer has a principal place of business. For these purposes, an amount paid or incurred for advertising will not be considered as reasonable if it is greater than the amount which would be paid for comparable advertising in a comparable convention program of a nonpolitical organization. Institutional advertising (e.g., advertising of a type not designed to sell specific goods or services to persons attending the convention) is not advertising which may be expected to result directly in business for the taxpayer sufficient to make the expenditures reasonable. Accordingly, an amount spent for institutional advertising in a convention program may be deductible only if the taxpayer has a principal place of business in the area where the convention is held. An official statement made by a political party after a convention as to the use made of the proceeds from its convention program shall constitute prima facie evidence of such use.

(ii) No deduction may be taken for any amount described in this subparagraph which is not otherwise allowable as a deduction under section 162, relating to trade or business expenses. Therefore, in order for any such amount to be deductible, it must first satisfy the requirements of section 162, and, in addition, it must also satisfy the more restrictive requirements of this subparagraph.

* * * * *

[F.R. Doc. 69-5064; Filed, Apr. 30, 1969; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 69-40]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

Subpart B—Anchorage Grounds

PORT OF NEW YORK AND VICINITY

1. The Commander, 3d Coast Guard District, New York, N.Y., by letter dated March 14, 1969, requested the establishment of three special anchorage areas in Huntington, Centerport, and Northport Harbors, Long Island, N.Y. The reason for the request is that in these three harbors there is usually a heavy concentration of boats moored and anchored without anchor lights. The designation of these areas as Special Anchorage Areas would warn boatmen in their vicinity that boats may be anchored or moored without exhibiting anchor lights. A public notice dated October 3, 1968, was issued by Commander, 3d Coast Guard District, New York, N.Y., describing the proposed anchorages. All known interested parties were notified and requested to comment on the proposal. Twenty-six letters were received in response to the public notice. However, there was no basic opposition to the establishment of these special anchorage areas. Since the foregoing procedure afforded effective notice to all interested parties, publication of the notice of proposed rule making in the FEDERAL REGISTER is unnecessary. Therefore, the request to establish three special anchorage areas as described in 33 CFR 110.60(a), (a-1) and (a-2) below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. This document effectuates this request by revising paragraph (a) of § 110.60, and by adding two new paragraphs (a-1) and (a-2) following paragraph (a), describing the limits of the three special anchorage areas. In these areas, vessels not more than 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights. The area is principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors in place are allowed. Fixed mooring piles or stakes are prohibited. In addition, this document revokes the anchorage grounds known as Huntington Harbor, Long Island, N.Y., as described in 33 CFR 110.150.

3. In Subpart A of Part 110, § 110.60 is amended by revising paragraph (a) and by adding two new paragraphs (a-1) and (a-2), following paragraph (a). As amended § 110.60 reads as follows:

§ 110.60 Port of New York and vicinity.

(a) *Huntington Harbor.* Beginning on the shoreline at latitude 40°54'19.5", longitude 73°26'07.9"; thence to latitude 40°54'19.5", longitude 73°26'02.4"; thence along the eastern shoreline to the Mill Dam Road Bridge; thence along the downstream side of the bridge to the westerly side of Huntington Harbor; thence along the western shoreline to the point of beginning.

(a-1) *Centerport Harbor.* Beginning at the shoreline at latitude 40°54'00", longitude 73°22'55.3"; thence to latitude 40°54'03.8", longitude 73°22'52.1"; thence along the eastern shoreline to the Mill Dam Bridge; thence along the downstream side of the bridge to the westerly side of Centerport Harbor; thence along the western shoreline to the point of beginning.

(a-2) *Northport Harbor.* Beginning on the shoreline at latitude 40°54'25", longitude 73°22'05"; thence to latitude 40°54'37.5", longitude 73°21'32.9"; thence along the eastern shoreline to latitude 40°53'33.1", longitude 72°21'-28.2"; thence to latitude 40°53'25.8", longitude 73°21'37.7"; thence along the shoreline to the point of beginning.

NOTE: The areas designated by paragraphs (a), (a-1), and (a-2) of this section are principally for vessels used for a recreational purpose. A vessel shall be anchored so that no part of the vessel comes within 50 feet of the marked channel. A temporary float or buoy for marking the location of the anchor of a vessel at anchor may be used. Fixed mooring piles or stakes are prohibited.

* * * * *

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B); 49 CFR 1.4(a)(3)(ii))

§ 110.150 [Revoked]

4. In Subpart B of Part 110, § 110.150 *Huntington Harbor, Long Island, N.Y.*, is revoked.

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1)(A), 80 Stat. 937; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1)(A); 49 CFR 1.4(a)(3)(i))

Effective date. This amendment shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: April 23, 1969.

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

[F.R. Doc. 69-5174; Filed, Apr. 30, 1969; 8:46 a.m.]

SUBCHAPTER J—BRIDGES

[CGFR 69-27]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Pontchartrain, La.

1. The Greater New Orleans Expressway Commission, through their engineering consultants, David Volkert and Associates, by letter dated November 22, 1968, requested the Commander, 8th Coast Guard District to revise the operating regulations for the north bascule spans of the Lake Pontchartrain Causeway between New Orleans and Mandeville, La. A public notice dated November 27, 1968, setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, 8th Coast Guard District and was made available to all persons known to have an interest in this subject. The notice provided that at least 12 hours' advance notice for opening the draws would be required. After considering the relevant matters presented by interested persons who participated in the rule making, it was determined to reduce the 12 hours' advance notice to 3 hours.

2. The purpose of this document is to effectuate the foregoing proposal. Accordingly, § 117.245 is amended by adding a new paragraph (i)(23-b) following paragraph (i)(23-a) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(1) Waterways discharging into Gulf of Mexico east of Mississippi River. * * *

(23–b) Lake Pontchartrain, La.; Greater New Orleans Expressway Commission causeway across Lake Pontchartrain, north bascule spans. At least 3 hours' advance notice required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.4(a)(3)(v))

Effective date. This amendment shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: April 23, 1969.

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

[F.R. Doc. 69-5229; Filed, Apr. 30, 1969; 8:51 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

RETENTION OF RECORDS BY CONTRACTORS AND SUBCONTRACTORS

This amendment provides for changes in certain contractual examination of records clauses in Parts 1–3, 1–7, and 1–16 to implement the provisions of new Part 1–20.

Essentially, new Part 1–20 provides policies and procedures governing the retention of records by Government contractors and their subcontractors which must be maintained to comply with contract negotiation, administration, or audit requirements of the contracting agency or the Comptroller General of the United States. In addition, Part 1–20 includes a schedule covering the more common bulk records which must be maintained and provides that there shall be compliance with specified audit and review requirements of the Government if the records enumerated in the schedule are retained for the time periods indicated.

The table of parts for Chapter 1 is amended by adding the following entry:

1–20 Retention requirements for contractor and subcontractor records.

PART 1–3—PROCUREMENT BY NEGOTIATION

Subpart 1–3.8—Price Negotiation Policies and Techniques

Section 1–3.814–2 is amended as follows:

§ 1–3.814–2 Audit and records.

* * * * *

AUDIT

(a) For purposes of verifying that certified cost or pricing data submitted, in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000, were accurate, complete, and current, the Contracting Officer, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

* * * * *

AUDIT—PRICE ADJUSTMENTS

* * * * *

(b) For purposes of verifying that certified cost or pricing data submitted in conjunction with such a contract change or modification were accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

* * * * *

AUDIT—PRICE ADJUSTMENTS

* * * * *

(b) For purposes of verifying that certified cost or pricing data submitted in conjunction with such a contract change or other modification were accurate, complete, and current, the Contracting Officer, the Comptroller General of the United States, or any authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

* * * * *

AUDIT AND RECORDS

* * * * *

(b) The Contractor's plants, or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his authorized representatives. In addition, for purposes of verifying that cost or pricing data submitted, in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000, were accurate, complete, and current, the Contracting Officer, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The Contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in 41 CFR Part 1–20, whichever expires earlier, and (2) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (i) or (ii) below.

(i) * * *

(ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract as to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

* * * * *

AUDIT

(a) For purposes of verifying that certified cost or pricing data submitted in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000, were accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

* * * * *

AUDIT—PRICE ADJUSTMENTS

* * * * *

(b) For purposes of verifying that any certified cost or pricing data submitted in conjunction with a contract change or other modification were accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

* * * * *

PART 1–7—CONTRACT CLAUSES

Subpart 1–7.1—Fixed-Price Supply Contracts

Section 1–7.101–10 is amended as follows:

§ 1–7.101–10 Examination of records.

EXAMINATION OF RECORDS

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

* * * * *

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101(c) is revised as follows:

§ 1–16.101 Contract forms.

* * * * *

(c) General Provisions (Supply Contract) (Standard Form 32, June 1964 edition). Pending the publication of a new edition of the form, the clause prescribed in § 1–1.805–3(a) shall be substituted for the present provision of Article 22, Utilization of Concerns in Labor Surplus Areas, and the clause prescribed in § 1–12.803–2 shall be substituted for the present provision of Article 18, Equal Opportunity. In addition, agencies shall further modify this form by deleting paragraphs (a) and (b) of Article 10, Examination of Records, and by substituting therefor the clause prescribed in § 1–7.101–10.

* * * * *

Subpart 1–16.4—Forms for Advertised Construction Contracts

Section 1–16.401(a) is revised as follows:

§ 1–16.401 Forms prescribed.

* * * * *

(a) Invitation, Bid, and Award (Construction, Alteration, or Repair) (Standard Form 19, December 1965 edition). Pending revision of Standard Form 19, agencies shall modify this form by deleting paragraphs (a) and (b) of Clause 12, Examination of Records, and by substituting therefor the clause prescribed in § 1–7.101–10.

* * * * *

PART 1–20—RETENTION REQUIREMENTS FOR CONTRACTOR AND SUBCONTRACTOR RECORDS

Part 1–20 is added which reads as follows:

Sec.

AUTHORITY: The provisions of this Part 1–20 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 1–20.000 Scope of part.

This Part 1–20 provides policies and procedures for the maintenance of records retained by contractors and subcontractors pursuant to specified contractual clauses included in contracts and subcontracts to satisfy certain statutory and administrative records review requirements of the Government.

Subpart 1–20.1—Purpose and Applicability

§ 1–20.101 Purpose.

The provisions of this Part 1–20 are designed to relieve the burden of excessive records retention requirements on contractors and subcontractors while at the same time ensuring that the records review requirements of the Comptroller General of the United States and those of contracting agencies are fully met.

§ 1–20.102 Applicability.

§ 1–20.102–1 General.

This Part 1–20 applies to negotiated contracts, and to formally advertised contracts expected to exceed $100,000 which may entail certain changes or other modifications in excess of $100,000 (see § 1–3.814–2(b)), entered into on or after April 28, 1969, which contain records retention requirements set forth in the contractual clauses included in contracts and subcontracts as prescribed by the provisions of the Federal Procurement Regulations described and enumerated in § 1–20.201(a).

§ 1–20.102–2 Exemption of Atomic Energy Commission contracts.

The requirements of this Part 1–20 are not mandatory on the Atomic Energy Commission.

§ 1–20.102–3 Application to contracts entered into prior to April 28, 1969.

Contractors and subcontractors may follow the provisions of this Part 1–20 with respect to contracts and subcontracts entered into prior to April 28, 1969, in complying with any of the following contractual clauses: (a) General Accounting Office records examination clauses pursuant to 41 U.S.C. 254(c) and (b) records examination clauses relating to cost and pricing data pursuant to § 1–3.814–2.

Subpart 1–20.2—General Provisions

§ 1–20.201 General retention requirements.

(a) Contractors and subcontractors are required to retain and make available books, records, documents, and other supporting evidence to satisfy contract negotiation, administration, and audit requirements of the contracting agency and the Comptroller General of the United States as set forth in the contract clauses prescribed under §§ 1–3.814–2, 1–7.101–10, 1–7.101–30, 1–7.602–5, and 1–7.602–7.

(b) These contract clauses prior to April 28, 1969, require contractors and subcontractors to retain the records identified therein and make them available to the Comptroller General of the United States or the contracting officer, respectively, or their representatives, until the expiration of 3 years after final payment under the contract or subcontract. As revised effective April 28, 1969, the clauses also provide that certain of these records, enumerated under § 1–20.301, need only be retained until the expiration of the applicable records retention period authorized by this Part 1–20, if such period expires earlier than 3 years after final payment under the contract or subcontract.

(c) Section 1–20.301 identifies specific records and designates retention periods for each. These retention periods may be applied by contractors and subcontractors in complying with the general records retention requirements of §1–20.201 if longer retention periods are not otherwise required (see § 1–20.202).

§ 1–20.202 Other record retention requirements.

(a) Compliance with the records retention requirements of the contract clauses set forth in the sections cited in § 1–20.201 does not relieve a contractor

or subcontractor from retaining any records for whatever longer periods may be required by any other clause of the contract or subcontract, or by other applicable statute or lawful requirement. (For example, contract clauses and related regulations issued by the Department of Labor require contractors and subcontractors to retain certain records for a stated period, such as 29 CFR 1516.3.)

(b) In this regard, contractors and subcontractors may find helpful the "Guide to Retention Requirements" published annually in the FEDERAL REGISTER and codified in 1 CFR, Appendix A. This is a guide in digest form to the provisions of Federal laws and regulations relating to the keeping of records by the public. It tells the user what records must be kept, who must keep them, and how long they must be kept. The guide does not have the effect of law, but is published to point out legal requirements that appear to be in effect as of January 1 of the calendar year.

§ 1–20.203 Disposition of records after retention period.

At the conclusion of the applicable time period for which any records must be retained, destruction or other disposition of the records is at the discretion of the contractor or subcontractor, and requires no authorization from the contracting agency. However, nothing in this Part 1–20 shall be construed as:

(a) Authorizing the destruction or other disposition of any records where, for any reason, the Comptroller General of the United States, the contracting officer, or their representative, requests the contractor or subcontractor to retain the records for a longer period than would otherwise be required; or

(b) Requiring the contractor or subcontractor to destroy or make other disposition of any records he may desire to retain for his own purposes (for example, in connection with submitting to the Government claims or requests for adjustments).

§ 1–20.204 Costs of certain retentions under cost-reimbursement contracts.

With respect to cost-reimbursement type contracts, reimbursement for costs incurred by the contractor in retaining for his own purposes any records beyond an applicable time period designated in this Part 1–20 shall be governed by the appropriate cost principles set forth in Part 1–15.

§ 1–20.205 Examination of records in special situations.

Where the contractor or subcontractor retains any records identified in § 1–20.301 beyond the retention periods applicable thereto (a) because of other records retention requirements, or (b) at the request of the Comptroller General of the United States, the contracting officer, or their representatives, or (c) for his own purposes, such records shall be available for examination by the Comptroller General of the United States or the contracting officer, respectively, or their representatives, for the extended period of retention up to the expiration of 3 years after final payment under the contract or subcontract.

§ 1–20.206 Identification of records.

Records are identified in this Part 1–20 primarily in terms of their purpose or use, and not by specific name or form number. The descriptive identifications may or may not conform to contractor or subcontractor usage or individual filing practices. Nevertheless, these identifications apply to all records kept by the contractor or subcontractor which come within the description.

§ 1–20.207 Interfiled records.

If two or more of the record categories described in § 1–20.201 are interfiled and screening for disposal is not practical, the contractor or subcontractor shall retain the entire record series for the longest period prescribed for any category of records filed within the series.

§ 1–20.208 Calculation of records retention periods.

(a) The prescribed retention periods for the records described in § 1–20.201 shall be calculated from the end of the contractor's or subcontractor's fiscal year in which an entry is made charging or allocating a cost to a Government contract or a subcontract thereunder. Where there is a series of such entries involving a specific record, the retention period shall be calculated from the end of the contractor's or subcontractor's fiscal year in which the final entry is made. To apply these retention periods, the contractor or subcontractor should cut off the records in annual blocks and retain them for block disposal in accordance with the prescribed retention periods under the related contract or subcontract.

(b) An exception to the foregoing starting time for the retention periods shall be made where records generated during a prior contract are relied upon by a contractor for cost and pricing data in negotiation of a succeeding contract; here the 2- and 4-year periods shall run from the date of the succeeding contract.

§ 1–20.209 Duplicate copies of records and intermediate data.

(a) Duplicate copies of records or supporting documents need not be retained. However, if a duplicate copy contains significant information not shown on the record copy maintained by the contractor or subcontractor, it shall be retained as if it were the record copy.

(b) Intermediate data records consisting of punched cards, electronic tape, or comparable media need not be retained if printouts or listings are prepared and maintained showing the details of the transactions charged or allocated to individual Government contracts and identifying the supporting source documents.

Subpart 1–20.3—Retention Requirements

§ 1–20.301 Retention periods.

The records listed in this Subpart 1–20.3 shall be retained by contractors and subcontractors for the periods designated, provided retention is required under § 1–20.201. The designated retention periods shall be calculated as shown in §§ 1–20.207 and 1–20.208.

§ 1–20.301–1 Financial and cost accounting records.

(a) Accounts receivable invoices, adjustments to the accounts, invoice registers, carrier freight bills, shipping orders, or other documents which detail the material or services billed on the related invoices: Retain 4 years.

(b) Material, work order, or service order files, consisting of purchase requisitions or purchase orders for material or services, or orders for transfer of material or supplies: Retain 4 years.

(c) Cash advance recapitulations, prepared as posting entries to accounts receivable ledgers for amounts of expense vouchers prepared for employees' travel and related expenses: Retain 4 years.

(d) Paid, canceled, and voided checks, other than those issued for the payment of salary and wages: Retain 4 years.

(e) Accounts payable records to support disbursements of funds for materials, equipment, supplies, and services, containing originals or copies of the following and related documents; remittance advices and statements, vendors' invoices, invoice audits and distribution slips, receiving and inspection reports or comparable certifications of receipt and inspection of material or services, and debit and credit memoranda: Retain 4 years.

(f) Labor cost distribution cards or equivalent documents: Retain 2 years.

(g) Petty cash records showing description of expenditures, to whom paid, name of person authorizing payment, and date, including copies of vouchers and other supporting documents: Retain 2 years.

§ 1–20.301–2 Pay administration records.

(a) Payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period; change slips; and tax withholding statements: Retain 4 years.

(b) Clock cards or other time and attendance cards: Retain 2 years.

(c) Paid checks, receipts for wages paid in cash, or other evidence of payments for services rendered by employees: Retain 2 years.

§ 1–20.301–3 Procurement and supply records.

(a) Stores requisitions for materials, supplies, equipment, and services: Retain 2 years.

(b) Work orders for maintenance and other services: Retain 4 years.

(c) Equipment records, consisting of equipment utilization and status reports and equipment repair orders: Retain 4 years.

(d) Expendable property records, reflecting accountability for the receipt and use of material in the performance of a contract: Retain 4 years.

(e) Receiving and inspection report records, consisting of reports reflecting

receipt and inspection of supplies, equipment, and materials: Retain 4 years.

(f) Purchase order files for supplies, equipment, materials, or services, to be used in the performance of a contract or subcontract: Retain 4 years.

(g) Production records of quality control, reliability, and inspection: Retain 4 years.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective April 28, 1969.

Dated: April 24, 1969.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 69-5155; Filed, Apr. 30, 1969; 8:45 a.m.]

Chapter 8—Veterans Administration

PART 8-3—PROCUREMENT BY NEGOTIATION

Personal or Professional Services and Sharing of Medical Facilities and Equipment

1. In § 8-3.204, paragraphs (b)(1) and (e) are amended and paragraph (f) is added so that the added and amended material reads as follows:

§ 8-3.204 Personal or professional services.

* * * * *

(b) * * *

(1) Contracts with medical schools and clinics to provide scarce medical specialist services at Veterans Administration facilities, including, but not limited to, radiologists, pathologists, and psychiatrists, as authorized by 38 U.S.C. 4117. Contracts of this type may provide for professional and technical direction of the medical service involved, but may not provide for the administrative supervision of Veterans Administration employees.

* * * * *

(e) Requirements for scarce medical specialist services to be obtained under contracts with medical schools or clinics will be processed by the station contracting officer. Each proposed contract or renewal will be submitted to the Regional Medical Director (134) for approval by the Chief Medical Director.

(f) For professional services, other than those in paragraph (e) of this section, requests to enter into or renew contracts will be submitted to the department or staff head concerned or his designee for approval.

2. In § 8-3.215, paragraph (i)(3) is amended to read as follows:

§ 8-3.215 Otherwise authorized by law.

* * * * *

(i) *Sharing of medical facilities and equipment.* * * *

(3) Each proposed contract, agreement or renewal will be forwarded to the Regional Medical Director (134), for approval by the Chief Medical Director. A recommendation by the station head as to the geographical limits to be applied to the medical community will accompany each proposed contract or agreement.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective immediately.

By direction of the Administrator.

Approved: April 25, 1969.

[SEAL] A. H. MONK,
Associate Deputy Administrator.

[F.R. Doc. 69-5201; Filed, Apr. 30, 1969; 8:49 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

San Francisco Bay Area Intrastate Air Quality Control Region

On January 10, 1969, notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 400) to amend Part 81 by designating the San Francisco Bay Area Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on January 31, 1969. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.21, as set forth below, designating the San Francisco Bay Area Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.21 The San Francisco Bay Area Intrastate Air Quality Control Region.

The San Francisco Bay Area Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857 h(f) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Sonoma County.	San Francisco County.
Napa County.	San Mateo County.
Solano County.	Alameda County.
Marin County.	Santa Clara County.
Contra Costa County.	

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: April 25, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-5220; Filed, Apr. 30, 1969; 8:50 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Metropolitan Pittsburgh Intrastate Air Quality Control Region

On February 12, 1969, notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 2054) to amend Part 81 by designating the Metropolitan Pittsburgh Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on February 27, 1969. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.23, as set forth below, designating the Metropolitan Pittsburgh Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.23 Metropolitan Pittsburgh Intrastate Air Quality Control Region.

The Metropolitan Pittsburgh Intrastate Air Quality Control Region (Pennsylvania) 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 Pennsylvania:
Allegheny County.
Armstrong County.
Beaver County.
Butler County.
Lawrence County.
Washington County.
Westmoreland County.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: April 25, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-5219; Filed, Apr. 30, 1969; 8:50 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Niagara Frontier Intrastate Air Quality Control Region

On February 12, 1969, notice of proposed rule making was published in the

FEDERAL REGISTER (34 F.R. 2053) to amend Part 81 by designating the Niagara Frontier Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on February 28, 1969. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.24, as set forth below, designating the Niagara Frontier Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.24 Niagara Frontier Intrastate Air Quality Control Region.

The Niagara Frontier Intrastate Air Quality Control Region (New York) 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 New York:
Erie County. Niagara County.

(Secs. 107(a), 301(a), Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: April 25, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-5217; Filed, Apr. 30, 1969; 8:50 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 115—FINANCIAL ASSISTANCE FOR CURRENT EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR FREE PUBLIC EDUCATION OF CERTAIN CHILDREN RESIDING ON FEDERAL PROPERTY

Federal financial assistance made pursuant to the regulations set forth below is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President to effectuate the provisions of section 601 (42 U.S.C. 2000d) of the Civil Rights Act of 1964 (Public Law 88-352).

Part 115 of 45 CFR deals with the filing and processing of applications for financial assistance for current expenditures of local educational agencies in areas affected by Federal activities and for the making of arrangements by the Commissioner of Education to provide free public education for children residing on certain Federal property under Title I, Public Law 874, 81st Congress (64 Stat. 1100), as amended, other than under section 7 thereof.

Part 115 is revised as follows to reflect the amendments made by Public Law 89-750, Public Law 90-247, and Public Law 90-576.

Subpart A—Scope and Definitions

Sec.
115.1 Scope.
115.2 Provisions not exhaustive of jurisdiction of the Commissioner.
115.3 Definitions.
115.4-115.9 [Reserved]

Subpart B—Applications

115.10 Applications.
115.11 Final date for filing applications for financial assistance.
115.12 Applications under sections 2, 3, and 4 received after deadline not considered for payment.
115.13 Notification to applicants.
115.14-115.19 [Reserved]

Subpart C—Payment

115.20 Changes in boundaries, classification and governing authority of applicants.
115.21 Payment under section 3 when percentage eligibility requirement is not met.
115.22 Election under section 4(c).
115.23 Payments.
115.24 Reduction of financial assistance under sections 2, 3, and 4 because of insufficient appropriations.
115.25 Adjustment in entitlement for reductions in State aid.
115.26 Failure or refusal of a local educational agency to educate children living on Federal property.
115.27-115.29 [Reserved]

Subpart D—Generally Comparable Districts, Local Contribution Rate

115.30 Determination of generally comparable school districts.
115.31 Computation of local contribution rate.
115.32 Increase in or special local contribution rate.
115.33-115.39 [Reserved]

Subpart E—Records and Reports Required by the Commissioner

115.40 Records and reports required of applicants.
115.41 Necessity and effect of final reports by applicants under section 2, 3 or 4.
115.42 Retention of records.
115.43 Reports from other Federal agencies.
115.44-115.49 [Reserved]

Subpart F—Arrangements Under Section 6 of the Act

115.50 Proposal for arrangements for certain children residing on Federal property.
115.51 Determination by the Commissioner.
115.52 Arrangements under section 6(b) and section 6(c).
115.53 Terms of arrangements.
115.54 Expenditures.
115.55 Reports.
115.56 Termination of arrangements.

AUTHORITY: The provisions of this Part 115 issued under sec. 7 (as later renumbered 301), 64 Stat. 1107; 20 U.S.C. 242. Interpret or apply secs. 1-6, 7-9 (as later renumbered 301-303), 64 Stat. 1100-1108, as amended; 20 U.S.C. 236-241, 242-244.

Subpart A—Scope and Definitions

§ 115.1 Scope.

The regulations in this part govern the granting of financial assistance under Title I of the Act (other than section 7) to applicants within a State of the Union, Puerto Rico, the Virgin Islands, Wake Island, Guam, the District of Columbia, and American Samoa.

§ 115.2 Provisions not exhaustive of jurisdiction of the Commissioner.

The regulations in this part shall not be deemed exhaustive of the jurisdiction of the Commissioner with respect to Title I of the Act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant. (20 U.S.C. 242(b))

§ 115.3 Definitions.

All terms used in this part which are defined in the Act and not defined in this section shall have the meaning given to them in the Act. As used in this part, and for the purposes of this part and determinations under Title I of the Act, the following terms shall have the meaning indicated in paragraphs (a) to (j) of this section.

(a) "The Act" means Public Law 874, 81st Congress (64 Stat. 1100); as amended by Public Law 248, 83d Congress (67 Stat. 530); Public Law 204, 84th Congress (69 Stat. 433); Public Law 221, 84th Congress (69 Stat. 485); Public Law 382, 84th Congress (69 Stat 713); Public Law 949, 84th Congress (70 Stat. 970); Public Law 896, 84th Congress (70 Stat. 909); Public Law 85-620 (72 Stat. 559); Public Law 86-70 (735 Stat. 144); Public Law 86-449 (74 Stat. 89); Public Law 86-624 (74 Stat. 414); Public Law 87-344 (75 Stat. 759); Public Law 88-210 (77 Stat. 419); Public Law 88-665 (78 Stat. 1109); Public Law 89-10 (79 Stat. 27); Public Law 89-77 (79 Stat. 243); Public Law 89-313 (79 Stat. 1159); Public Law 89-750 (80 Stat. 1191); and Public Law 90-247 (81 Stat. 783), Public Law 90-576 (82 Stat. 1064).

(b) "The Commissioner" means the Commissioner of Education, Department of Health, Education, and Welfare.

(c) "Applicant" means any local educational agency which files an application for financial assistance under section 2, 3, or 4 of the Act, or any subsection of section 3 or section 4, and the regulations in this part, but does not include one proposing arrangements under section 6 of the Act.

(d) "Application" means Form RSF-1, "Application for Financial Assistance for Current Expenditures for Public Schools in Areas Affected by Federal Activities" properly completed and executed, including amendments thereto, and, to the extent indicated by the applicant, any document or documents in support thereof, filed by or on behalf of an applicant requesting financial assistance under Title I of the Act and the regulations in this part.

(e) "Local educational agency" means a board of education or other legally constituted local school authority (including, where applicable, a State agency which directly operates and maintains facilities for providing free public education) having administrative control and direction of free public education, or some phase thereof, throughout a county, township, independent, or other school district located within a State.

(f) "Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(g) "State Aid with respect to free public education" means any contribution, no repayment for which is expected, made by a State to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education.

(h) "Financial assistance" means the payment made to an applicant school district under section 5(b) of the Act by the Department of the Treasury upon authorization of the Commissioner.

(i) "Entitlement" means the amount of assistance which, if the appropriations for a fiscal year are adequate to pay all claims, an applicant under section 2, 3, or 4 of the Act would receive under the formulae prescribed therein.

(j) "Generally comparable school districts" are those so determined by the Commissioner after consultation with the appropriate State educational agency and the applicant.

(k) "Arrangements" means an agreement entered into between the Commissioner and a local educational agency or a Federal department or agency for the provision of free public education under section 6 of the Act.

(l) "The average daily attendance of federally connected pupils" (ADA) in each category of federally connected children, specifically subsections 3(a), 3(b), and contract type 4(a) pupils, is the number of children determined in the following manner: At some specific date not earlier than the fourth day of legal school session of the regular school year and prior to the cutoff date for filing Form RSF–1, a membership count of all pupils claimed in the various federally connected categories must be made by either (1) conducting a parent-pupil survey to determine the parent's employment and the child's residence on Federal property or (2) obtaining certifications from the various employers and the appropriate housing officials as to the employment of the parents of the children claimed or residence of such children on the specific date involved. A membership count of all pupils must be made as of this date, which is to be the official membership report of the applicant school district for that date. The percentage of pupils in each of the federally connected categories is determined by dividing the membership count in each of the federally connected categories by the total membership of all pupils receiving free public education on the date of the count. The percentage so obtained shall be multiplied by the ADA to date of the total membership as reported in the official membership and ADA report of the applicant district for such reporting period. For purposes of the final report (Form RSF–3) multiply this percentage by the total average daily attendance for the period July 1 to the following June 30 to obtain the federally connected ADA by category. (This includes free public summer school for elementary and secondary pupils.)

(m) "Average daily attendance of federally connected pupils when determined by two counts of all pupils." An applicant under section 3 or 4 of the Act may elect to have the "average daily attendance of federally connected pupils determined by two counts of all pupils" in the following manner: The first count must be made as described in paragraph (l) of this section, and the second count must be made at some specific date during the last quarter of the regular school year. A membership count of all pupils claimed in the various federally connected categories must be made by either (1) conducting a parent-pupil survey to determine the parent's employment or the child's residence on Federal property or (2) obtaining certifications from the various employers or the appropriate housing officials as to the employment of the parents of the children claimed or residence of such children on the specific dates involved. A membership count of all pupils must be made as of such dates, which is to constitute the official membership report of the applicant school district for those dates. The percentage of pupils in each of the federally connected categories is determined by dividing the membership count in each of the federally connected categories by the total membership of all pupils receiving free public education on the date of each count. The two percentages so obtained as indicated above for a given category of federally connected pupils, specifically subsections 3(a), 3(b), and contract type 4(a) pupils, shall be added and the sum divided by two (2) to compute an average ratio. The ratio so obtained shall be multiplied by the total average daily attendance for the period July 1 to the following June 30, including the free public education summer school ADA determined in accordance with State law. (20 U.S.C. 241, 244)

Subpart B—Applications

§ 115.10 Applications.

Any local educational agency seeking financial assistance under section 2, 3, or 4 of the Act, shall as a condition of entitlement, file with the Commissioner of Education, through the appropriate State educational agency, on Form RSF–1 "Application for School Assistance in Federally Affected Areas (Title I of Public Law 874)", an application for financial assistance, showing the basis for entitlement under the terms and conditions of Title I of the Act. (20 U.S.C. 240(a))

§ 115.11 Final date for filing an application for financial assistance.

(a) Except as otherwise provided in this section, the final date for filing an application for financial assistance under section 2, 3, or 4 of the Act, and the regulations in this part, out of funds appropriated for any fiscal year shall be March 31st of that fiscal year for all applicants; except that, whenever such a final date falls on a Saturday, Sunday, or other legal holiday, the final date for filing an application shall be the next succeeding weekday which is not a legal holiday. Each application must be received by the Commissioner, or under cover postmarked, on or before the final filing date after transmittal through and certification by the State educational agency. The applicant is responsible for obtaining the certification of the State educational agency and for securing a timely transmittal of the application to the Commissioner of Education. In order to give the State educational agency time in which it may process the application, the applicant should file its application with the State educational agency by March 1 of the fiscal year.

(b) With respect to an applicant whose eligibility for financial assistance under Title I of the Act is established by an activity of the United States initiated or reactivated, or by the acquisition of Federal property, during the fiscal year, the filing date shall be extended 60 days beyond the date of the occurrence establishing such eligibility.

(c) With respect to an applicant whose eligibility for financial assistance is established under or pursuant to an amendment to the Act adopted during the fiscal year, the filing date shall be extended 60 days beyond the date of that amendment.

(d) With respect to a local educational agency which, during the fiscal year, acquired administrative control and direction of free public education in all or any portion of an area of a previously existing local educational agency under the circumstances described in § 115.20 (b), the filing date shall be extended to the extent necessary to allow 60 days beyond the effective date of the change in district organization for the filing of an application under sections 3 and 4 of the Act. For the purposes of this paragraph, where an application is filed directly with the Commissioner on or before the applicable filing date and a copy is filed with the State educational agency on or before the applicable filing date, the application will, for good cause shown, be considered to be timely filed if within fifteen days after the applicable filing date the applicant obtains and files with the Commissioner the approval, verification and certification of the application by the State educational agency.

(e) A timely filed application may be amended to apply for additional or alternative financial assistance based upon

a Federal activity which has been initiated or reactivated, or upon the acquisition of property by the United States after the application was initially filed, or upon an amendment to the Act after the application was filed, or upon a determination of the Commissioner first communicated to the applicant that property is or is not "Federal property" under section 303(1) of the Act if such an amendment is filed within 60 days of the occurrence or communication of the Commissioner's ruling to the applicant. (20 U.S.C. 240(a))

§ 115.12 Applications under sections 2, 3, and 4 received after deadline not considered for payment.

Applications under sections 2, 3, and 4 of the Act received by the Commissioner after the applicable filing date prescribed by § 115.11 will not be approved. (20 U.S.C. 240(a))

§ 115.13 Notification to applicants.

Each applicant will be notified of the initial approval or disapproval of its application under one or more of the sections or subsections of Title I of the Act, and the estimated amount of the payment, if any, to be made. (20 U.S.C. 240)

Subpart C—Payment

§ 115.20 Changes in boundaries, classification and governing authority of applicants.

(a) If the applicant is a party to any merger, consolidation, annexation, deconsolidation, or other similar action which may affect its boundaries, identity, governing authority, classification, or control, it shall notify the Commissioner as soon as practicable of the effective date of that action, the extent and character thereof, and the legal authority under which the action was or is to be effected.

(b) If, as a result of a change in district organization through merger, annexation, consolidation, or other similar action, effective within the fiscal year covered by the application and prior to the close of the regular school term of such year, a local educational agency which had timely filed an application ceases to be a legally constituted local educational agency, it shall not be entitled to any payments under section 3 or 4 of the Act for that fiscal year, except as provided in paragraph (c) of this section. However, except as provided in § 115.21(c), a local educational agency which assumes administrative control and direction of free public education in all or a portion of the area of such previously existing applicant prior to the close of the regular school term of such previously existing applicant, shall, provided that (if not already an applicant under this section involved) it files an application in accordance with § 115.11 (d), and subject to appropriate adjustment on account of payments made to that previously existing local educational agency, have its eligibility under section 3(c)(2), or section 4(a)(1), of the Act and the amount of its entitlement for the entire fiscal year, insofar as such eligibility or entitlement relates to the number of federally connected children, determined in accordance with either of the following, whichever is more favorable to it:

(1) On the basis of the entire area under its jurisdiction on the last day of such year; or

(2) On the basis only of the area acquired by the local educational agency from the previously existing local educational agency, except that the latter basis may be used (i) for an application under section 3 of the Act only if a favorable finding has been made (or would have been made in due course but for the change in district organization) on the basis of the estimates required under section 3(c)(2) of the Act with respect to the previously existing agency, and (ii) for an application under section 4 of the Act only if such a favorable finding has been made (or would have been made in due course but for the change in district organization) under section 4(a)(1).

(c) Any payment made to a local educational agency prior to the date on which the first sentence of paragraph (b) of this section became applicable to it must be repaid to the United States except to the extent that (1) it is accounted for by the adjustments made in the entitlements of any successor applicant local educational agency pursuant to paragraph (b) of this section or paragraph (c) of § 115.21 and (2) any balance remaining thereafter is found by the Commissioner not to be in excess of the amount to which the preexisting local educational agency would have become entitled on the basis of the number of federally connected children not covered by any other application to whom free public education was provided by the previously existing local educational agency or by any successor non-applicant local educational agency. (20 U.S.C. 237(c))

§ 115.21 Payment under section 3 when percentage eligibility requirement is not met.

(a) Pursuant to the exception provision of section 3(c)(2)(B) of the Act, an applicant is not required to meet the 3 percent eligibility requirement of that section if in either of the 2 years preceding the year of application the applicant met such percentage requirement and was entitled to a payment under section 3 of the Act. However, in the second year following the year in which the applicant last met the percentage requirement and was entitled to a payment, the payment under section 3 of the Act shall be reduced by 50 percent.

(b) If an applicant local educational agency was not in existence in either one or both of the two preceding fiscal years, that agency may nevertheless receive the benefit of the provisions of paragraph (a) of this section if that agency is composed only of territory which was formerly included in a predecessor agency which met (or predecessor agencies all of which met) the percentage eligibility requirement and received a net payment under section 3 of the Act for the same fiscal year of the 2 fiscal year periods preceding the fiscal year of application.

(c) If a local educational agency, which had timely filed an application under section 3 of the Act and was entitled to payment by virtue of paragraph (a) or (b) of this section, ceases to be a legally constituted local educational agency as a result of a district reorganization through merger, annexation, consolidation, or other similar action, effective prior to the close of the regular school term within the fiscal year covered by the application (thereby becoming subject to the provisions of § 115.20 (b)), a successor local educational agency which assumes administrative control and direction of free public education in all or a portion of the area of such previously existing applicant prior to the close of the regular school term of such previously existing applicant shall, if (unless already an applicant under section 3) it files an application in accordance with § 115.11(d), and subject to appropriate adjustment on account of payments made to such previously existing local educational agency, be entitled, if it so desires, to have its application processed on the basis of the area acquired from the previously existing local educational agency, and on the basis of the rights of that agency, without regard to the 3 percent requirement.

(d) A reduction in the number of children resulting from a decrease in, or cessation of, Federal activities or a failure of such activities to occur, to whom subsection 3(a) or 3(b) of the Act applies and for whom a local educational agency made preparations to provide free public education during a fiscal year shall be deemed to be substantial when such reduction in number equals that of the qualifying percentage or number as provided for in subsection 3(c)(2)(B) of the Act. (20 U.S.C. 238(c))

§ 115.22 Election under section 4(c).

Pursuant to section 4(c) of the Act, a local educational agency may elect to count for eligibility and payment under section 4(a) of the Act the entire increase in the number of children in average daily attendance at its schools during the fiscal year who are otherwise eligible to be counted under section 3 of the Act. Such an election may be made only if an application under section 4 is timely filed on Form RSF-1 in accordance with § 115.11. Such an election is not subject to change after, and shall become final upon, the date of final payment for the fiscal year involved. (20 U.S.C. 239(c))

§ 115.23 Payments.

Payment of the amount which an applicant may receive under Title I of the Act and the regulations in this part will be made by the Department of the Treasury upon certification of the amount due at such times as the Commissioner shall designate. The amount so certified for any period may be reduced or increased, as the case may be, by any sum by which the Commissioner finds that the amount paid to the applicant for any prior period, whether or not paid within the fiscal

year, was greater or less than the amount which should have been paid for such prior period. (20 U.S.C. 240(b))

§ 115.24 Reduction of financial assistance under sections 2, 3, and 4 because of insufficient appropriations.

As prescribed by section 5(c) of the Act, if the funds appropriated for a fiscal year are not sufficient to pay in full the total amounts which all applicants whose applications have been considered for payment pursuant to this part are entitled to receive under sections 2, 3, and 4 of the Act or any subsection thereof for such fiscal year, the Commissioner will reduce the amounts which he certifies under section 5(d) of the Act for such fiscal year for payment to each such applicant by the percentage by which the funds so appropriated are less than the total necessary to pay such applicants the full amount which they are entitled to receive under the Act. (20 U.S.C. 240(c)).

§ 115.25 Adjustment in entitlement for reductions in State aid.

(a) The amount which each local educational agency in a State is otherwise entitled to receive under section 2, 3, or 4 of the Act for any fiscal year shall be reduced in the same proportion, if any, that the State has reduced for that year its aggregate per pupil expenditures, from non-Federal sources, for current expenditure purposes for free public education below the level of such per pupil expenditures in the second preceding fiscal year. For the purpose of this section, only State aid that is paid to local educational agencies for free public elementary and secondary education will be taken into account. The Commissioner may waive or reduce this reduction whenever in his judgment exceptional circumstances exist which would make its application inequitable and would defeat the purposes of title I of the Act.

(b) Effective on the first day of the first fiscal year which begins after the adjournment of the first complete legislative session (at which State aid may be considered) of the legislature of the respective State held after October 16, 1968, no payment will be made during any fiscal year to any local educational agency in any State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to free public education during that year or the preceding fiscal year, or which makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such local educational agency would receive if it were not so eligible. (20 U.S.C. 240)

§ 115.26 Failure or refusal of a local educational agency to educate children living on Federal property.

(a) If, for any fiscal year for which section 6(f) of the Act is effective, no tax revenues of a State or of a political subdivision of a State may be expended for the free public education of children who reside on a Federal installation within the State, or if no tax revenues of a State are allocated for the free public education of such children, then that installation shall not be considered to be "Federal property" for the purpose of computing entitlements under sections 3 and 4 of the Act of local educational agencies within that State with respect to children living off that property with parents who are employed thereon.

(b) If, for any fiscal year for which section 6(f) of the Act is effective, a local educational agency refuses for any other reason to provide free public education for children residing on a Federal installation which is within its school district or which, in the determination of the Commissioner, would be within its school district if it were not a Federal installation, the Commissioner will deduct from any amount which that local educational agency is otherwise entitled under section 3 or 4 of the Act on amount equal to (1) the amount (if any) by which the cost to the Commissioner of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children. (20 U.S.C. 241(f))

Subpart D—Generally Comparable Districts; Local Contribution Rate

§ 115.30 Determination of generally comparable school districts.

(a) In the case of a local educational agency in a State (other than one to which § 115.32(c) is applicable) the Commissioner will, after consultation with the State educational agency and the applicant, determine those school districts which in his judgment are generally comparable to the applicant. For this purpose, he may, based upon the recommendation of the State educational agency classify all school districts in a State into groups of school districts generally comparable to one another. In recommending to the Commissioner the classification of all school districts in the State into generally comparable groups, the State educational agency should initially establish groups based upon legal classifications or justify the use of another factor as the principal factor. Unless the State educational agency can establish to the satisfaction of the Commissioner that the consideration of additional factors will not result in greater comparability, division into further groups will be required and for the purposes of such further division consideration shall be given to grade level, size as measured by total average daily attendance, geographical size, density of population, industrialization, current revenues, aggregate value of property, and any other relevant factors. In making its recommendations in that regard to the Commissioner, the State educational agency will furnish such information as he may require, including information justifying the factors used and financial and attendance data necessary for the computation of per pupil expenditure and local contribution rate. On the basis of the recommendation by the State educational agency, the data furnished and other information which he may obtain, and applying the above criteria, the Commissioner shall determine whether all school districts in the State shall be classified into generally comparable groups and, if so, shall determine such groups. Otherwise, the determination of the local contribution rate shall be made in accordance with paragraph (b) of this section. Group rates will be mandatory for all districts in the State unless one-half of the State, or one-half of the national average per pupil expenditure is used as the local contribution rate.

(b) In a State for which group classifications of generally comparable school districts are not established pursuant to paragraph (a) of this section, an applicant must submit to the Commissioner in its application the names of districts, preferably five in number which it deems generally comparable to the school district of the applicant with all data requested by the Commissioner. The selection by the applicant of such school districts shall be based upon the criteria set forth in paragraph (a) of this section and shall be submitted through the State educational agency for review and comment. The Commissioner's determination will be based upon such criteria and any other relevant factors. The financial, attendance, and other data of the selected districts must be sufficient to justify the selection of such districts as generally comparable and to determine the per pupil expenditures and the local contribution rates in such districts. On the basis of information and data furnished by the applicant, or information otherwise obtained, and applying the above criteria, the Commissioner shall select those school districts, which in number and identity may be different from those submitted by the applicant, which he determines to be generally comparable to the school district of the applicant. (20 U.S.C. 240(d))

§ 115.31 Computation of local contribution rate.

The local contribution rate for an applicant in a State (other than one to which § 115.32(c) is applicable) for any fiscal year will be computed by the Commissioner in the following manner: He shall divide (a) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making a computation, which the local educational agencies of the school districts, determined pursuant to § 115.30 to be generally comparable to that of the applicant, made from revenues derived from local sources by (b) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year. The local contribution rate shall be an amount equal to the quotient so obtained. (20 U.S.C. 238(d))

§ 115.32 Increase in or special local contribution rate.

(a) Notwithstanding the provision in § 115.31, if the current expenditures in the school districts which the Commissioner had determined to be generally comparable to that of the applicant but nevertheless, in his judgment, are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain in the school district of the applicant a level of education equivalent to that maintained in such other districts, the Commissioner may increase the local contribution rate for such an applicant by the amount he determines will compensate the applicant for the increase in current expenditures necessitated by such unusual geographical factors.

(b) In no event shall the local contribution rate for any local educational agency in any State of the Union or the District of Columbia for any fiscal year be less than (1) 50 percent of the average per pupil expenditure in that State or (2) 50 percent of the average per pupil expenditure in the United States (which for this purpose means the 50 States of the Union and the District of Columbia) but not in excess of the average per pupil expenditure in that State. For the purposes of the preceding sentence the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in the State, or in the United States, as the case may be, plus any direct current expenditures by the States for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year.

(c) The local contribution rate for any applicant in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in any State in which a substantial proportion of the land is in organized territory for which a State agency is the local educational agency, or in any State in which there is only one local educational agency, shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will, in his judgment, best effectuate the purposes of section 3(d) of the Act and most nearly approximate the policies and principles provided in the Act and the regulations in this part for determining local contribution rates in other States. (20 U.S.C. 238(d))

Subpart E—Records and Reports Required by the Commissioner

§ 115.40 Records and reports required of applicants.

(a) Each applicant shall maintain adequate written records to substantiate the Federal connection of pupils forming the basis for claim for financial assistance under any subsection of section 3 or section 4 of the Act and shall make its records available to the Commissioner upon request for the purpose of examination or audit.

(b) Each applicant shall submit such reports and information as the Commissioner may reasonably require to determine the amount which the applicant may be paid under section 2, 3, or 4 of the Act. (20 U.S.C. 240(a), 242(b))

§ 115.41 Necessity and effect of final reports by applicants under section 2, 3, or 4.

(a) *Submission of final reports.* Each applicant shall for each fiscal year, submit through the State educational agency on Form RSF–3 a final report to enable the Commissioner to determine the amount of which the applicant is entitled under title I of the Act. Such final reports shall be received by the Commissioner on or before the 30th day of September following the fiscal year for which payment is requested; except that, whenever that date falls on a Saturday, Sunday, or other legal holiday, the final date for filing final reports shall be the next succeeding week day which is not a legal holiday. No certification of payment shall be made after the applicable date for filing the final report for any fiscal year until the final report for that fiscal year shall have been received. Until all such reports for each year for which an applicant has received a payment have been received in proper form, no further payment to such applicant shall be made under title I of the Act for any subsequent year, unless the Commissioner is satisfied from other information that the payments already made for the year for which a final report is lacking do not exceed the net amount due that applicant out of the appropriations for that year.

(b) *Failure to submit final report when appropriations insufficient.* In addition to the limitation in paragraph (a) of this section for any year for which the Commissioner is required to reduce the amounts which he certifies for payment because the funds appropriated are insufficient to pay in full the total amounts to which all applicants are entitled, unless the final report has been received by the Commissioner on or before the applicable date for filing that final report, an applicant shall not be entitled to any further payment out of funds available for that fiscal year. However, an applicant which has not received its regular initial payment for that year, shall have its application processed for that regular initial payment if a final preport is received by the Commissioner within 30 days after the applicable date for filing that final report.

(c) *Excessive entitlement.* The Commissioner may for a fiscal year for which no final report has been received disallow any portion of the estimated entitlement which he may determine to be excessive on the basis of such information as is available. On the basis of all available information and whether or not such a report has been submitted after the applicable date for filing a final report following the close of the fiscal year, if an applicant is found to have received funds in excess of its entitlement or prorated portion of its entitlement for that fiscal year, that excess will be deducted in computing amounts subsequently certified for payment to the applicant for the current or subsequent fiscal year. Where no such payments are due, the applicant will be required to refund such excess to the United States through the Commissioner.

(d) *Information submitted after deadline date.* No effect will be given to any report or information filed by the applicant after the applicable date for filing a final report to increase the amount computable on the basis of information filed on such date, except that, where clarifying information has been solicited in writing by the Commissioner for the purpose of processing applications and final reports, such information may be given effect if received in writing by the Commissioner. (20 U.S.C. 240(a))

§ 115.42 Retention of records.

Local educational agencies receiving Federal payments under title I of the Act are required to keep all records supporting the application until the completion of the administrative reviews which are regularly conducted by Federal agencies, or for 3 years following the fiscal year to which the application relates, whichever is earlier. The records involved which have been questioned should be further maintained until necessary adjustments have been made and the adjustments have been reviewed and cleared by the Federal agencies making such reviews. (20 U.S.C. 242(b))

§ 115.43 Reports from other Federal agencies.

Because of the requirements of section 2 and other provisions of the Act, the Commissioner requires information with respect to certain payments made by other Federal departments and agencies for the same general purposes. Pursuant to the provisions of section 302(b) of the Act, other Federal departments and agencies which made expenditures (directly or otherwise) for, or in aid or supplementation of, elementary and secondary education, with respect to which an application has been filed with the Commissioner, will be requested to file reports of commitments and expenditures for such purposes. (20 U.S.C. 243(b)).

Subpart F—Arrangements Under Section 6 of the Act

§ 115.50 Proposal for arrangements for certain children residing on Federal property.

Any local educational agency, or the Federal department or agency administering the Federal property on which part or all of such children reside, believing that the Commissioner should exercise his authority under section 6(a) of the Act to make arrangements to provide free public education for children who reside on Federal property, and being willing to enter into or assist in entering into such arrangements, should

file with the Commissioner, on or before March 15 preceding the fiscal year for which such arrangements would be made, a proposal in the form prescribed by the Commissioner and bearing the endorsement of either the State and local educational agencies or the appropriate officials of the Federal department or agency administering the property or properties on which the children reside, as the case may be. Among the details to be included in the proposal are (a) the reasons why the Commissioner should make a determination to enter into such arrangements, (b) the estimated number of children to be educated, (c) financial and educational details necessary for the Commissioner to make the determinations and arrangements required under section 6 of the Act, and (d) the name of the local educational agency or Federal department or agency which would provide such free public education. (20 U.S.C. 241(a), 241(d))

§ 115.51 Determination by the Commissioner.

If under section 6(a) of the Act the Commissioner determines that he is required to make such arrangements to provide free public education for part or all of the children on whose behalf the request is made or if, acting upon information otherwise received, he makes a determination to provide free public education for children who reside on Federal property, such arrangements shall be made, in accordance with the proposal or such other information or recommendation as he may deem appropriate, with a local educational agency or with the Federal department or agency administering the Federal property on which part or all of the children reside who will be provided education pursuant to the arrangements. (20 U.S.C. 241(a), 243(a))

§ 115.52 Arrangements under section 6 (b) and section 6(c).

When the Commissioner makes a determination under section 6(a) of the Act that arrangements shall be made to provide free public education with respect to children who reside on Federal property, he will under appropriate circumstances also make arrangements in connection therewith for those children for whose education he is authorized to make provisions under section 6(b) and section 6(c) of the Act. (20 U.S.C. 241(b), 241(c))

§ 115.53 Terms of arrangements.

The arrangements between the local educational agency or the Federal department or agency and the Commissioner shall be as detailed as the circumstances of the individual situations may require. (20 U.S.C. 241)

§ 115.54 Expenditures.

In making such arrangements, the Commissioner shall not make payments (a) for expenditures made prior to his determination that he is required to make such arrangements; or (b) for expenditures made subsequent thereto unless such expenditures are within the definition of "current expenditures" in section 303(5) of the Act or are within the general terms of the arrangements; or (c) for expenditures in excess of the actual or reasonable per pupil expenditure of providing free public education in the applicable State. (20 U.S.C. 241)

§ 115.55 Reports.

The local educational agency or the Federal department or agency with which such arrangements are made shall make such reports to the Commissioner from time to time as he may require to perform his functions under the Act. (20 U.S.C. 240(a), 243(b))

§ 115.56 Termination of arrangements.

Arrangements under section 6 of the Act shall be limited to provide free public education for not more than 1 school year. If the Commissioner determines that the local educational agency or the Federal department or agency with which arrangements have been made has substantially deviated from the terms of the arrangements, he will so notify the local educational agency or the Federal department or agency concerned. If the local educational agency or the Federal department or agency does not within a reasonable time comply with the terms of the arrangements, the Commissioner may terminate such arrangements without further notice. (20 U.S.C. 241)

Dated: March 26, 1969.

PETER P. MUIRHEAD,
Acting U.S. Commissioner of Education.

Approved: April 25, 1969.

ROBERT H. FINCH,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 69-5216; Filed, Apr. 30, 1969; 8:50 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[Docket No. 9547; Amdt. 7C-1]

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Appendix C—Federal Aviation Administration

The purpose of this amendment of Appendix C of Part 7 of the Department of Transportation Regulations is to make several procedural changes in Appendix C which describes the document inspection facilities of the Federal Aviation Administration, the kinds of FAA records available to the public, and the procedure by which requests for records may be made.

Since some documents now listed in paragraph 3 are actually not kept at inspection facilities, and it would be a great burden and expense for the FAA to keep all such documents at inspection facilities, paragraphs 3 and 4 are being revised to indicate that those documents not available at inspection facilities can be inspected and copies obtained by submitting a written request to the named official at the location of such documents. For the sake of clarity, the heading of paragraph 3 is changed to indicate that the documents available at inspection facilities are those available under Subpart D of Part 7.

As the changes in this amendment constitute a substantial revision of Appendix C, the entire appendix is republished.

This amendment of Appendix C is being issued by the Administrator of the Federal Aviation Administration under the authority of § 7.1(c) of the Department of Transportation Regulations which states that the "* * * head of the operating administration concerned may amend the appendix applicable to that Administration * * *".

Since this amendment is procedural in nature, and does not impose a burden on the public, I find that notice and public procedure thereon are not necessary, and that it may become effective on less than 30 days notice.

In consideration of the foregoing, Appendix C to Part 7 of the Department of Transportation Regulations is hereby amended, effective May 25, 1969, as follows:

APPENDIX C—FEDERAL AVIATION ADMINISTRATION

1. *General.* This appendix describes the document inspection facilities of the Federal Aviation Administration, the kinds of records that are available for public inspection and copying at these facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained for FAA Headquarters, each FAA regional office, the Aeronautical Center, and the National Aviation Facilities Experimental Center. The document inspection facility for the European Region is located at FAA Headquarters. These facilities are open to the public during regular working hours at the following addresses:

FAA Headquarters, 800 Independence Avenue SW, Washington, D.C. 20590.
Alaskan Region, 632 Sixth Avenue, Anchorage, Alaska 99501.
Central Region, 601 East 12th Street, Kansas City, Mo. 64106.
Southern Region, 3400 Whipple Street, East Point, Ga. (Mailing Address: Post Office Box 20636, Atlanta, Ga. 30320).
Southwest Region, 4400 Blue Mound Road (Mailing Address: Post Office Box 1689), Fort Worth, Tex. 76101.
Western Region, 5651 West Manchester Avenue (Mailing Address: Post Office Box 92007), Los Angeles, Calif. 90045.
Eastern Region, JFK International Airport, New York, N.Y. 11430.
Pacific Region, 1833 Kalakaua Avenue (Mailing Address: Post Office Box 4009), Honolulu, Hawaii 96812.
Aeronautical Center, 6400 South MacArthur Boulevard (Mailing Address: Post Office Box 25082), Oklahoma City, Okla. 73125.
National Aviation Facilities Experimental Center, Tilton Road, Route 563 (near Pomona, N.J.) (Mailing Address: Atlantic City, N.J. 08405).

3. *Documents available under Subpart D at document inspection facilities.* a. The following records under Subpart D of this part are available at Federal Aviation Administration document inspection facilities:

(1) Final opinions and orders made in the adjudication of cases by the Administrator, Federal Aviation Administration.

(2) Policies and interpretations, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation. All such policies and interpretations made by the Administrator, Deputy Administrator, Associate Administrators, Directors and Heads of Offices are available at the FAA Headquarters document inspection facility; only those policies and interpretations made by the Administrator, Deputy Administrator and the Regional or Center Director concerned shall be available at Regional and Center document inspection facilities.

(3) Administrative staff manuals or instructions to staff that affect any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public. Such documents are available at the inspection facility of the organizational unit which has issued them.

b. An index of the records located at each document inspection facility is maintained at that facility.

c. The records and the index may be inspected, at the facility, without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart H of this part.

4. *Requests for identifiable records under Subpart E of this part.* Each person desiring to inspect a record, or obtain a copy thereof, must submit his request in writing to the Manager, Headquarters Operations, FAA Headquarters, or the Director of the Region or Center in which it is located. The addresses of FAA Headquarters and the Regions and Centers are listed in paragraph 2 of this appendix. If the location of the record is not known, the request may be submitted to the Manager, Headquarters Operations, FAA Headquarters. Each request must be accompanied by the appropriate fee prescribed in Subpart H of this part. In some instances, the amount of the fee will have to be determined after the request has been received due to the circumstances peculiar to each case. The following table gives illustrations of types of records and where they are located:

a. Records pertaining to the issue, amendment, suspension or revocation of certificates, permits, authorizations, and approvals such as:

(1) Airman certificates and ratings for pilots, flight instructors, flight navigators, flight engineers, aircraft dispatchers, mechanics, repairman, air traffic control operators, parachute riggers and ground instructor certificates are maintained at the Aeronautical Center.

(2) Aircraft registration certificates, and airworthiness certificates are maintained at the Aeronautical Center.

(3) Aircraft type certificates and production certificates are maintained at the regional office within which the certification action is taken.

(4) Ferry permits and special flight authorizations are maintained at the district office of the region within which the issuance was made.

(5) Air carrier operating certificates, commercial operators certificates, agricultural aircraft operator certificates, repair station certificates, parachute loft certificates, pilot school certificates, and mechanic school certificates are maintained at the district office of the region within which the certification was taken.

b. Records of designations of representatives of the Administrator are located at FAA Headquarters.

c. Records covering civil rights violations determinations under title VI Civil Rights Act of 1964 are located at FAA Headquarters.

d. Records relating to Federal-aid Airport Grants are located at the regional office within which the grant was made.

e. Records of approvals of navigational facilities under FAR Part 171 are located at the regional office within which the approval was issued.

f. Records relating to civil penalty actions and seizure of aircraft are located at the regional office within which the action was taken.

5. *Reconsideration of determination not to disclose records.* Any person to whom a record is not made available within a reasonable time after his request, and any person who has been notified that a record he has requested cannot be disclosed, may apply, in writing, to the Director, Information Services at FAA Headquarters, for reconsideration of that request. For all purposes, including that of judicial review, the decison of the Director, Information Services, is administratively final as the decision of the Federal Aviation Administrator.

(Sec. 552, Title 5, United States Code; sec. 9, Department of Transportation Act (Public Law 89-670, 49 U.S.C. 1657); § 7.1(c), Department of Transportation regulations (49 CFR 7.1(c)); Title V, Independent Offices Appropriation Act of 1952 (65 Stat. 290, 31 U.S.C. 483a))

Issued in Washington, D.C., on April 24, 1969.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 69-5184; Filed, Apr. 30, 1969; 8:47 a.m.]

[OST Docket No. 22; Amdt. 2]

PART 71—STANDARD TIME ZONE BOUNDARIES

Operating Exceptions for Certain Lines of Railroad

The purpose of this amendment to Part 71 of Title 49 of the Code of Federal Regulations is to change the existing lists of exceptions pertaining to certain railroad operations of the Detroit, Toledo, and Ironton Railroad and the Ann Arbor Railroad that traverse the Ohio-Michigan State boundary.

On April 24, 1969, the lists of operating exceptions for railroads were revised and restated (34 F.R. 6849). The revised and restated lists contained two new categories of exceptions (49 CFR 71.4(g) (3) and (4)) that were made necessary because of the action of the State of Michigan in exempting itself from the observance of advanced (daylight) time.

Based upon requests from the Detroit, Toledo, and Ironton Railroad and the Ann Arbor Railroad certain of their respective operations traversing the Ohio-Michigan State line were granted exceptions under one or the other of the two new categories.

Subsequently the two railroads concerned requested modification of those operating exceptions which would have allowed certain of their operations in Ohio to be performed on Michigan nonadvanced time between the last Sunday in April and the last Sunday in October. Because of the number of interchange points in Ohio with other rail carriers operating on advanced time, the two railroads concerned requested that all of their necessary operating exceptions be listed so as to permit them to operate on eastern standard time (advanced) from the Ohio-Michigan State line to appropriate points in Michigan.

Operating exceptions are granted pursuant to the first section of the Act of March 19, 1918, as amended by section 4(a) of the Uniform Time Act of 1966 (15 U.S.C. 261), to permit certain carriers to carry the standard of time upon which the major portion of a particular operation is conducted into an adjoining time zone. However, each carrier concerned shall, in its advertisements, time cards, bulletin boards in stations and other publications, show the arrival and departure times at stations along the excepted lines in terms of the standard of time for the area in which those stations are situated.

Since this amendment involves the restatement of certain existing exceptions and the establishment of certain new exceptions required by the time zone boundary changes or exemption described above, I find that notice and public procedure thereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, effective at 2 a.m. on April 27, 1969, Part 71 of Title 49 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., on April 25, 1969.

R. TENNEY JOHNSON,
Acting General Counsel.

Subparagraphs (3) and (4) of paragraph (g) of § 71.4 are amended to read as follows:

§ 71.4 Boundary line between eastern and central zones.

* * * * *

(g) *Operating exceptions.* * * *

(3) *Indiana and Ohio operations included in Michigan nonadvanced time.* Those portions of the following lines of railroad located east of the zone boundary described in this section, are, for operating purposes only, excepted from the U.S. standard eastern time zone to permit operations in accordance with Michigan nonadvanced eastern time during the period from 2 a.m. on the last Sunday in April to 2 a.m. on the last Sunday in October:

Railroad	From—	To—
Chesapeake & Ohio.	Michigan-Ohio State line (north of Alexis, Ohio).	Alexis, Ohio.
Detroit & Toledo Shore Line.	Michigan-Ohio State line (north of Toledo, Ohio).	Toledo, Ohio.
Penn Central....	Michigan-Indiana State line (north Vistula, Ind.).	Tower B, Elkhart, Ind.
Do.....	Michigan-Ohio State line (north of Alexis, Ohio).	Alexis, Ohio.
Do.....	Michigan-Indiana State line (south of Niles, Mich.).	South Bend, Ind.
Do.....	Michigan-Indiana State line (south of Sturgis, Mich.).	Fort Wayne, Ind.

(4) *Michigan operations excepted from Michigan nonadvanced time.* Those portions of the following lines of railroad located within the State of Michigan and east of the zone boundary described in this section, are, for operating purposes only, excepted from the requirement to operate in accordance with Michigan's nonadvanced eastern time and permitted to operate on eastern standard time (advanced) during the period from 2 a.m. on the last Sunday in April to 2 a.m. on the last Sunday in October.

Railroad	From—	To—
Ann Arbor.....	Ohio-Michigan State line (north of Alexis, Ohio).	Owosso, Mich.
Detroit, Toledo & Ironton.	Ohio-Michigan State line (north of Metamora, Ohio).	Detroit and Dearborn, Mich.
Do.....	Ohio-Michigan State line (north of Denson, Ohio).	Tecumseh, Mich.
Do.....	Ohio-Michigan State line (North of Alexis, Ohio) (over the tracks of the Ann Arbor Railroad).	Diann, Mich.
Penn Central....	Indiana-Michigan State line (north of Ray, Ind.).	Jackson, Mich.
Do.....	White Pigeon Junction, Mich.	Jonesville, Mich.
Do.....	Litchfield, Mich.....	Osseo, Mich.
Do.....	Bankers, Mich.....	North Adams, Mich.
Do.....	Morenci, Mich.....	Palmyra, Mich.
Do.....	Clayton, Mich.....	Ida, Mich.
Do.....	Ohio-Michigan State line (south of Ottawa Lake, Mich.).	Clinton, Mich.
Do.....	Ohio-Michigan State line (north of Alvordton, Ohio).	Jackson, Mich.
Do.....	Cement City, Mich....	Brooklyn, Mich.

* * * * *

[F.R. Doc. 69-5187; Filed, Apr. 30, 1969; 8:48 a.m.]

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-3; Amdts. 171-3, 172-2, 173-6, 174-3, 177-5, 178-3, 179-2]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of these amendments is to make a number of miscellaneous changes in the Hazardous Materials Regulations. These amendments are, for the most part, based on Notice 68-2 (Docket No. HM-3) which was issued by the Hazardous Materials Regulations Board on February 16, 1968 (33 F.R. 3382).

As a result of numerous requests, on August 2, 1968, the Board announced an extension of the time for comment on that portion of the notice relating to the definition of flammable liquids and the transportation of liquefied gases in the lower temperature ranges. After analyzing the numerous comments received in this regard, the Board has decided to reconsider these proposals. The Board has also determined not to adopt at this time certain definitions proposed in the notice. Other proposals contained in the notice that have either been dropped or altered are specifically discussed hereinafter. Therefore, the action taken in this document is to be considered as final action on Notice 68-2 (Docket HM-3) and if after reconsideration, it is determined that further rule making action is warranted on any of the items that were proposed, but not adopted, a new notice of proposed rule making will be issued.

The significant comments and the changes (other than minor corrections and editorial changes) from the notice are discussed below.

1. The proposed definition of the term "hazardous material" has been modified so that as adopted it states simply that the term is synonymous with the term "explosives and other dangerous articles", as contained in 18 U.S.C. 831-835. The proposed definition of "transport vehicle" was included in a recent amendment relating generally to radioactive materials (33 F.R. 14920).

2. The notice proposed to amend several sections relating to the shipping of explosives (e.g., §§ 173.21, 173.79, 173.86, 173.92, and 173.95) to substitute Department of Transportation "approval" for Bureau of Explosives "approval." The Board has concluded that, until the Department is staffed to efficiently and competently perform functions that for many years have been performed by the Bureau of Explosives, the approval authority should remain with the Bureau of Explosives.

3. Section 173.30 has been modified to make it clear that it applies to any person loading or unloading dangerous articles, not only shippers, and that of the referenced requirements only those applicable in a particular case need be complied with.

4. Section 173.51(g) has been simplified by stating the intended exception from the forbidden explosives category by a reference to § 173.86.

5. As proposed in the notice, § 173.86 is amended to permit shipment of new explosives if examined and approved by the Department of Defense. This has been accomplished by a general reference to Department of Defense examination and approval rather than by reference to a specific DoD classification procedure. The Board believes that since there has been no reference in the past to a specific Bureau of Explosives approval procedure (and since B of E approval is being retained for other than military shipments) there is no need to specify the DoD classification procedure to be used.

6. As proposed, a definition of practice cartridge ammunition has been added to § 173.100. For consistency with the commodity list, the defined term has been changed to "cartridge, practice ammunition".

Also, the language in the proposed definition that would have necessitated looking to the intended use of the ammunition in addition to its specific characteristics, has been deleted as inappropriate to a transportation safety determination.

7. Paragraph (a)(4) of § 173.188 has been modified to make it clear that a specification 6K metal drum can be used to ship phosphoric anhydride at a gross weight exceeding 480 pounds only where the test requirements of § 178.101-11 have been met at a 600-pound gross weight.

8. Section 173.304(b)(2) has been modified to provide a reference to § 173.316(a)(2) for the pressure-controlling valve requirement for liquefied hydrogen in 4L cylinders thereby imposing a more restrictive requirement than for certain other materials.

9. Proposed § 173.316(a)(2) has been reorganized for clarity. For consistency with §§ 177.840 and 178.57-8, the venting rate is expressed in standard cubic feet "per hour" rather than "per minute". Also, the language relating to a venting rate has been changed to permit for a single cylinder a maximum venting rate of 30 standard cubic feet per hour rather than 60 as was implied by the proposed language. This change is consistent with § 177.840 as proposed and as adopted since the figure of 60 cubic feet per hour is intended as a maximum per motor vehicle and not per cylinder. Several comments objected to the proposed requirement that the pressure must be manually vented to not exceeding 8 p.s.i.g. not more than 2 hours before loading. The Board believes that a manual venting requirement is desirable to minimize to the maximum extent feasible the amount of venting that will occur during transportation. However, the Board believes that the desired objective can be achieved by permitting the manual venting up to 4 hours before the beginning of transportation rather than relating the requirement to a period of time before loading.

10. Paragraph (k) of § 173.393 is deleted since the provisions thereof are now covered by § 173.30 as revised in this amendment.

11. The only significant change in § 174.566, as adopted, is to substitute the words "thoroughly cleaned" for the words "flushed out with water" since water could be inappropriate for use in removing certain poisons.

12. Since the purpose of the proposed change to § 174.589 was merely to accomplish a clarification, it has been dropped from this amendment and will be considered in connection with a complete revision of § 174.589 now under study.

13. Section 177.801 is amended as proposed to include private carriers within its scope. However, the proposed amendment to require that the methods of manufacturing, packing, and storage of hazardous materials be open to inspection by representatives of this Department has not been adopted at this time. Failure to adopt this proposal is not due, as suggested by some commenters, to any lack of authority in the Department to impose such a requirement, but rather to withhold any change to § 177.801 until comparable changes have been proposed to parallel §§ 173.1, 174.500, 175.650, and 176.700.

14. Except for minor reorganization, § 177.840 is adopted as proposed. One commenter objected to inclusion of special loading requirements applicable to the 4L cylinder. The experience gained under special permits that justified this amendment was under conditions that included comparable loading requirements. The Board is not satisfied that an adequate level of safety would be maintained if these requirements were deleted.

15. In addition to the changes proposed in the notice, § 178.37–5(a) is amended by deleting note 3 thereto since, as pointed out by commenters, retention of the note would be inconsistent with the intent of the proposed change to authorize generally the use of basic oxygen process steel.

16. The notice proposed to amend §§ 178.51–20, 178.60–4, and 178.61–5 to include tables of authorized steel and check analysis tolerances. In addition, commenters pointed out that these tables should have been included in § 178.56–20. To avoid repeating these identical tables four times in the regulations these items have been included as Table I of Appendix A to Part 178 and references to the appendix have been included in the four sections as applicable. In addition, commenters pointed out that, in the interest of safety, a phosphorus limitation should be specified for the chemical composition of grade three steel and that an allowance should be made for rephosphorized steels. Both of these comments are valid and accordingly a phosphorus limit of 0.045 is included for grade three steel and a new note 6 has been added to Table I to authorize and to provide limiting criteria for the use of rephosphorized steel.

17. As a result of comments received, and to make the venting requirements for liquefied hydrogen in the specification for 4L cylinders consistent with those requirements contained in §§ 173.316(a)(2) and 177.840(a)(2), paragraph (c) of § 178.57–8 as adopted authorizes a maximum heat transfer that will not cause venting of more than 30 standard cubic feet of hydrogen gas per hour as a basis for design and construction rather than 1 percent of the contents in a period of 24 hours as proposed.

18. Notice 68–2 proposed to add a new paragraph (a)(5) to § 178.57–20 containing additional marking requirements for liquefied hydrogen in specification 4L cylinders. As pointed out by several comments, the Board concluded that the marking requirements contained elsewhere in the regulations (§§ 173.316(a)(2) and 173.401(a)) together with the present marking requirements of § 178.57–20 are adequate. Therefore, the proposed changes to § 178.57–20 have not been adopted.

19. As was pointed out in comments received on the notice, the proposed clarifying change to §§ 178.82–9, 178.115–8, and 178.116–8 could cause more confusion than clarification. Therefore, no change in these sections has been made.

20. One comment objected to inclusion of the 3/16-inch minimum thickness requirement in § 178.337–10(b) in addition to the performance requirements therein. This is not a substantive change but merely a rearrangement which moves the present 3/16-inch minimum thickness requirement for protective housing from paragraph (a) of § 178.337–3(a) to paragraph (b) of § 178.337–10.

21. As a result of the comments received, the proposed revision of § 178.337–13(b) which was for the purpose of clarification has not been adopted since it could have resulted in an unintentional substantive change.

Many commenters, in response to notice 68–2, proposed changes that were beyond the scope of the notice. These proposed changes could not be considered for inclusion in this amendment. Since most of the proposals did not contain the supporting data required under Part 170 of the Board's regulations for petitions for rule making, those commenters on Notice 68–2 that wish their proposals to receive further consideration should resubmit them in accordance with the requirements of § 170.11.

Interested persons were afforded an opportunity to participate in this rule making and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173, 174, 177, 178, and 179 are amended, effective September 3, 1969. However, compliance with the regulations as amended herein is authorized immediately.

These amendments are made under the authority of sections 831–835 of Title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and Title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

PART 171—GENERAL INFORMATION AND REGULATIONS

I. Part 171 is amended as follows:

(A) Section 171.8 is amended by adding paragraph (m) to read as follows:

§ 171.8 Definitions.

* * * * *

(m) "Hazardous materials" means "explosives and other dangerous articles" as used in title 18, United States Code, sections 831–835.

PART 172—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 171–179 OF THIS CHAPTER

II. Part 172 is amended as follows:

§ 172.4 [Amended]

(A) Note 1 following paragraph (a) in § 172.4 is canceled.

(B) In § 172.5 paragraph (a) the Commodity List is amended as follows:

§ 172.5 List of explosives and other dangerous articles.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in one outside container by rail express
Change				
* * *	* * *	* * *	* * *	* * *
*Compounds, cleaning, liquid (containing hydrochloric (muriatic) acid)	Cor. L	173.244,173.263	White	10 pints.
Add				
* * *	* * *	* * *	* * *	* * *
Cartridges, practice ammunition	Expl. C	No exemption, 173.101a		150 pounds.
* * *	* * *	* * *	* * *	* * *

PART 173—SHIPPERS

III. Part 173 is amended as follows:

(A) In the Table of Contents §§ 173.30, 173.79, 173.86, 173.92, and 173.102 are amended; § 173.101a is added to read as follows:

Sec.

173.30 Loading and unloading of transport vehicles.

173.79 Jet thrust units (jato), class A explosives; rocket motors, class A explosives; igniters, jet thrust (jato), class A explosives; and igniters, rocket motor, class A explosives.

173.86 New explosives and samples for laboratory examination.

173.92 Jet thrust units (jato), class B explosives; rocket motors, class B explosives; igniters, jet thrust (jato), class B explosives; igniters, rocket motors, class B explosives; and starter cartridges, jet engine, class B explosives.

173.101a Cartridges, practice ammunition.

173.102 Explosive cable cutters; explosive power devices, class C; explosive release devices, or starter cartridges, jet engine, class C explosives.

(B) Section 173.30 is amended in its entirety to read as follows:

§ 173.30 Loading and unloading of transport vehicles.

(a) Any person who loads or unloads shipments of hazardous materials into or from transport vehicles shall comply with the applicable loading and unloading provisions of Parts 174 and 177 this chapter as follows:

(1) Rail: Sections 174.525 through 174.567.

(2) Highway: Sections 177.834 through 177.848.

(C) Paragraph (q) in § 173.51 is amended to read as follows:

§ 173.51 Forbidden explosives.

* * * * *

(q) New explosives and explosive devices except as provided for in § 173.86.

* * * * *

(D) In § 173.53 paragraph (t) (2) (ii) is amended to read as follows:

§ 173.53 Definition of class A explosives.

* * * * *

(t) * * *

(2) * * *

(ii) Rocket motors, class A explosives may be shipped in a propulsive state only under conditions approved by the Department of Defense.

* * * * *

(E) Section 173.79 is amended in its entirety to read as follows:

§ 173.79 Jet thrust units (jato), class A explosives; rocket motors, class A explosives; igniters, jet thrust (jato), class A explosives; and igniters, rocket motor, class A explosives.

(a) Class A explosives covered by this section must be packaged in outside packagings complying with the following specifications:

(1) Specification 14, 15A, 15E, or 16A (§§ 178.165, 178.168, 178.172, 178.185 of this chapter) wooden boxes, or wooden boxes, fiberboard lined.

(2) Wooden boxes, wooden crates, or other packagings of approved military specifications which comply with § 173.7 (a), or other packagings approved by the Bureau of Explosives.

(b) Jet thrust units, class A explosives or rocket motors, class A explosives, must not be shipped with igniters assembled therein unless shipped by, for, or to the Department of the Army, the Department of the Navy, or the Department of the Air Force.

(c) Jet thrust units class A explosives or rocket motors, class A explosives, may be packaged in the same outside packaging with their separately packaged igniters (or igniter components), class A, B, or C explosives only in packagings approved by the Bureau of Explosives or of approved military specifications complying with § 173.7(a).

(d) Each package must be plainly marked "Jet Thrust Units, Class A Explosives", "Rocket Motors, Class A Explosives", "Igniters, Jet Thrust, Class A Explosives", or "Igniters, Rocket Motor, Class A Explosives", as appropriate.

(e) Class A explosives listed in this section must not be offered for transportation by rail express, except as provided in § 173.86 or § 175.675 of this chapter.

(F) In § 173.86 paragraph (a) is amended to read as follows:

§ 173.86 New explosives and samples for laboratory examination.

(a) New explosives including fireworks and explosive devices, other than Army, Navy, or Air Force explosive or chemical ammunition of a security classification, must be examined and approved by either the Bureau of Explosives or the Department of Defense as safe for transportation before being offered for shipment except that a sample of such explosives, fireworks, and explosive devices, not to exceed five pounds net weight, may be offered for transportation by carriers by rail freight, highway, or water for this examination. Except for shipments of sample quantities as provided for in this section, a written notification of the classification and approval accompanied by a supporting laboratory report or equivalent data must be filed with the Department before the new explosive or explosive device is offered for shipment. Samples of explosives, except liquid nitroglycerin, other than new explosives for laboratory examination not exceeding 5 pounds net weight, may be offered for transportation by carriers by rail freight, highway, or water. For the purpose of Parts 170–189 of this chapter, a new explosive, including fireworks and explosive devices, is the product of a new factory or an explosive or explosive device of an essentially new composition or character made by any factory.

* * * * *

(G) In § 173.88 paragraph (e) (2) (ii) is amended to read as follows:

§ 173.88 Definition of class B explosives.

* * * * *

(e) * * *

(2) * * *

(ii) Rocket motors, class B explosives, may be shipped in a propulsive state only under conditions approved by the Department of Defense.

* * * * *

(H) Section 173.92 is amended in its entirety to read as follows:

§ 173.92 Jet thrust units (jato), class B explosives; rocket motors, class B explosives; igniters, jet thrust (jato), class B explosives; igniters, rocket motors, class B explosives; and starter cartridges, jet engine, class B explosives.

(a) Class B explosives covered by this section must be packaged in outside packagings complying with the following specifications:

(1) Specification 14, 15A, 15E, or 16A (§§ 178.165, 178.168, 178.172, 178.185 of this chapter) wooden boxes, or wooden boxes, fiberboard lined.

(2) Specification 15B (§ 178.169 of this chapter) fiberboard boxes. Authorized only for igniters, jet thrust, class B exposives, or igniters, rocket motors, class B explosives.

(3) Specification 23F (§ 178.214 of this chapter) fiberboard boxes. Authorized only for igniters, jet thrust, class B explosives; igniters, rocket motor, class B explosives; or starter cartridges, jet engine, class B explosives. Items must be packaged in tightly closed inside fiberboard boxes (at least 200-pound test (Mullen or Cady)) or metal containers. Starter cartridges, jet engine, must have igniter wires short-circuited when packed for shipment.

(4) Wooden boxes, wooden crates, or other packagings of approved military specification which comply with § 173.7 (a), or other packagings approved by the Bureau of Explosives.

(b) Jet thrust units, class B explosives, or rocket motors, class B explosives, must not be shipped with igniters assembled therein unless shipped by, for, or to the Department of the Army, the Department of the Navy, or the Department of the Air Force.

(c) Jet thrust units, class B explosives, or rocket motors, class B explosives, may be packaged in the same outside packaging with their separately packaged igniters (or igniter components), class A, B, or C explosives, only in packagings approved by the Bureau of Explosives or of approved military specifications complying with § 173.7(a).

(d) Each package must be plainly marked "Jet Thrust Units, Class B Explosives", "Rocket Motors, Class B Explosives", "Igniters, Jet Thrust, Class B Explosives", "Igniters, Rocket Motors, Class B Explosives", or "Starter Cartridges, Jet Engine, Class B Explosives" as appropriate.

(e) Label: Each package, when offered for transportation by rail express, must have securely and conspicuously attached thereto a square red label as described in § 173.412.

(I) Section 173.95 is amended to read as follows:

§ 173.95 Rocket engines (liquid), class B explosives.

(a) Rocket engines must be packaged in outside packaging complying with the following specifications:

(1) Specification 14, 15A, 15E, or 16A (§§ 178.165, 178.168, 178.172, 178.185 of this chapter) wooden boxes, or wooden boxes, fiberboard lined.

(2) Wooden boxes or metal packagings of approved military specification which comply with § 173.7(a), or other packagings approved by the Bureau of Explosives.

(b) Rocket engines (liquid), class B explosives, must not be shipped with igniters or initiators assembled therein unless shipped by, for, or to the Department of the Army, the Department of the Navy, or the Department of the Air Force, and only when authorized by the Department of Defense or by the Bureau of Explosives.

(c) Rocket engines (liquid), class B explosives, may be packed in the same outside packaging with separately packaged igniters, jet thrust, class B explosives when authorized by the Department of Defense or when packagings are approved by the Bureau of Explosives.

(d) Each package must be plainly marked "Rocket Engines (Liquid), Class B Explosives."

(e) Except as provided in §§ 173.86 and 175.675 of this chapter, rocket engines (liquid), class B explosives, must not be offered for transportation by rail express.

(J) Paragraph (ff) is added at the end of § 173.100 to read as follows:

§ 173.100 Definition of class C explosives.

* * * * *

(ff) "Cartridge, practice ammunition" means a metal cartridge case containing a primer, a propelling charge of not more than 500 grains of propellant powder, and a solid projectile or a projectile containing a smoke spotting charge.

(K) Section 173.101a is added to read as follows:

§ 173.101a Cartridges, practice ammunition.

(a) Cartridges, practice ammunition must be packaged in pasteboard or other inside boxes, or in partitions designed to fit snugly in the outside packaging, or must be packed in metal clips. The partitions and metal clips must be so designed as to protect the primers from accidental injury. The inside boxes, partitions, and metal clips must be packaged in securely closed strong outside wooden or fiberboard boxes or metal packagings.

(1) Each package must be plainly marked "Cartridges, Practice Ammunition."

(L) In § 173.102 the heading and paragraph (b) are amended to read as follows:

§ 173.102 Explosive cable cutters; explosive power devices, class C; explosive release devices, or starter cartridges, jet engine, class C explosives.

* * * * *

(b) Each package must be plainly marked "Explosive Cable Cutters"; "Explosive Power Devices, Class C"; "Explosive Release Devices", or "Starter Cartridges, Jet Engine, Class C Explosives", as appropriate, and "Handle Carefully—Keep Fire Away."

(M) In § 173.188 paragraph (a)(4) is amended to read as follows:

§ 173.188 Phosphoric anhydride.

(a) * * *

(4) Specification 6K (§ 178.101 of this chapter). Metal drums. Authorized only for carload or truckload shipments by rail freight or highway and must be loaded by the shipper and unloaded by the consignee or his duly authorized agent. Authorized net weight not over 600 pounds. If the gross weight is more than 480 pounds, the shipper must have established that the drums meet the drop test requirements prescribed in § 178.101–11 of this chapter at 600 pounds gross weight.

* * * * *

(N) In § 173.220 the introductory text of paragraph (a) is amended to read as follows:

§ 173.220 Magnesium or zirconium scrap consisting of borings, clippings, shavings, sheets, turnings, or scalpings, and magnesium metallic (other than scrap), powdered, pellets, turnings, or ribbon.

(a) Magnesium or zirconium scrap consisting of borings, shavings, or turnings, must be packed in closed metal barrels or drums, wooden barrels, metal pails, fiber drums, or four-ply paper bags. Paper bags are not authorized for less-than-carload or less-than-truckload shipments.

* * * * *

(O) Paragraph (a)(27) is added in § 173.245 to read as follows:

§ 173.245 Acids or other corrosive liquids not specifically provided for.

(a) * * *

(27) Specification 33A (§ 178.150 of this chapter). Polystyrene case (nonreusable container) having one inside glass bottle of not over 16 ounces capacity.

(P) Paragraph (a)(18) is added in § 173.271 to read as follows:

§ 173.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) * * *

(18) Specification 5B (§ 178.82 of this chapter). Metal barrels or drums lined with a material which is compatible with the commodity. Authorized for thiophosphoryl chloride only.

(Q) In § 173.276 paragraph (a) (4) and (5) is amended to read as follows:

§ 173.276 Anhydrous hydrazine and hydrazine solution.

(a) * * *

(4) Specification 103C–W or 111A 100W6 (§§ 179.200 and 179.201 of this chapter). Tank cars having tanks of Type 304L or 347 stainless steel with molybdenum content not exceeding one-half of 1 percent. The safety relief valve on specification 103C–W tank car tanks may have a start-to-discharge pressure of not more than 45 p.s.i. in place of 35 p.s.i. Specification 111A100W6 tanks must not be equipped with bottom outlets. Vapor space in tanks must be filled with nitrogen gas at atmospheric pressure.

(5) Specification 103A–ALW (§§ 179.200 and 179.201 of this chapter). Tank cars. The safety relief valve on tanks may have a start-to-discharge pressure of not more than 45 p.s.i. in place of 35 p.s.i. Vapor space in tanks must be filled with nitrogen gas at atmospheric pressure. Authorized for anhydrous hydrazine only.

* * * * *

(R) In § 173.304 Note 9 following paragraph (a)(2) Table is canceled; paragraph (b)(2) is amended to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

* * * * *

(b) * * *

(2) The pressure in DOT–4L cylinders (§ 178.57 of this chapter) must be limited by a pressure controlling valve so sized and set as to limit the pressure to one and one-fourth times the marked service pressure. For hydrogen, a valve must be set as specified in § 173.316(a)(2). The design and installation of pressure-controlling valves must be such as to assure that they will not malfunction because of frost accumulation. The liquid portion of the gas must not completely fill the cylinder. For DOT–4L cylinders insulated by a vacuum, the pressure control valve must be set at least 15 p.s.i. lower than one and one-fourth times the marked service pressure. The other paragraphs of this section do not apply to DOT–4L cylinders.

* * * * *

(S) Paragraph (a)(2) is added in § 173.316 to read as follows:

§ 173.316 Liquefied hydrogen.

(a) * * *

(2) Specification 4L (§ 178.57 of this chapter) cylinders, in accordance with the following requirements:

(i) Service temperature: minus 423° F. or colder.

(ii) Maximum filling density, based on cylinder capacity at minus 423° F.: 6.7 percent.

(iii) Pressure must be limited by a pressure-controlling valve set to limit pressure to not more than 17 p.s.i.

(iv) Each cylinder must be constructed, insulated, and maintained so that during transportation the total rate of venting shall not exceed 30 standard cubic feet of hydrogen per hour.

(v) In addition to the marking required by § 178.57–20 of this chapter, the total rate of venting in standard cubic feet per hour shall be marked on the top of each head or valve protection band in letters at least one-half inch high as follows: "Vent Rate ** CFH" with the stars replaced by figures signifying the standard hydrogen venting rate for the cylinder.

(vi) Transportation is limited to private and contract motor carriers under conditions specified in § 177.840(a)(1) of this chapter.

(vii) Pressure in each cylinder must be reduced to 8 p.s.i.g. or lower at least once within 4 hours before the beginning of transportation.

(T) In § 173.333 paragraph (a)(1) is amended to read as follows:

§ 173.333 Phosgene or diphosgene.

(a) * * *

(1) As prescribed in § 173.328 of this part, filling density (see § 173.304(a)(2) Table Note 1) must not exceed 125 percent and a cylinder must not contain more than 150 pounds phosgene.

* * * * *

(U) Section 173.368 is amended to read as follows:

§ 173.368 Arsenical dust, arsenical flue dust, and other poisonous noncombustible byproduct dusts; also arsenic trioxide, calcium arsenate, and sodium arsenate.

(a) Arsenical dust, arsenical flue dust, and other poisonous noncombustible byproduct dusts from metal recovery operations not subject to dangerous spontaneous heating, and arsenic trioxide, calcium arsenate, or sodium arsenate, when delivery is made to plants with private sidings only may, in addition to packagings prescribed in § 173.367, be shipped in bulk in the following kinds of cars, if those cars are assigned exclusively to this type of service: (1) Sift-proof, self-clearing, hopper or bottom outlet steel cars, (2) sift-proof all steel flat bottom gondola cars with fixed sides and ends equipped with waterproof and dust-proof wooden or steel covers well secured in place for all openings, and (3) sift-proof box cars of all steel construction. Cars assigned exclusively to this service must be marked "Arsenical Service Only", in addition to other required markings, and are not subject to § 174.566(b) of this chapter while in that service.

(b) Arsenical dust and arsenic trioxide may, in addition to the packagings specified in § 173.367, be shipped in bulk in motor vehicles with steel, sift-proof, self-clearing hopper-type, or dump-type bodies, with waterproof and dust-proof covers, well secured in place, and which are assigned exclusively to this type of service. These vehicles shall be marked "Arsenical Service Only", in addition to other required markings, and are not subject to § 177.841(a)(2) of this chapter while in that service.

(V) In § 173.370 paragraph (c)(1) is amended to read as follows:

§ 173.370 Cyanides, or cyanide mixtures, except cyanide of calcium and mixtures thereof.

* * * * *

(c) * * *

(1) As prescribed in paragraph (a)(2), (3), (4), (6), (9), or (11) of this section.

* * * * *

(W) In § 173.377 paragraph (a)(5) is amended to read as follows:

§ 173.377 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, organic phosphate compound mixtures, n.o.s., parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, dry.

(a) * * *

(5) Specification 21C (§ 178.224 of this chapter). Fiber drums. Authorized net weight not over 250 pounds.

* * * * *

(X) In § 173.384 paragraph (a)(2) is amended to read as follows:

§ 173.384 Monochloracetone, stabilized.

(a) * * *

(2) Specification 15A, 15B, 15C, or 16A (§§ 178.168, 178.169, 178.170, 178.185 of this chapter). Wooden boxes with inside glass bottles or tubes in metal cans hermetically sealed or with covers securely taped. The metal cans must be in corrugated fiberboard cartons, specification 2C (§ 178.22 of this chapter). Bottles must not contain more than 1 pound of liquid each, must not be filled to more than 95 percent capacity, must be tightly and securely closed, and must be cushioned in cans with at least one-half inch of absorbent material. Cans must be made of metal at least 32-gauge U.S. Standard. The total amount of liquid per package must not exceed 24 pounds.

(Y) In § 173.385 paragraph (a)(1) is amended to read as follows:

§ 173.385 Tear gas grenades, tear gas candles, or similar devices.

(a) * * *

(1) Specification 15A, 15B, or 15C (§§ 178.168, 178.169, 178.170 of this chapter). Metal-strapped wooden boxes. Functioning elements not assembled in grenades or devices must be in a separate compartment of these boxes, or in inside or separate outside boxes, specification 15A, 15B, or 15C, and must be so packed and cushioned that they may not come in contact with each other or with the walls of boxes during transportation. Not more than 50 grenades and 50 functioning devices shall be packed in one package and the gross weight of the package must not exceed 75 pounds.

* * * * *

§ 173.393 [Amended]

(Z) Paragraph (k) in § 173.393 is canceled.

PART 174—CARRIERS BY RAIL FREIGHT

IV. Part 174 is amended as follows:

(A) In § 174.538(a) the Chart is amended by adding the following new footnote and adding a footnote "f" reference at the intersection of vertical column 15 and horizontal columns a, b, c, d, e, f, and g, respectively.

§ 174.538 Loading and storage chart of explosives and other dangerous articles.

(a) * * *

[f] Normal uranium, depleted uranium, and thorium metal in solid form may also be loaded and transported with articles named in vertical and horizontal columns a, b, c, d, e, f, and g.

* * * * *

(B) Paragraph (b) in § 174.566 is amended to read as follows:

§ 174.566 Cleaning cars.

* * * * *

(b) After unloading poisons or potassium permanganate from steel hopper cars or other cars, cars must be thoroughly cleaned except that cars used exclusively in this service under the provisions of §§ 173.194(a) and 173.368(a) of this chapter shall not be subject to this requirement.

* * * * *

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

V. Part 177 is amended as follows:

(A) Sections 177.800, 177.801 are amended in the Table of Contents to read as follows:

Sec.

177.800 Purpose of regulations in Parts 170–189 of this chapter.

177.801 Scope of regulations in Parts 170–189 of this chapter.

(B) The heading of § 177.800 is amended to read as follows; paragraph (a) is amended by adding "private," before the word common in the first sentence thereof.

§ 177.800 Purpose of regulations in Parts 170–189 of this chapter.

* * * * *

(C) The heading of § 177.801 is amended to read as follows; paragraph (a) is amended by adding "private," before the word common in the first sentence thereof.

§ 177.801 Scope of regulations in Parts 170–189 of this chapter.

* * * * *

(D) In § 177.840 paragraph (a)(1) is amended and a new paragraph (a)(2) is added to read as follows:

§ 177.840 Compressed gases.

* * * * *

(a) * * *

(1) *Cylinders.* To prevent their overturning, cylinders containing compressed gases must be securely lashed in an upright position; loaded into racks securely attached to the motor vehicle; packed in boxes or crates of such dimensions as to prevent their overturning; or loaded in a horizontal position. Specification DOT–4L cylinders must be loaded in an upright position and securely braced.

(2) *Cylinders for liquefied hydrogen.* Specification DOT–4L cylinders containing liquefied hydrogen must be transported only on motor vehicles with open bodies which are equipped with suitable racks or supports having clamps or securing bands capable of holding the cylinders upright when they are subjected to an acceleration of at least 2 "g" in any horizontal direction.

(i) The combined total of the hydrogen venting rates as marked on the cylinders on one motor vehicle must not exceed 60 standard cubic feet per hour.

(ii) Motor vehicles loaded with cylinders containing liquefied hydrogen may not be driven through tunnels.

(iii) Highway transportation is limited to private and contract motor carriers only and to direct movement from point of origin to destination.

* * * * *

(E) In § 177.841 paragraph (a) (1) and (2) has been added to read as follows:

§ 177.841 Poisons.

(a) * * *

(1) The motor vehicles must be marked in accordance with § 173.368(b) of this chapter.

(2) Before any motor vehicle may be used for transporting any other articles, all detectable traces of arsenical materials must be removed therefrom by flushing with water, or by other appropriate method, and the marking removed.

* * * * *

(F) In § 177.848(a) the Chart is amended by adding the following new footnote and adding a footnote "f" reference at the intersection of vertical column 15 and horizontal columns a, b, c, d, e, f, and g, respectively.

§ 177.848 Loading and storage chart of explosives and other dangerous articles.

(a) * * *

[f] Normal uranium, depleted uranium, and thorium metal in solid form may also be loaded and transported with articles named in vertical and horizontal columns a, b, c, d, e, f, and g.

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

VI. Part 178 is amended as follows:

(A) In the table of contents, §§ 178.63, 178.66, and 178.67 are amended to read as follows:

Sec.

178.63 Specification 9; seamless, welded or brazed steel cylinders.

178.66 Specification 40; nonrefillable seamless, welded or brazed steel cylinders.

178.67 Specification 41; nonrefillable seamless, welded or brazed steel cylinders.

(B) In § 178.37–5 the introductory text preceding the table in paragraph (a) is amended; note 3 is canceled as follows:

§ 178.37 Specification 3AA; seamless steel cylinders made of definitely prescribed steels or 3AAX; seamless steel cylinders made of definitely prescribed steels of capacity over 1,000 pounds water volume.

§ 178.37–5 Authorized steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. The following chemical analyses are authorized (see note 1):

* * * * *

NOTE 3: [Canceled]

(C) In § 178.48–5 paragraph (a) is amended to read as follows:

§ 178.48 Specification 4; forge welded steel cylinders.

§ 178.48–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Content percent for the following not over: Carbon, 0.25; phosphorus, 0.045; sulfur, 0.050. However, Bessemer steel with phosphorus not over 0.11 percent is authorized when carbon content is 0.20 percent or less.

(D) In § 178.49–5 paragraph (a) is amended to read as follows:

§ 178.49 Specification 4A; forge welded steel cylinders.

§ 178.49–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Content percent for the following not over: Carbon, 0.25; phosphorus, 0.045; sulfur, 0.050.

(E) Section 178.51–20 is amended to read as follows:

§ 178.51 Specification 4BA; welded or brazed steel cylinders made of definitely prescribed steels.

§ 178.51–20 Authorized steel.

(a) As specified in Table I of Appendix A to this part.

* * * * *

(F) In § 178.52–5 paragraph (a) is amended to read as follows:

§ 178.52 Specification 4C; welded and brazed steel cylinders.

§ 178.52–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Content percent for the following not over: Carbon, 0.25; phosphorus, 0.045; sulfur, 0.050.

(G) In § 178.55–5 paragraph (a) is amended to read as follows:

§ 178.55 Specification 4B240ET; welded and brazed cylinders made from electric resistance welded tubing.

§ 178.55–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Plain carbon steel content percent for the following not over: Carbon, 0.25; phosphorus, 0.045; sulfur, 0.050. The addition of other elements for alloying effect is prohibited.

(H) Section 178.56–20 is amended to read as follows:

§ 178.56 Specification 4AA480; welded steel cylinders made of definitely prescribed steels.

§ 178.56–20 Authorized steel.

(a) As specified in Table I of Appendix A to this part.

* * * * *

(I) In § 178.57–2 paragraphs (a) and (c) are amended; in § 178.57–8 paragraph (c) is amended; in § 178.57–21 paragraph (a) Table 1 footnote 1 is amended to read as follows:

§ 178.57 Specification 4L; welded cylinders insulated.

§ 178.57–2 Type, size, service pressure,[1] and service temperature.[2]

(a) *Type and size.* Must be fusion welded; not over 1,000 pounds water capacity (nominal). For liquefied hydrogen service, the cylinders must be designed to stand on end, with the axis of the cylindrical portion vertical.

* * * * *

(c) The service temperature shall be minus 320° F. or colder. For liquefied hydrogen service, the service temperature shall be minus 423° F. or colder.

§ 178.57–8 Manufacture.

* * * * *

(c) The surface of the cylinder must be insulated. The insulating material must be fire resistant. The insulation must be covered with a steel jacket of not less than 0.060-inch thickness so constructed that moisture cannot come in contact with the insulating material. The construction must be such that the total heat transfer from the atmosphere at ambient temperature to the contents of the cylinder shall not exceed 0.0005 B.t.u. per hour per Fahrenheit degree differential in temperature per pound of water capacity of the cylinder. For liquefied hydrogen service, the total heat transfer, with a temperature difference of 520 Fahrenheit degrees, must not exceed that required to vent 30 standard cubic feet of hydrogen gas per hour.

§ 178.57–21 Authorized steels.

(a) * * *

[1] Identical to ASTM A–240, type 304, except as modified above.

* * * * *

(J) Section 178.60–4 is amended to read as follows:

§ 178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 178.60–4 Authorized steel.

(a) As specified in Table I of Appendix A to this part.

* * * * *

(K) Section 178.61–5 paragraph (a) is amended to read as follows:

§ 178.61 Specification 4BW; welded steel cylinders made of definitely prescribed steels with electric-arc welded longitudinal seam.

§ 178.61–5 Authorized steel.

(a) As specified in Table I of Appendix A to this part.

* * * * *

(L) In § 178.63 the heading is amended; in § 178.63–5 paragraph (a) is amended to read as follows:

§ 178.63 Specification 9; seamless, welded or brazed steel cylinders.

§ 178.63–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Content

percent for the following not over: Carbon, 0.150; phosphorus, 0.045; sulfur, 0.055.

(M) In § 178.66 the heading is amended; in § 178.66–5 paragraph (a) is amended to read as follows:

§ 178.66 Specification 40; nonrefillable seamless, welded or brazed steel cylinders.

§ 178.66–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Content percent for the following not over: Carbon, 0.150; phosphorus, 0.045; sulfur, 0.055.

(N) In § 178.67 the heading is amended; in § 178.67–5 paragraph (a) is amended to read as follows:

§ 178.67 Specification 41; nonrefillable seamless, welded or brazed steel cylinders.

§ 178.67–5 Steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. Content percent for the following not over: Carbon, 0.150; phosphorus, 0.045, sulfur, 0.055.

§ 178.150–3 [Amended]

(O) In § 178.150–3 paragraph (a)(2) table is amended by striking out the first figure "¾" in the first column and inserting the figure "⅝" in place thereof.

(P) Section 178.337–3 is amended in its entirety; in § 178.337–10 paragraph (b) is amended to read as follows:

§ 178.337 Specification MC 331; cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed Gas Section.

§ 178.337–3 Thickness of tank metal.

(a) Tank metal thickness must be as required by the ASME Code and paragraph (b) of this section, except that metal of thickness less than three-sixteenths inch may not be used for the shell or heads. A corrosion allowance of 20 percent or 0.10 inch, whichever is less, must be added to the thickness otherwise required for sulfur dioxide and chlorine tank material. In chlorine tanks the wall thickness must be at least five-eighths inch, including corrosion allowance.

(b) The minimum thickness of metal in the tank shell must be such that at no point therein will the stress on a plane normal to the cylindrical axis exceed 25 percent of the minimum specified tensile strength of the metal. For purposes of this requirement, calculation must be made by the formula:

$$S=\frac{T}{2}+\left[\frac{T^2}{4}+S_s^2\right]^{0.5}$$

where, at any given point under consideration and for the worst combination of loadings:

S = Effective stress as limited by this requirement:

T = The sum of the longitudinal tensile stresses due to internal pressure and other causes including direct tensile stress due to a rearward accelerative force equal to twice the static weight, tensile stress due to the bending moment of a rearward accelerative force equal to twice the static weight, applied at the road surface, and tensile flexure stress due to three times the static weight in vertical loading; and

S_s = The vectorial sum of the shear stresses in the plane in question, including direct vertical shear due to three times the static vertical loading, direct lateral shear due to a lateral accelerative force of twice the static weight, and torsional shear due to a lateral accelerative force equal to twice the static weight, applied at the road surface. Maximum concentrated stresses which might be created at pads and cradles due to shear, bending, and torsion shall also be calculated in accordance with appendix G of the ASME Code, 1962 edition.

NOTE 1: The forces, loads, and stresses concerned in the foregoing requirement relate to the weight of the tank itself, its contents, and articles supported by the tank, not including the weight of structures supporting the tank in normal operating condition. The stresses involved are not all uniform through the length of the tank shell.

(c) Where any tank support is attached to any part of a tank head, the stresses imposed upon the head shall be as required in paragraph (b) of this section with respect to maximum concentrated stresses at pads and cradles.

§ 178.337–10 Protection of fittings.

* * * * *

(b) The protective devices or housing must be designed to withstand static loading in any direction equal to twice the weight of the tank and attachments when filled with the lading, using a safety factor of not less than four, based on the ultimate strength of the material to be used, without damage to the fittings protected, and must be made of metal at least 3/16-inch thick.

* * * * *

APPENDIX A—SPECIFICATIONS FOR STEEL

TABLE 1

Open-hearth, basic oxygen, or electric steel of uniform quality. The following chemical composition limits are based on ladle analysis.

Designation	Chemical composition, percent—ladle analysis		
	Grade 1 [1]	Grade 2 [1 2]	Grade 3 [2 4]
Carbon	0.10/0.20	0.24 maximum	0.22 maximum.
Manganese	1.10/1.60	0.50/1.00	1.25 maximum.
Phosphorus, maximum	0.04	0.04	
Sulfur, maximum	0.05	0.05	0.05.
Silicon	0.15/0.30	0.30 maximum	
Copper, maximum	0.40		
Columbium		0.01/0.04	
Heat treatment authorized	[3]	[3]	[3]
Maximum stress (p.s.i.)	35,000	35,000	35,000.

CHECK ANALYSIS TOLERANCES

A heat of steel made under any of the above grades, the ladle analysis of which is slightly out of the specified range, is acceptable if the check analysis is within the following variations:

Element	Limit or maximum specified (percent)	Tolerance (percent) over the maximum limit or under the minimum limit	
		Under minimum limit	Over Maximum limit
Carbon	To 0.15 inclusive	0.02	0.03
	Over 0.15 to 0.40 inclusive	0.03	0.04
Manganese	To 0.60 inclusive	0.03	0.03
	Over 0.60 to 1.15 inclusive	0.04	0.04
	Over 1.15 to 2.50 inclusive	0.05	0.05
Phosphorus [5]	All ranges		0.01
Sulfur	All ranges		0.01
Silicon	To 0.30 inclusive	0.02	0.03
	Over 0.30 to 1.00 inclusive	0.05	0.05
Copper	To 1.00 inclusive	0.03	0.03
	Over 1.00 to 2.00 inclusive	0.05	0.05
Nickel	To 1.00 inclusive	0.03	0.03
	Over 1.00 to 2.00 inclusive	0.05	0.05
Chromium	To 0.90 inclusive	0.03	0.03
	Over 0.90 to 2.10 inclusive	0.05	0.05
Molybdenum	To 0.20 inclusive	0.01	0.01
	Over 0.20 to 0.40 inclusive	0.02	0.02
Zirconium	All ranges	0.01	0.05
Columbium	To 0.04 inclusive	0.005	0.01
Aluminum	Over 0.10 to 0.20 inclusive	0.04	0.04
	Over 0.20 to 0.30 inclusive	0.05	0.05

[1] Addition of other elements to obtain alloying effect is not authorized.
[2] Ferritic grain size 6 or finer according to ASTM E112–63.
[3] Any suitable heat treatment in excess of 1,100° F., except that liquid quenching is not permitted.
[4] Other alloying elements may be added and shall be reported.
[5] For compositions with a maximum carbon content of 0.15 percent on ladle analysis, the maximum limit for manganese on ladle analysis may be 1.40 percent.
[6] Rephosphorized steels not subject to check analysis for phosphorus.

PART 179—SPECIFICATIONS FOR TANK CARS

VII. Part 179 is amended as follows:

(A) In § 179.202–14 paragraphs (b) and (c) have been added to read as follows:

§ 179.202 Special commodity requirements for nonpressure tank car tanks.

§ 179.202–14 Anhydrous hydrazine and hydrazine solutions containing 50 percent or less of water.

* * * * * *

(b) Specification 103CW tanks may be equipped with a safety relief valve having start-to-discharge pressure of not more than 45 p.s.i. in place of 35 p.s.i.

(c) Specification 103A–ALW tank cars authorized for transporting anhydrous hydrazine only, may have tanks equipped with a safety relief valve having start-to-discharge pressure of not more than 45 p.s.i. in place of 35 p.s.i.

Issued in Washington, D.C., on April 25, 1969.

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

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

F. C. TURNER,
Administrator,
Federal Highway Administration.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

[F.R. Doc. 69–5226; Filed, Apr. 30, 1969; 8:51 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Trifluralin

A petition (PP 9F0787) was filed with the Food and Drug Administration by the Elanco Products Co., Division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing the establishment of tolerances for negligible residues of the herbicide trifluralin (α,α,α-trifluoro-2,6-dinitro-*N*,*N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodities grapes, hops, and root crop vegetables.

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

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Since the proposed usage and usages for which tolerances have previously been established are not reasonably expected to result in residues of the pesticide being in the edible tissues and byproducts of animals fed the above-named commodities, tolerances are unnecessary regarding meat, milk, eggs, and poultry. The usages are classified in the category specified in § 120.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.207 is amended to establish the subject tolerances by revising the paragraph "0.05 part per million * * *" to read as follows:

§ 120.207 Trifluralin; tolerances for residues.

* * * * * *

0.05 part per million (negligible residue) in or on citrus fruits, cottonseed, cucurbits, forage legumes, fruiting vegetables, grapes, hops, leafy vegetables, nuts, peanuts, root crop vegetables (except carrots), safflower seed, seed and pod vegetables, stone fruits, sugarcane, and sunflower seed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 24, 1969.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 69–5157; Filed, Apr. 30, 1969; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

CHLORMADINONE ACETATE

A. The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 5D1515) filed by Elanco Products Co., Division of Eli Lilly & Co., Indianapolis, Ind. 46206, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of chlormadinone acetate for synchronization of estrus (heat) in beef heifers and beef cows. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart C the following new section:

§ 121.238 Chlormadinone acetate.

The food additive chlormadinone acetate may be safely used in accordance with the following prescribed conditions:

(a) The additive is the chemical 6-chloro-17-hydroxypregna-4, 6-diene-3, 20-dione acetate ($C_{23}H_{29}ClO_4$) having a melting point range of from 212° C.–214° C. and a minimum assay limit of 95 percent.

(b) The additive is used or intended for use as follows:

CHLORMADINONE ACETATE IN FEED

	Amount	Limitations	Indications for use
Chlormadinone acetate.	10 mg. per head per day.	For beef heifers and beef cows only; administer in feed for 18 days; do not administer within 28 days of slaughter; do not administer to cows producing milk for food.	Synchronization of estrus (heat).

(c) To assure safe use, the labels and labeling of the additive in any intermediate premix, finished feed, or final dosage form prepared therefrom shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity of the additive contained therein.

(3) Adequate directions and warnings for use.

B. Based upon the data before him and proceeding under the authority of the act (sec. 409(c)(3), (4), 72 Stat. 1786, as amended 76 Stat. 785; 21 U.S.C. 348(c)(3), (4)), delegated as cited above, the Commissioner concludes that a tolerance limitation is required to assure that the edible tissues and by-products of animals treated with chlormadinone acetate in accordance with § 121.238 are safe for human consumption. Because of the additive's hormone activity and its corresponding potential carcinogenicity, a method of analysis of edible products is included below pursuant to the provisions of section 409(c)(3)(A) of the act. Accordingly,

Part 121 is amended by adding to Subpart D the following new section:

§ 121.1191 Chlormadinone acetate.

No residues of chlormadinone acetate (6-chloro-17-hydroxypregna-4,6-diene-3,20-dione acetate) are found in the uncooked edible tissues of beef heifers and beef cows as determined by the following method of analysis:

I. *Method of analysis.* Chlormadinone acetate (CAP) is extracted from muscle, liver, and kidney with methanol or from fat with hexane. The samples are purified by liquid-liquid extraction and by column chromatography. Final measurement is made by gas-liquid chromatography.

II. *Reagents.*

A. Methanol, analytical reagent (AR).

B. Carbon tetrachloride AR.

C. Dichloromethane AR (redistilled).

D. Benzene, nanograde.

E. Hexane AR.

F. Acetonitrile AR.

G. Chloroform AR.

H. Chloroform AR containing 50 percent by volume dichloromethane AR.

I. Silica gel 0.2 to 0.5 millimeter for column chromatography, Brinkmann Institute, Inc., or equivalent.

J. Activated Alumina, Alcoa F-20, Alcoa Corp., or equivalent.

K. Sodium sulfate, anhydrous.

L. Chlormadinone acetate standard, Elanco Products Co.

III. *Apparatus.*

A. Tissue blender—Hamilton Beach Model 8, or equivalent, equipped with blender heads to fit half-pint Mason jars.

B. Centrifuge—International Model V, or equivalent, equipped to receive 250-milliliter centrifuge tubes.

C. Separatory funnels—250-milliliters.

D. Glass chromatography columns—14 x 250 millimeters.

E. Rotary vacuum evaporator—Rinco, or equivalent.

F. Evaporating flasks—300 and 125 milliliters.

G. Assorted volumetric flasks, pipettes, and graduated cylinders.

H. Gas chromatograph—Jarrell-Ash Model 28-700, or equivalent, equipped with an electron affinity cell.

I. Preparation of column packing:

Gas chrom Q (80-100 mesh)—Applied Science Laboratories, Inc., or equivalent.

XE-60 (silicone gum [nitrile] G.E.)—F and M Scientific Corp. or Applied Science Laboratories, or equivalent.

Weigh 19.7 grams of the Gas Chrom Q, transfer to a 1-liter round-bottom flask and add sufficient acetone to cover the solid support. Weigh 300 milligrams of the XE-60 in a 150-milliliter beaker, dissolve in 75 milliliters of acetone, and transfer to the flask containing the solid support. Rinse beaker several times with acetone and add rinses to the flask.

Evaporate the acetone in a rotary vacuum evaporator using continuous rotation. A warm water bath (40° C.) is used to hasten the evaporation.

"Caking" of the solid may occur during the evaporation before all the acetone is removed. On continued evaporation, the solid will tumble freely. When the coated phase tumbles freely in the flask and no odor of acetone is detected, the phase is removed from the flask. (A Morton type flask may be substituted for the round-bottom flask, if intermittent rotation is used during the evaporation.)

Pour the prepared phase on a 60-mesh screen sieve and collect that portion of the phase that passes the 60-mesh screen and is retained on the 100-mesh screen. Use gentle tapping during screening step to avoid breaking of particles. Discard that portion of the phase which is retained on the 60-mesh screen and that portion which passes through the 100-mesh screen.

IV. *Standard solutions.*

A. Chlormadinone acetate standard solution, 50 micrograms per milliliter—accurately weigh 5 milligrams of standard chlormadinone acetate and transfer quantitatively to a 100-milliliter volumetric flask. Dissolve the standard and dilute to the mark with nanograde benzene. Mix the solution thoroughly.

B. Chlormadinone acetate standard solution, 1 microgram per milliliter—pipette 2 milliliters of 50 mcg./ml. from A above into a 100-milliliter volumetric flask and dilute to the mark with methanol.

NOTE: Chlormadinone acetate is relatively stable in these solutions; however, it is recommended that solution A (50 mcg./ml. in benzene) be prepared fresh every month and that solution B be prepared fresh each week.

V. *Procedure.*

A. Extraction and purification of muscle and liver sample.

1. Thoroughly grind tissue and weigh a representative 20-gram sample of tissue into a half-pint Mason jar.

2. Add 2 milliliters of methanol per gram of sample.

3. Blend the sample until uniform.

4. Transfer as much of the sample as possible to a 250-milliliter centrifuge bottle and centrifuge for 20 minutes at about 2,000 r.p.m.

NOTE: Do not rinse with additional solvent since this would introduce an unknown in the volume from which the aliquot in step 5 below is taken.

5. Immediately transfer 30 milliliters of supernatant liquid (measured with a graduated cylinder) to a 250-milliliter separatory funnel.

NOTE: The aliquot should be taken soon after centrifuging. Otherwise the solids tend to expand and reduce the amount of supernate which can be decanted.

NOTE: Smaller aliquots may be taken in cases where the liquid yield is less than 30 milliliters. In a series of samples the calculations may be expedited by using a uniform aliquot size for all samples and standard recoveries in the series.

6. Extract the supernate from step 5 above about 20 seconds with 30 milliliters of carbon tetrachloride (CCl_4). Transfer the CCl_4 fraction (lower phase) to a 300-milliliter evaporating flash. Extract the aqueous methanol phase with two more 30-milliliter portions of CCl_4 and combine the extracts. *Stopping place.* Evaporate the combined CCl_4 fractions to dryness by rotary vacuum evaporation using a water bath at about 50° C.

NOTE: If the CCl_4 fractions are cloudy or appear to contain emulsion, the CCl_4 should be filtered through anhydrous sodium sulfate into the evaporating flask.

7. Prepare a silica gel column for each sample as follows:

a. Place about 10 milliliters of dichloromethane (CH_2Cl_2) into a 14 x 250-millimeter glass chromatographic column. Insert a glass wool pledget and tamp with a glass stirring rod to eliminate air bubbles.

b. Add 10 milliliters (about 4.8 grams) of silica gel to the column through a powder funnel.

c. Add about 5 milliliters of dichloromethane (CH_2Cl_2) to the top of the column and stir the silica gel with a stirring rod to eliminate air bubbles.

d. After the silica gel has settled, add about 2 centimeters of anhydrous sodium sulfate to the column, layering it carefully to avoid disturbance of the silica gel surface.

e. Drain the CH_2Cl_2 to the top of the sodium sulfate.

8. Dissolve the sample from step 6 above in 10 milliliters of CH_2Cl_2 and charge the chromatographic column with the solution at a flow rate of about 3 milliliters per minute.

9. Rinse the flask with 10 milliliters of CH_2Cl_2 and transfer the rinse to the column after all solution from step 8 above has passed into the column.

10. Develop the column with 75 milliliters of 50/50 dichloromethane/chloroform (discard this fraction).

11. Place a 125-milliliter evaporating flask into position to receive the column eluate.

12. Elute the column with 75 milliliters of chloroform.

13. Evaporate the eluate to dryness by rotary evaporation.

14. Transfer the sample to a 15-milliliter glass sample vial with the aid of about 5 milliliters of acetone (or chloroform) in 2 or 3 portions. Evaporate the acetone under a stream of compressed air and close the vial with an aluminum-lined screwcap.

15. Dissolve the sample in 1.0 milliliter of nanograde benzene.

16. Assay the sample by gas-liquid chromatography as described in E below.

B. Extraction and purification of kidney samples.

1. Process kidney samples exactly as described for muscle and liver in A, steps 1 through 6, above.

2. Prepare an alumina column for each sample as follows:

a. Place about 10 milliliters of CH_2Cl_2 into a 14 x 250-millimeter glass chromatographic column. Insert a glass wool pledget and tamp with a glass stirring rod to eliminate air bubbles.

b. Add 10 milliliters of alumina to the column through a powder funnel.

c. Add about 5 milliliters of CH_2Cl_2 to the top of the column and stir the alumina with a stirring rod to eliminate air bubbles.

d. After the alumina has settled, add about 2 centimeters of anhydrous sodium sulfate to the column, layering it carefully to avoid disturbance of the alumina surface.

e. Drain the CH_2Cl_2 to the top of the sodium sulfate.

3. Dissolve the kidney sample in 10 milliliters of CH_2Cl_2 and charge the chromatographic column with the solution at a flow rate of about 3 milliliters per minute.

4. Rinse the flask with 10 milliliters of CH_2Cl_2 and transfer the rinse to the column after all solution from step 3 above has passed into the column.

5. Develop the column with 75 milliliters of CH_2Cl_2 and discard this fraction.

6. Place a 125-milliliter evaporating flask into position to receive the column eluate.

7. Elute the column with 75 milliliters of chloroform.

8. Continue exactly as in steps 13 through 16 in A above.

NOTE: The suitability of each lot of alumina should be evaluated prior to its use for experimental samples. This is done by assaying duplicate 1-microgram chlormadinone acetate standard samples by the alumina column procedure as described in steps 2 through 7 above. The sample is then evaporated, dissolved in 1 milliliters of benzene, and subjected to gas chromatographic measurement. Percent recovery as compared to a 1 mcg./ml. standard should be 90 to 100 percent.

C. Extraction and purification of fat samples.

1. Weigh a representative 15-gram sample of fat into a 250-milliliter beaker.

2. Warm the fat on a steam bath until the sample melts or becomes semisolid.

3. Dissolve the fat in 125 milliliters of hexane and allow the sample to cool to room temperature. Mix the sample with a glass stirring rod to effect solution of the fat.

4. Prepare a funnel with approximately a 1½-inch bed of anhydrous sodium sulfate. Pass the hexane solution of fat through the sodium sulfate into a 250-milliliter separatory funnel.

NOTE: This step removes connective tissue and other hexane insoluble materials.

5. Wash the sodium sulfate with two 15-milliliter portions of hexane.

6. Extract the hexane fraction about 20 seconds with 30 milliliters of acetonitrile. Pass the acetonitrile (lower phase) through a sodium sulfate bed into a 300-milliliter evaporating flask.

7. Repeat step 6 above with 3 additional 30-milliliter portions of acetonitrile and combine the extracts.

8. Wash the sodium sulfate with 10 milliliters of acetonitrile and evaporate the acetonitrile fraction to dryness by rotary vacuum evaporation.

9. Dissolve the sample in 10 milliliters of dichloromethane and purify by silica gel column chromatography exactly as described in steps 7 through 14 under A above.

10. Assay the sample by gas-liquid chromatography as described in E below.

D. Preparation of control and standard recovery samples. If control tissues are available, one control and one standard recovery sample are assayed with each day's experimental samples. Control tissues are assayed exactly as described in A, B, and C above. Standard recovery samples are prepared by fortifying control tissues with chlormadinone acetate at a level of 0.05 part per million as follows:

1. Muscle, liver, and kidney—weigh 20 grams of tissue into a half-pint Mason jar and add 1.0 milliliter of a methanol solution containing 1 mcg./ml. chlormadinone acetate (standard solution B).

2. Fat—weigh 15 grams of fat into a 250-milliliter beaker and add 0.75 milliliter of 1 mcg./ml. standard solution B.

NOTE: A 1-milliliter measuring pipette graduated in 0.01-milliliter increments is ordinarily used for this purpose.

3. Process the standard recovery exactly as in A, B, and C above.

E. Measurement. Samples from A, B, and C above are measured by gas-liquid chromatography (GLC) using an instrument equipped and adjusted as described in H below.

1. Prepare a 1-mcg./ml. chlormadinone standard in benzene by pipetting 1 milliliter of standard solution B into a sample vial, evaporating to dryness under compressed air, and redissolving in 1 milliliter of nanograde benzene.

2. Condition the gas chromatographic column each day prior to assay of experimental samples.

a. Inject 1 microliter of the 50 mcg./ml. standard (solution A) into the GLC instrument.

b. Inject 1-microliter portions of nanograde benzene until the chromatogram shows no chlormadinone acetate peak.

3. Adjust the GLC instrument to give a peak height of about 3 centimeters (2.5 to 3.5) upon injection of 1 microliter of 1-mcg./ml. standard (from step 1 above).

NOTE: The injection technique is "injection by difference" using plug injection as described in the "U.S. Health, Education, and Welfare Pesticide Analytical Manual," vol. I, July 1965, section 2.17, page 7.

4. Inject repeated 1-microliter samples of the 1-mcg./ml. standard (step 1) until successive injections show reproducibility of peak height of about ±5 percent.

5. Inject 1 microliter of the 0.05 part per million standard recovery sample until successive injections shows a reproducibility of peak height of about ±5 percent.

6. Inject 1 microliter of each experimental sample.

NOTE: If an experimental sample gives a response in excess of twice that of the 1-mcg./ml. standard, the sample should be diluted with benzene and reassayed. This will necessitate making the appropriate changes in the calculation.

7. Repeat injection of the 0.05 part per million standard recovery sample after each 4 or 5 experimental samples to compensate for slight changes in instrument parameters.

NOTE: If a standard recovery sample is not prepared, use periodic injections of the 1-mcg./ml. standard.

8. Measure the peak height of chlormadinone acetate in centimeters for all samples and standards.

F. Calculation of chlormadinone acetate in muscle, liver, and kidney.

1. Percent recovery $= \frac{\text{pH recovery sample}}{\text{pH direct standard}} \times 1.8 \times 100$, where pH = peak height.

2. Calculation of residue in parts per million (mcg./g) when standard recovery at 0.050 part per million are run with assay samples:

$$\frac{\text{Sample pH}}{\text{Standard recovery pH}} \times 0.05 \text{ mcg./g.} = \text{mcg./g. chlormadinone acetate in assay sample.}$$

This computation is recommended since the assay samples are compared directly to the 0.050-part per million standard recovery. This practice compensates for recovery factors encountered and aliquots taken during the assay procedure.

3. When a standard recovery sample is not prepared with the assay samples:

$$\text{Part per million} = \frac{\text{pH sample}}{\text{pH direct standard}} \times 1.0 \text{ mcg./ml.} \times \frac{1.0 \text{ ml. benzene}}{30 \text{ ml. aliquot}} \times \frac{(2.0 \times \text{sample weight} + 0.7 \times \text{sample weight})}{\text{Sample weight}}$$

This equation reduces to:

$$\frac{\text{pH sample}}{\text{pH direct standard}} \times 0.09 = \text{Parts per million of chlormadinone acetate in assay sample.}$$

The above equation is based on the assumption that muscle, liver, and kidney contain 70 percent water. Further, the total volume (milliliters) of liquid obtained after blending is assumed to be 2.7 times the tissue weight; for example, 2 milliliters of methanol per gram of tissue and 0.7 milliliter of water per gram of tissue. These assumptions are not absolutely correct because of slight differences in the water content of tissues and the slight volume change which occurs when methanol and water are combined; however, the assumptions are considered to be accurate enough for practical purposes.

G. Calculations of chlormadinone acetate in fat. Since the fat samples are sampled by exhaustive extraction rather than by aliquot, a different calculation is necessary.

1. Percent recovery $= \frac{\text{pH recovery sample}}{\text{pH direct standard}} \times 1.33 \times 100$.

2. Calculation of residue in parts per million when a standard recovery sample at 0.05 part per million is included:

$$\frac{\text{pH sample}}{\text{pH standard recovery}} \times 0.05 \text{ mcg./g.} = \text{mcg./g. chlormadinone acetate.}$$

3. Calculation of residue when no standard recovery is included:

$$\frac{\text{pH sample}}{\text{pH direct standard}} \times \frac{1.0 \text{ mcg./ml.}}{1.0 \text{ ml.}} \times \frac{1}{\text{sample weight}} = \text{mcg./g. chlormadinone acetate.}$$

H. Gas-liquid chromatography.

I. Instrument parameters.

a. Jarrell-Ash Model 28-700.

Column—16 inches of packing in 4-millimeter i.d. borosilicate glass.

Packing—1.5 percent XE-60 on Gas Chrom Q 80/100 mesh.

Column temperature—220° C.

Cell temperature—210° C.

Injector temperature—250° C.

Electrometer range—IX10^{-9} amperes full scale.

Detector—electron affinity with plane parallel electrodes.

Detector voltage—to give 70 percent of standing current.

Carrier gas—prepurified nitrogen 170 ml./min.

b. F and M Model 402.

Column—16 inches of packing in 4-millimeter i.d. borosilicate glass column.

Column packing—1.5 percent XE-60 on Gas Chrom Q80/100 mesh.

Detector—electron capture—tritium source.

Column temperature—250° C.

Cell temperature—200° C.

Flash Heater—305° C.

Pulse—150 μsec.

Range and attenuation—to obtain a peak height of 2.5 to 3.5 centimeters with injection of 1.0 μl of a 1.0 mcg./ml. standard in benzene.

Carrier gas—argon/methane 90/10.

Gas flow—190-200 milliliters per minute.

Under these conditions, the retention time of chlormadinone acetate is approximately 5 minutes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: April 24, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-5156; Filed, Apr. 30, 1969; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 905]

[Docket No. AO 85-A7]

ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Further Amendment of Marketing Agreement and Order Regulating Handling

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to collectively as the "order." The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act."

Interested persons may file written exceptions of this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of the recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which the proposed amendment of the order is formulated, was initiated by the Consumer and Marketing Service as a result of proposals submitted by the Growers Administrative Committee, the administrative agency established pursuant to the amended marketing agreement and order, and by the Florida Fresh Citrus Shippers Association, Lakeland, Fla. A notice that such public hearing would be held in the Auditorium, Florida Citrus Mutual Building, Lakeland, Fla., was published in the FEDERAL REGISTER on December 18, 1968 (33 F.R. 18709).

Material issues. The material issues presented on the record of the hearing involved amendatory action relating to:

(1) Providing authority for separate regulations for Navel oranges;

(2) Authority for the establishment and maintenance of a monetary reserve;

(3) Providing a new basis for calculating the percentage of a specified grade, and percentage of a specified size of a variety that a handler may ship during a week when only a portion thereof is permitted to be shipped; and

(4) Adding authority for a shipping holiday not to exceed 5 days during the calendar week in which Thanksgiving Day occurs.

Findings and conclusions. The findings and conclusions on the material issues, all of which are based upon the evidence adduced at the hearing and the record thereof, are as follows:

(1) The order should be amended as hereinafter set forth to provide authority for the regulation of the handling of Navel oranges as a separate variety of fruit under the order. Currently, Navel oranges are included in the variety classification of Early and Midseason oranges and other types commonly called "round" oranges. Navel oranges are thus subject to the same regulations as all other fruit within such classification.

Navel oranges are generally eaten out of hand. They are a distinct variety and are readily recognized and sold separately in the market place under the name Navels. Navel oranges should be classified as a separate variety of fruit under the order and be permitted separate grade and size regulations. The Navel variety is one of the earliest maturing varieties of oranges in Florida. However, when the fruit attains maturity the oranges often do not possess the color required for the U.S. No. 1 grade, which is the grade that has often been in effect for the Early and Midseason oranges during the early part of a season. The inability to issue a separate regulation more in keeping with the characteristics of the Navel variety prevents them from being marketed early in the season when consumer demand is generally good and prices are often at a high level. Adding authority in the order for separate regulations for Navel oranges would provide a remedy for this situation and would not adversely affect the market for other oranges. Such authority and the imposition of appropriate regulations applicable only to Navel oranges would permit the movement of Navel oranges to market before other varieties of oranges obtain sufficient maturity for marketing in volume. This would tend to improve grower returns.

(2) The order should be amended to provide for a monetary reserve, as hereinafter set forth. In the absence of such authority and without a reserve, the committee has often found it necessary to borrow money early in the season to meet its costs of operation. This method of obtaining financing is becoming more expensive. Also, in situations when assessment income at the rate fixed does not equal the expenses of the program, it has been and could continue to be necessary to reassess the handlers in order to obtain sufficient money to defray the costs incurred. This method of financing the program presents problems for the handlers, especially if the increase in assessment, applicable to all fruit handled, is made effective late in the season. At such time, handlers may have already made settlement with the growers and closed the books for the season. It would thus be burdensome and an added expense to the handlers to pay an additional assessment to the committee.

A more equitable method for financing committee operations would be through a monetary reserve. The accumulation and maintenance of a financial monetary reserve from excess assessment funds is a good business practice. It would contribute to efficient financial management in that there would be less need to borrow money and the need to credit excess assessment income to handlers' accounts would be lessened.

The reserve procedure is equitable to all concerned. Those who pay the assessment, namely the handlers, usually are in a lifetime pursuit and there is not frequent change in the identity of the person involved. Under the reserve procedure, those who might pay slightly more than their proportionate share of the operating cost of the program in any given year are generally the same people who will benefit in a year of reduced assessments.

The evidence of record shows that the reserve should be accumulated, with the Secretary's approval, from excess assessment funds. The accumulation should continue until the committee ascertains that the amount in the reserve is adequate. However, the reserve should not exceed an amount equal to approximately one-half of one fiscal period's expenses of the committee. A larger amount does not appear to be needed for the efficient operation of the program. However, the committee could, if such were found desirable, fix any lesser limit as the desirable amount to be maintained in such reserve. This would provide additional flexibility in that the committee could accumulate and maintain a reserve in a needed and desirable amount below the authorized maximum amount but the reserve could not exceed approximately one-half of one fiscal period's expenses.

When the reserve approaches the maximum permitted, or such lesser amount as the committee determines to then be adequate, the committee should credit any excess assessment income, not retained in the reserve, proportionately to each handler entitled thereto against the operations of the following fiscal period

expenses. Should any handler demand payment of the sum due him instead of receiving credit for it, the committee should be required to pay such amount to the handler.

The reserve should be available to cover any expenses authorized by the order and to cover any costs of liquidation in case of termination of the order.

Upon termination of the order, funds that are not needed for liquidation should be disposed of by returning them pro rata to those who contributed or when warranted by disposition in any other manner determined by the Secretary to be appropriate. It is necessary to include authorization for the Secretary to dispose of such funds other than by pro rata distribution because the individual sums to be returned may be too small to justify the administrative expense of proration, or because the time involved since their receipt would make it impractical to return them to the contributors. It would be appropriate, and record evidence so indicates, for the Secretary to look to the committee for recommendation before he makes a decision with respect to disposition of such money.

(3) The provisions of the order pertaining to regulations which provide for limiting only a portion of a specified grade or size of a variety that may be shipped weekly by a handler should be changed, as hereinafter set forth, to provide a new basis for determining such percentage. Currently, the order fixes such percentage as a portion of the shipments of such variety made in the applicable week of the regulation period. Such requirement has, at times, resulted in some violations of the order. The violations have resulted, to a large degree, from the difference between the total shipments a handler intended to make and the actual shipments he made. A handler cannot prefigure with certainty what his total shipments of a variety for the weekly period will be until he has actually made his final shipment and totaled the amounts. For example, an anticipated shipment of larger size or higher grade fruit on Saturday that is not made because of nonarrival of a conveyance could result in an unintentional overshipment of the smaller size or lower grade fruit because such smaller size or lower grade fruit was shipped earlier in the week. The evidence of record shows that a handler's shipments to all markets, for all days in the week, or for different purposes, do not often contain specified proportions of the different sizes or grades. Thus, a handler may make heavy shipments of the smaller sizes or lower grades early in the week because of the marketing situation and plan to make to make all of his weekly shipments in conformance with the regulations. It is known that some markets prefer large sizes while other markets demand small sizes. Shipments originate so as to arrive in the marketplace on the desired date. For example, if the same delivery date is specified, shipments to Boston would be made earlier than shipments to Savannah.

The notice contained a proposal that would limit the portion of a specified grade or size of a variety to a percentage of the handler's shipments of such variety made during the preceding weekly period. This method would provide information so that each handler would know at the beginning of the week the quantity of the specified grade or size that he could ship in accordance with order provisions and the regulations issued thereunder. A handler would simply add his shipments of the variety made during the immediately preceding week and apply the authorized percentage factor against such shipments. For example, assume that a handler shipped 4,000 boxes of tangerines during the past week. Suppose that the committee recommended and the Secretary's regulation called for a minimum size of 176's tangerines with not to exceed 25 percent of last week's total shipments to be size 210's. The handler could determine that he could ship 1,000 boxes of size 210 tangerines (25 percent of 4,000 boxes) during the week for which the regulation is established. Such method would eliminate the uncertainties present in the order.

A modification to the proposal contained in the notice of hearing was proposed and supported at the hearing. Such modification would base the percentage of the specified grade or size on shipments made during the immediately preceding week but if no shipments were made by the handler during that week, the percentage would be based on his total shipments of the variety during the most recent preceding week in the current season that he shipped the variety. Record evidence shows that each handler does not ship every variety of fruit each week. For example, a handler may make all his shipments of tangerines within six weekly periods with intervals of from 2 to 5 weeks between periods of shipment. Thus, under the proposal contained in the notice of hearing, he would not be permitted to make shipments of the grade or size for which only a portion is authorized if such handler had not made any shipments of the tangerines during the week prior to the week of regulation.

Handlers who do not make shipments of all varieties of fruit each week should not be precluded from benefitting from participating in shipments of only a portion of a specified grade or size. If the percentage of such specified grade or size of a particular variety was based on each handler's shipments of such variety during the immediately preceding week but for a handler who made no such shipments was based on his shipments during the last preceding week that he shipped the variety, all handlers would be permitted to participate. Accordingly, the shipments of a specified portion of a grade or size or a variety a handler is permitted to ship should be set as a percentage of the handler's total shipments of such variety during the last preceding week within the current season that he shipped the variety.

(4) The provisions of the order relating to regulations by the Secretary should be amended, as hereinafter set forth, to authorize the limitation of the shipment of the total quantity of any variety by prohibiting the shipment thereof during all or a part of a period that includes Thanksgiving Day. Currently, the order authorizes the prohibition of shipments of fruit only during the period December 20 to January 20, both dates inclusive, for not more than two periods, and for a total of not more than 14 days. Such period of prohibited shipments is commonly referred to as the "Christmas shipping holiday." The shipment of fruit has been so prohibited under the order nearly every year for a specified period. This provision of the order is used as a means to clear out supplies in the market and to prevent a build up of excessive quantities of fruit in the market during the slow period immediately following Christmas.

The marketing situation confronting the industry following Thanksgiving Day generally is the same as that immediately following Christmas. There is generally a rush of heavy purchasing prior to Thanksgiving Day followed by a slow period immediately following Thanksgiving Day. Shipments to market during this period of poor demand and slow sales often result in a buildup of supplies at market which, in turn, causes a reduction in prices and less returns to the growers.

There is a delicate balance between the demand and the quantity of fruit marketed. There is also a tendency for the shippers to overestimate the demand for Florida citrus fruit, especially at Thanksgiving time. A substantial overshipment at Thanksgiving time may be disastrous to the growers because of the resulting lower prices and the insufficient time for price recovery prior to the Christmas season.

The authority and procedure for a shipping holiday at Thanksgiving time should follow that presently in the order for the Christmas holiday except (1) the shipping holiday at Thanksgiving time should be limited to one period, (2) it should not exceed 5 days in duration, and (3) it should be limited to the week in which the Thanksgiving Day occurs.

It may not always be necessary or advisable to prescribe a shipping holiday at Thanksgiving time every season. There may be periods when the supplies of fruit in Florida are so limited or the supplies of competing commodities are so limited that a shipping holiday at Thanksgiving would not be warranted. However, the committee should have knowledge of such situation at the time it considers the need for such shipping holiday and can base its action on the then current market situation.

Accordingly, it is concluded that the order should be amended to provide for prohibiting the shipment of any variety of fruit during the Thanksgiving season in the manner hereinbefore discussed.

Rulings on proposed findings and conclusions. January 31, 1969, was set by the

Presiding Officer at the hearing as the latest date by which briefs may be filed by interested persons with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. No brief was filed.

General findings. Upon the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

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

(2) The marketing agreement, as amended and as hereby proposed to be amended, and the order, as amended and as hereby proposed to be amended, regulate the handling of oranges (including Temple and Murcott Honey oranges), grapefruit, tangerines, and tangelos grown in the production area in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement, as amended and as hereby proposed to be amended, and the order, as amended and as hereby proposed to be amended, are limited in their application to the smallest regional production area that is practicable consistently with carrying out the declared policy of the act;

(4) The marketing agreement, as amended and as hereby proposed to be amended, and the order, as amended and as hereby proposed to be amended, prescribe, so far as is practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of oranges, grapefruit, tangerines, and tangelos; and

(5) All handling of oranges (including Temple and Murcott Honey oranges), grapefruit, tangerines, and tangelos grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the amended marketing agreement and order. The following amendment of the amended marketing agreement and order is recommended as the detailed means by which the aforesaid conclusions may be carried out:

1. Section 905.5 *Variety* is revised to read as follows:

§ 905.5 **Variety.**

"Variety" or "varieties" means any one or more of the following classifications or groupings of fruit:

(a) Early and Midseason oranges and other types commonly called "round oranges," except Navel oranges and except Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type;

(b) Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type;

(c) Temple oranges;

(d) Marsh and other seedless grapefruit, excluding pink grapefruit;

(e) Duncan and other seeded grapefruit, excluding pink grapefruit;

(f) Pink seedless grapefruit;

(g) Pink seeded grapefruit;

(h) Tangelos;

(i) Dancy and similar tangerines, including Robinson;

(j) Murcott Honey oranges; and

(k) Navel oranges.

2. Paragraph (a) of § 905.42 *Handler's accounts* is deleted and a new paragraph (a) is substituted therefor:

§ 905.42 **Handler's accounts.**

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one-half of one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period unless he demands payment of the sum due him, in which case such sum shall be paid to him. Upon termination of this part, any funds not rquired to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

3. Paragraph (a) (1) and (3) of § 905.52, *Regulation by the Secretary* is revised to read as follows:

§ 905.52 **Regulation by the Secretary.**

(a) * * *

(1) Limit the shipments of any grade or size, or both, of any variety, in any manner as may be prescribed, and any such limitation may provide that shipments of any variety grown in Regulation Area II shall be limited to grades and sizes different from the grade and size limitations applicable to shipments of the same varieties grown in Regulation Area I: *Provided*, That whenever any such grade or size limitation restricts the shipment of a portion of a specified grade or size of a variety the quantity of such grade or size that may be shipped by a handler during a particular week shall be established as a percentage of the total shipments of such variety by such handler during the last previous week, within the current fiscal period, in which he shipped such variety.

* * * * *

(3) Limit the shipment of the total quantity of any variety by prohibiting the shipment thereof: *Provided*, That no such prohibition shall apply to exports other than to Canada or Mexico or be effective during any fiscal period with respect to any variety other than for one period not exceeding 5 days during the week in which Thanksgiving Day occurs, and for not more than two periods not exceeding a total of 14 days during the period December 20 to January 20, both dates inclusive.

* * * * *

Dated: April 28, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-5215; Filed, Apr. 30, 1969; 8:50 a.m.]

[7 CFR Parts 966, 980]

TOMATOES GROWN IN FLORIDA

Limitation of Shipments and Importation

Consideration is being given to the issuance of an amendment to the limitation of shipments regulation, as hereinafter set forth, to become effective on or about May 12, 1969. This proposal was recommended by the Florida Tomato Committee, established pursuant to Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). Under section 8e of the Act (7 U.S.C. 608e-1) imports would be subject to the same minimum grade and size requirements.

All persons who desire to submit written data, views, or arguments with respect to this proposal may file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 5th day after 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)).

Prices for fresh tomatoes currently are high due to a temporary supply gap caused by adverse weather. Market prices for Florida mature green tomatoes reached $10.12 per 40-pound carton of 6 x 6's during the week ended April 19, compared to $6 for the previous week, and $4.17 for the week ended April 5, 1969. Vine ripes reached $5.15 per 20-pound carton for the week ended April 19, compared to $3.50 the previous week, and $3 for the week ended April 5.

The committee expects that Florida's harvest will increase during early May, and reach heavy volume on or about May 12. Supplies from Mexico are expected to continue into June. With both U.S. and Mexico supplies likely to be heavy, there is reason to believe that these tighter regulations are necessary to maintain orderly marketing.

The proposed amendment is as follows:

In § 966.306 (33 F.R. 16330, 17310, 19161; 34 F.R. 128, 6326, 7135), paragraphs (a) and (b) are hereby amended to read as follows:

§ 966.306 Limitation of shipments.

* * * * *

(a) *Minimum grade, size, and maturity requirements.* No person shall handle any lot of tomatoes for shipment outside the regulation area unless they meet the following minimum requirements:

(1) For mature green tomatoes: U.S. No. 3 or better grade, over 2$^{8}/_{32}$ inches in diameter.

(2) For all other tomatoes: U.S. No. 3, or better grade, over 2$^{17}/_{32}$ inches in diameter.

(3) Not more than 10 percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter.

(b) *Size classifications.* (1) No person shall handle for shipment outside the regulation area any tomatoes unless they are sized within one or more of the following ranges of diameters (expressed in terms of minimum and maximum). Measurement of minimum and maximum diameter shall be in accordance with the method prescribed in paragraph (c) of § 51.1860 of U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

Size classification:	Diameter (inches)
6 x 7	Over 2$^{8}/_{32}$ to 2$^{17}/_{32}$, inclusive.
6 x 6	Over 2$^{17}/_{32}$ to 2$^{28}/_{32}$, inclusive.
5 x 6	Over 2$^{28}/_{32}$.

* * * * *

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

Dated: April 29, 1969.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 69-5274; Filed, Apr. 30, 1969; 8:51 a.m.]

[7 CFR Parts 1003, 1004, 1016]

[Dockets Nos. AO-293-A21, AO-160-A41, AO-312-A18]

MILK IN WASHINGTON, D.C., DELAWARE VALLEY, AND UPPER CHESAPEAKE BAY MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and 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), notice is hereby given of a public hearing to be held in the Academy Room, Emerson Hotel, Baltimore and Calvert Streets, Baltimore, Md., beginning at 9:30 a.m., on May 27, 1969, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay marketing areas.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

It is possible that the marketing service programs currently in effect under the Upper Chesapeake Bay and Washington, D.C., orders could duplicate to some degree, informational services under the proposed cooperative payment program. As to the Delaware Valley order, proposals included in this notice relate to both marketing service and cooperative payment programs. Accordingly, notice is hereby given that, with regard to each of the respective orders, the hearing is open for consideration of the following: (1) provision for a marketing service program only; (2) provision for a cooperative payment program only; and (3) provision for both marketing service and cooperative payment programs.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Pennmarva Dairymen's Cooperative Federation, Inc.:

Proposal No. 1. Amend Federal Orders 3, 4, and 16 by adding the following provisions to establish a system of cooperative payments:

§ ——— Cooperative payments for marketwide services.

Payments shall be made to qualified cooperatives or to federations under the conditions, in the manner, and at the rates set forth in this section.

(a) *Definitions.* As used in this section the following terms shall have the following meanings:

(1) "Cooperative" means a cooperative association of producers which is duly incorporated under the cooperative corporation laws of a State; is qualified under the Capper-Volstead Act (7 U.S.C. 291 et seq.); has all its activities under the control of its members; and has full authority in the sale of its members' milk.

(2) "Federation" means a federation of cooperatives which is duly incorporated under the laws of a State.

(3) "Federated cooperative" means a cooperative which is a member of a federation and on whose membership the federation is an applicant for or receives payments under subparagraph (2) of paragraph (f) of this section.

(4) "Affiliated cooperative" means a cooperative upon whose entire membership another cooperative, by mutual consent, is an applicant for or receives payments under subparagraph (2) of paragraph (f) of this section.

(5) "Member producer" means, when used with respect to a cooperative or federation which is an applicant for or is receiving payments, a producer under this order who has met the following conditions:

(i) He is a member of the cooperative or one of its affiliated cooperatives, or in the case of a federation, he is a member of one of its federated cooperatives from whom the cooperative, affiliated cooperative, or federated cooperative is receiving at least 4 cents per hundredweight of milk delivered by him: *Provided*, That the cooperative of which he is a member is meeting the requirements of this part applicable to it;

(ii) He has been a producer, or his farm had been the farm of a producer for at least a prior 12-month period; and

(iii) He has not for a prior 12-month period been a member producer of another cooperative or federation.

(6) "Marketwide services" means services performed by cooperatives or federations, as defined herein, which benefit all producers in the marketing of their milk under this order; such services are not limited to those specified in subparagraphs (1) through (6) of paragraph (e) of this section and may include services directly or indirectly related to the order.

(b) *Designated cooperatives and federations.* A cooperative or federation may submit an application to the market administrator for payments under the provisions of this section or for modification of the basis of a previous designation. In accordance with the requirements of the rules and regulations issued by the market administrator, such application shall include a written description of the applicant's program for the performance of marketwide services, including evidence that adequate facilities and personnel will be maintained by it so as to enable it to perform the marketwide services; and the application shall contain a statement by the applicant that it will perform the required marketwide services for which it is applying for payments: *Provided*, That in the case of an application for modification of the basis for a previous designation of the market administrator may waive the requirements for submission of the written description of the programs. The application shall set forth all necessary data so as to enable the market administrator to determine whether it meets the designation requirements with respect to the payments for which the application is submitted. An application shall be approved by the market administrator only if he determines that:

(1) In the case of a cooperative;

(i) It has as member producers or its affiliated cooperatives have as member producers, not less than 15 percent of all producers, as defined in this order.

(ii) It has contracts with each of its affiliated cooperatives under which the cooperatives agree to continue as affiliated cooperatives for at least 1 year, and such contracts cover or will be renewed for a yearly period for every subsequent year for which member producers of the affiliated cooperative are to be included within its membership for cooperative payment purposes;

(iii) It receives from each of its affiliated cooperatives not less than 4 cents

per hundredweight of milk delivered by member producers of such cooperatives.

(2) In the case of a federation:

(i) It has contracts with each of its federated cooperatives under which the cooperatives agree to remain in the federation for at least 1 year, and such contracts cover or will be renewed for a yearly period for every subsequent year for which the federated cooperatives are to be included within the membership of the federation for cooperative payment purposes;

(ii) It has as member producers not less than 15 percent of all producers, as defined in this order.

(iii) It receives from each of its federated cooperatives not less than 1 cent per hundredweight of milk delivered by member producers of such cooperative.

(3) The applicant cooperative or federation demonstrates that it has the ability to perform the marketwide services for which application is made, and that such services will be performed.

(4) The applicant cooperative or the federated cooperatives of an applicant federation are in no way precluded from arranging for the utilization of milk under their respective control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(c) *Notice of designation or denial; effective date.* Upon determination by the market administrator that a cooperative or a federation shall be designated to receive payment for performance of the marketwide services he shall transmit such determination to the applicant cooperative or federation and publicly announce the issuance of the determination. The determination shall be effective with respect to milk delivered on and after the first day of the month following issuance of the determination. If, after consideration of an application for payments for marketwide services, the market administrator determines that the cooperative or federation is not qualified to receive such payments he shall promptly notify the applicant and specifically set forth in such notice his reasons for denial of the application.

(d) *Requirements for continued designation.* From time to time and in accordance with the rules and regulations which may be issued by the market administrator, each designated cooperative or federation must demonstrate to the market administrator that it continues to meet the designation requirements for the payments and is fully performing the marketwide services for which it is being paid.

(e) *Marketwide services.* Each cooperative or federation shall perform the marketwide services enumerated in this paragraph. Such services shall include: (1) Analyzing milk marketing problems and their solutions, conducting market research and assembling statistical data relative to prices and marketing conditions, and making an economic analysis of all such data; (2) determining the need for the formulation of amendments to the order and proposing such amendments or requesting other appropriate action by the Secretary or the market administrator in the light of changing conditions; (3) participating in proceedings with respect to amendments to the order, including the preparation and presentation of evidence at public hearings, the submission of appropriate briefs and exceptions, and also participating by voting or otherwise, in the referenda relative to amendments; (4) participating in the meetings called by the market administrator, such as meetings with respect to rules and regulations issued under the order, including activities such as the preparation and presentation of data at such meetings and briefs for submission thereafter; (5) conducting a comprehensive education program among producers—i.e., members and nonmembers of cooperatives—and keeping such producers well informed for participating in the activities under the regulatory order and, as a part of such program, issuing publications that contain relevant data and information about the order and its operation, and the distribution of such publications to members and, on the same subscription basis, to nonmembers who request it, and holding meetings at which members and nonmembers may attend; (6) engaging in the handling, selling, and hauling milk of members and/or nonmembers; and (7) performing such other services as are needed to maintain satisfactory marketing conditions and promote market stability.

(f) *Rate, computation, time, and method of payment.* (1) Subject to the provisions of paragraph (g) of this section, the market administrator, on or before the 20th day of each month, shall make payment out of the producer-settlement fund, or issue equivalent credit therefore, to each cooperative or federation which is designated for such payments for marketwide services. The payment to a cooperative or federation shall be based upon the milk reported by cooperative or proprietary handlers to have been received during the preceding month from its member producers, subject to adjustment upon verification by the market administrator.

(2) Such payment or credit shall be at the rate of 4 cents per hundredweight of milk in accordance with subparagraph (1) of this paragraph.

(3) If an individually designated cooperative is affiliated with a federation, the cooperative payment shall be made to such cooperative unless its contract with the federation specified in writing that the federation is to receive the payments. Any such contract must authorize the federation to receive the payments for at least 1 year, and such agreement must cover or be renewed for a yearly period for every subsequent year for which the federation is to receive the payments.

(g) *Cancellation of designation.* (1) The market administrator shall issue an order wholly or partly canceling the designation of a previously designated cooperative or federation for payments authorized pursuant to this section and such payments shall not thereafter be made to it if he determines that:

(i) The cooperative or federation no longer complies with the requirements of this part: *Provided,* That if one of its affiliated or federated cooperatives has failed to comply with the requirements of this part applicable to it, the cooperative or federation shall be disqualified only to the extent that its qualification for payments or the amount of its payments are based upon the membership, milk or operations of such noncomplying affiliated or federated cooperatives.

(ii) The cooperative or federation has failed to make reports or furnish records pursuant to this section or pursuant to rules and regulations issued by the market administrator.

(2) An order of the market administrator wholly or partly canceling the designation of a cooperative or federation shall not be issued until after the cooperative or federation has had opportunity for hearing thereon following not less than 15 days' notice to it specifying the reasons for the proposed cancellation. If the cooperative or federation fails to file a written request for hearing with the market administrator within such period of 15 days, the market administrator may issue an order of cancellation without further notice; but if within such period a request for hearing is filed, the market administrator shall promptly proceed to hold such hearing pursuant to rules and regulations issued by him under paragraph (i) of this section.

(3) A cancellation order issued by the market administrator shall set forth the findings and conclusions on the basis of which it is issued.

(h) *Appeals*—(1) *From denials of application.* Any cooperative or federation whose application for designation has been denied by the market administrator may, within 30 days after notice of such denial, file with the Secretary a written petition for review. But the failure to file such petition shall not bar the cooperative or federation from again applying to the market administrator for designation.

(2) *From cancellation orders.* A cancellation order by the market administrator shall become final 30 days after its service on the cooperative or federation unless within such 30-day period the cooperative or federation files a written petition with the Secretary for review thereof. If such petition for review is filed, payments for which the cooperative or federation has been cancelled by the order shall be held in reserve by the market administrator pending ruling of the Secretary, after which the sums so held in reserve shall either be returned to the producer-settlement fund or paid over to the cooperative or federation depending on the Secretary's ruling on the petition. If such petition for review is not filed, any payments which otherwise would be made within the 30-day period following issuance of the cancellation order shall be held in reserve until such order becomes final and shall then be returned to the producer-settlement funds.

(3) *Record on appeal.* If an appeal is taken under subparagraph (1) or subparagraph (2) of this paragraph, the market administrator shall promptly certify to the Secretary the ruling or order appealed from the evidence upon which it was issued: *Provided*, That if a hearing was held the complete record thereof, including the applications, petitions, and all exhibits or other documentary material submitted in evidence shall be the record so certified. Such certified material shall constitute the sole record upon which the appeal shall be decided by the Secretary.

(i) *Regulations.* The market administrator is authorized to issue regulations and amendments thereto to effectuate the provisions of this section and to facilitate and implement the administration of its provisions. Such regulations shall be issued in accordance with the following procedure:

(1) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator, at which all interested persons shall have opportunity to be heard. Not less than 5 days prior to the meeting, notice thereof and of the proposed regulations or amendments shall be published in the FEDERAL REGISTER and mailed to qualified cooperatives and federations. A stenographic record shall be made at such meetings which shall be public information and be available for inspection at the office of the market administrator.

(2) A period of at least 5 days after the meeting shall be allowed for the filing of briefs.

(3) All regulations and amendments thereto issued by the market administrator pursuant to this section must be submitted in tentative form to the Secretary for approval, shall not be effective without such approval, and shall be published in the FEDERAL REGISTER following such approval. The regulations or amendments in tentative form shall be forwarded also to cooperatives and federations designated under this section and to other persons upon request in writing. The Secretary shall either approve the regulations or amendments thereto submitted by the market administrator or direct the market administrator to reconsider the tentative rules or amendments. In the event the market administrator is directed to give reconsideration to the matter, the market administrator shall either issue revised tentative regulations or amendments or call another meeting pursuant to this section for additional consideration of the rules or amendments.

(j) *Reports and records.* Each designated cooperative or federation shall, in accordance with rules and regulations issued by the market administrator:

(1) After submission to the market administrator for verification, make a public report of its performance of marketwide services pursuant to this section, including data on its receipts and expenditure of cooperative payments funds and a description of the marketwide services performed. The report shall contain a certification by the market administrator that the report is, to the best of his knowledge, accurate and in accordance with the rules and regulations which he has established.

(2) Submit an annual report to the market administrator which shall include:

(i) A concise report of its performance of marketwide services and allocations of expenditures to such performance for the previous year; and

(ii) An outline of its proposed program and budget for performance of marketwide services for the coming year.

(3) Make such additional reports to the market administrator as may be requested by him for the administration of the provisions of this section.

(4) Maintain and make available to the market administrator or his representative such records as will enable the market administrator to verify such reports.

(k) *Notices, demands, orders, etc.* All notices, demands, orders, or other papers required by this section to be given to or served upon a cooperative or federation shall be deemed to have been given or served as of the time when mailed to the last known secretary of the cooperative or federation at his last known address.

Proposed by Eastern Milk Producers Cooperative Association, Inc.:

Proposal No. 2. Amend Order No. 4 by adding a new section providing for market service deductions from nonmembers of associations of producers as follows:

(a) In making the payments required by § 1004.80 for producer milk, other than milk delivered by himself and any producer who is a member of a cooperative association which the Secretary determines is performing the services specified in paragraph (b) of this section, each handler shall deduct three cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, for marketing services. The handler shall pay the amount deducted to the market administrator on or before the 19th day after the end of the month.

(b) The market administrator shall expend amounts received under paragraph (a) of this section only in providing market information to the producers who delivered the milk which was subject to such deduction and for verification of weights, samples, and tests of milk received by handlers from them. The market administrator may contract with a cooperative association for the furnishing of the whole or any part of these services.

(c) Each handler in making the payments required by § 1004.80 for producer milk delivered by members of a cooperative association which the Secretary determines is performing the services specified in paragraph (b) of this section shall deduct from such payments, in lieu of the deductions specified in paragraph (a) of this section, an amount authorized by such producers. He shall pay the amount deducted to the association on or before the 20th day after the end of the month accompanied by a statement showing the pounds of milk received from each producer from whom the deduction was made.

Proposed by Pennmarva Dairymen's Cooperative Federation, Inc.:

Proposal No. 3. Modify proposal No. 2 by providing a 5-cent rate of deduction in place of the 3-cent rate of deduction specified in paragraph (a) of such proposal.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 4. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and order may be procured from the Market Administrators: 710 South Washington Street, Alexandria, Va. 22313; 20 East Susquehanna Avenue, Baltimore, Md. 21204; 1 Decker Square, Room 646, Bala Cynwyd, Pa. 19004, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on April 25, 1959.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-5191; Filed, Apr. 30, 1969; 8:48 a.m.]

[7 CFR Part 1013]

[Docket No. AO-286-A14]

MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Southeastern Florida marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. 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)).

Preliminary statement. The hearing on the record of which this decision is formulated was conducted at Fort Lauderdale, Fla., on January 9-11, 1968, pursuant to notice thereof which was issued December 29, 1967 (33 F.R. 78).

The material issue on the record of the hearing relates to the adoption of a Class I base plan.

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

The Southeastern Florida order should not be amended to provide for a Class I base plan.

The order now provides for the distribution of total returns from producer milk through the payment of a uniform price, which is the same for each producer for all his milk. Independent Dairy Farmers' Association (IDFA) proposes that such returns be distributed through a Class I base plan under which producers would receive approximately the Class I price for their "base" deliveries and approximately the Class III price for deliveries in excess of their base. Under their plan, a producer's base would reflect his proportionate share of the Class I sales in the market based on his deliveries relative to the total producer milk pooled during a representative period.

IDFA represents 74 of the 88 producers under the order and markets 75 to 80 percent of the total producer milk. As the marketing agent for its members, IDFA assumes the role of balancing milk supplies, both on a seasonal and day-to-day basis, with the fluid milk requirements of handlers. This entails importing milk into the market when local supplies are short and disposing of supplies that are in excess of handlers' needs.

Since 1961, IDFA has operated a type of Class I base plan outside the order to encourage members to adjust their production to the needs of the market. The institution of their plan followed the removal from the order of a seasonal base-excess plan, which was considered to have stimulated excessive production because of a "race for base" by producers. IDFA claims that its plan places members at an economic disadvantage compared to other producers on the market, since the plan applies only to its members.

It points out that the other producers, being outside the plan, receive for all their milk the order uniform price, which in 1968 averaged $6.96.[1] When these producers increase their production, they receive the uniform price on the additional milk also. Its members, IDFA indicates, do not. Although IDFA receives for its members the order uniform price for all their milk, these returns are redistributed to the members through their Class I base plan. Members receive approximately the Class I price for base milk and approximately the Class III price for milk exceeding their base, IDFA stated. Under the order, Class I and Class III prices averaged $7.31 and $4.32, respectively, in 1968. IDFA stresses that any additional production by a member already producing his base returns to him only the lower price. It is this difference—approximately $2.64 in 1968—in returns to members and to other producers for additional milk production, IDFA argues, that results in the economic disadvantage to members.

IDFA states that if a Class I base plan is not incorporated in the order it may be forced to abandon its present base plan. It considers the use of a Class I base plan essential, however, to the orderly balancing of milk supplies with demand in this market and urges the adoption of such a plan under the order.

The 14 producers in the market who are not IDFA members oppose a Class I base plan. Of these 14 producers, 10 are members of Home Milk Producers Association (HMPA), a cooperative which bottles milk and manufactures cottage cheese and ice cream at its own plant. The four remaining Southeastern Florida producers are corporate farms owned and operated by the same person. He and an HMPA member testified concerning their operations.

Production in December 1964 through March 1965 of the HMPA member who testified was 4.4 million pounds. In 1967, he expanded his production facilities by an investment of $160,000 in additional land and cows. He estimated that due primarily to the expansion, his December 1967–March 1968 production would be about 5.7 million pounds, an increase of 30 percent over the comparable 1964–65 period. The increase in production by all Southeastern Florida producers during this period was 11 percent.

The owner of the four corporate farms relocated one farm operation in June 1967, involving an investment of more than $900,000 in land, new buildings and equipment, and 450 additional cows. With the new facility in operation, total production on the four farms in October 1967 was 5 million pounds, 35 percent more than their October 1965 production of 3.7 million pounds. Total production of all other Southeastern Florida producers increased 8 percent in the same 2-year period.

Production increases such as these have been of particular concern to IDFA which points out that although it represents 74 of the 88 producers on the market it has, nevertheless, no control over the production of the other 14 Southeastern Florida producers. It argues that the efforts of its members, in operating under a base plan to tailor production to the market's Class I requirements, can be substantially nullified by the increased production of the other producers.

Handlers oppose a Class I base plan for the order. They argue that the basic purpose of such plans is to reduce surpluses and that the Southeastern Florida market has no surplus. The handlers note that the market's Class I utilization of producer milk, which averaged 87 percent for the past 6 years, is among the highest in the country; and that another 5 to 8 percent of the producer milk is used in Class II products. Moreover, handlers argue, a reserve supply of milk—IDFA recommended an amount equal to 12 percent of the Class I sales in the market—is necessary to assure an adequate milk supply for handlers at all times.

Producer receipts under the order in 1968 were 571 million pounds, 13 percent more than the 507 million pounds in 1963. Producer milk used in Class I, which increased 12 percent during this 6-year period, totaled 496 million pounds in 1968, compared with 442 million pounds in 1963. The Class I utilization of producer milk during the past 6 years has approximated 87 percent annually, as shown in the following table.

Year	Producer receipts	Producer milk in Class I	Percentage of producer milk in Class I
	(*Million pounds*)	(*Million pounds*)	(*Percent*)
1963	507	442	87.3
1964	511	445	87.2
1965	530	462	87.2
1966	535	468	87.5
1967	568	491	86.4
1968	571	496	86.9

Although milk production for the Southeastern Florida market has increased, Class I sales have likewise increased. Despite relatively large production increases by some producers, there has been no significant change in the relationship between production for the market and Class I sales. In the past 6 years, the market reserve averaged only 13 percent of producer deliveries. Such a reserve, as the proponent cooperative indicates, is, in fact, needed to assure handlers of an adequate supply of milk for Class I use.

Historically, deliveries of Southeastern Florida producers have not always been adequate to meet the market's Class I needs and milk must be obtained from outside sources. In September through December 1968, handlers imported 6 million pounds of milk. Total imports in 1968 were 8.9 million pounds. In 1967, 1.6 million pounds were imported.

The Food and Agriculture Act of 1965 provided the authority to include Class I base plans in Federal orders. The proposal for a Class I base plan must be considered in relation to the basic purposes of the authorizing statute. The statement of purposes in the statute and the legislative history of the Class I base plan provisions in the statute make it abundantly clear that a principal purpose of the 1965 Act is to reduce surplus milk production. We conclude that there is no milk surplus in the Southeastern Florida market beyond the normal requirement of any market for a minimum reserve to meet daily and weekly fluctuations in sales. Accordingly, the inclusion of a Class I base plan in the Southeastern Florida order is denied at this time.

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

[1] Official notice is taken of the Southeastern Florida order monthly statistical releases issued after the close of the hearing which provide market data for 1967 and 1968 that were not available at the time of the hearing.

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.

In accordance with § 900.9(b) of the general regulations with respect to marketing agreements and orders (7 CFR Part 900), an interested party requested in his brief a reversal of the Presiding Officer's denial of a motion for a continuance of the hearing. The party contended that although the legal requirements for notice were met the notice of hearing provided insufficient time to prepare evidence for the hearing. A continuance of the hearing was asked so that certain statistical data could be prepared and presented for inclusion in the record.

The notice for this hearing, which convened on January 9, 1968, was published on January 4, 1968. This provided more than the minimum 3-day notice required by § 900.4(a) of the general regulations. Such notice is considered to be reasonable in the circumstances. The Presiding Officer's ruling on this motion is affirmed.

Signed at Washington, D.C., on April 25, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-5190; Filed, Apr. 30, 1969; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 121]

[Docket No. 9548; Notice 69-18]

PROVISION FOR DEVIATIONS FROM QUALIFICATIONS REQUIREMENTS FOR CHIEF PILOTS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending § 121.61 of the Federal Aviation Regulations to provide for grants of deviation from the 3 years pilot in command experience requirement for a chief pilot in those cases where the Administrator finds that the applicant's aeronautical experience is equivalent to 3 years of experience as a pilot in command of a large aircraft with an air carrier or a commercial operator.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Office of the General Counsel, Federal Aviation Administration, Department of Transportation, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before June 30, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The qualification requirements of § 121.61 for management personnel of Part 121 air carrier and commercial operators were adopted to assure a high level of supervisory management competence. To achieve this purpose, the chief pilot experience requirements were adopted to insure that a pilot would be thoroughly familiar through experience of a pilot in command with the flight operations of an air carrier or a commercial operator before he assumes his responsibilities as a chief pilot.

In several instances in the past, however, the FAA has granted exemptions to persons requesting approval to serve as chief pilots where it has been shown that these persons have sufficient aeronautical managerial experience to fulfill the purpose of the regulation even though such persons did not have the required pilot in command experience. This proposed rule provides that in such cases a deviation could be granted by the Administrator.

In consideration of the foregoing, it is proposed to amend § 121.61(b)(2) to read as follows:

§ 121.61 Management personnel: qualifications.

* * * * *

(b) * * *

(2) Has had at least 3 years of experience as pilot in command of a large aircraft with an air carrier or commercial operator. However, the Administrator may grant a deviation from the requirement of this subparagraph if he finds that the person has had equivalent aeronautical experience; and

* * * * *

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1424; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on April 24, 1969.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 69-5185; Filed, Apr. 30, 1969; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 239]

[Releases Nos. 33-4960, IC-5650]

RULES, REGULATIONS, AND FORMS UNDER SECURITIES ACT OF 1933

Proposed Amendments to Rules and Adoption of Summary Sheets for Registration Statements

Notice is hereby given that the Securities and Exchange Commission has under consideration proposed amendments to all of its forms for the registration of securities under the Securities Act of 1933 ("Act"), and proposed amendments to Rules 402, 404, and 472 under the Act.

Forms C-2, C-3, D-1, D-1A, S-1, S-2, S-3, and S-7 through S-14 (§§ 239.4, 239.5, 239.6, 239.7, 239.11, 239.12, 239.13, 239.16b, 239.17, 239.18, 239.19, 239.22, 239.23, 239.24, and 239.26 of this chapter) are prescribed for registration under the Act of securities of companies other than investment companies, with the exception noted below. Form S-4 and Form S-5 (§§ 239.14, 239.15 of this chapter) are prescribed for registration under the Act of securities of closed-end and open-end management investment companies, respectively, except those which issue periodic payment plan certificates; Form S-6 (§ 239.16 of this chapter) is prescribed for the registration of securities of unit investment trusts; Form N-5 (§ 239.24 of this chapter) is prescribed for the registration of securities of small business investment companies; and Form S-1 (§ 239.11 of this chapter) is prescribed, with certain exceptions, for the registration of securities for which no other form is prescribed, including securities of management investment companies which issue periodic payment plan certificates and securities of face-amount certificate companies. Rules 402 and 472 (§§ 230.402, 230.472 of this chapter) under the Act prescribe, among other things, the number of copies of registration statements and amendments thereto which shall be filed with the Commission under the Act by every registrant. Rule 404 (§ 230.404 of this chapter) contains certain requirements for the preparation of registration statements.

The proposed amendments to the forms and rules would prescribe summary sheets to be filled in by the registrant and filed as an exhibit to each registration statement, and amendment thereto, filed under the Act for the registration of securities. The answers in the summary sheets would summarize essential information relating to the registrant and the registration statement. The information in the summary sheets will facilitate the automated

processing of data through the use of the Commission's computer; the Commission's recordkeeping, including its internal workload control; and the dissemination of information to the Commission's regional offices for public information purposes. The summary sheets, through uniform arrangement of data in abbreviated form, will eliminate the necessity for transcribing information from filings onto intermediate forms for the foregoing purposes.

The summary sheets consist of two pages which would be filled in by inserting the required data in the spaces provided. Copies of blank summary sheets could be reproduced by the registrant for this purpose or copies would be furnished by the Commission upon request.

The sheet designated "Form 835—Summary Sheet for Registration Statement, or an Amendment Thereto, Filed under the Securities Act of 1933 for the Registration of Securities of a Company Other than an Investment Company" (§ 239.41 of this chapter) would be prescribed for Forms C–2 (§ 239.4), C–3 (§ 239.5), D–1 (§ 239.6), D–1A (§ 239.7), S–1 through S–3 (§§ 239.11 through 239.13), and S–7 through S–14 (§§ 239.26, 239.16b, 239.22, 239.17, 239.18, 239.19, 239.25 and 239.23 respectively). The summary sheet designated "Form 836—Summary Sheet for Registration Statement, or an Amendment Thereto, Filed Under the Securities Act of 1933 for the Registration of Securities of an Investment Company Registered Under the Investment Company Act of 1940" (§ 239.42 of this chapter) would be prescribed for Form S–4 (closed-end companies) (§ 239.14), Form S–5 (open-end companies) (§ 239.15), Form S–6 (unit trusts) (§ 239.16), Form N–5 (small business investment companies) (§ 239.24), and Form S–1 (management company issuers of periodic payment plan certificates and face amount certificate companies) (§ 239.11). Page 1 would be completed and filed with the registration statement and with each amendment. Page 2, requiring a list of various persons related to the registrant and their relationships, would be filled out completely only in the summary sheet filed with the original filing or with the first amendment filed on or after the effective date of the form of summary sheet. Thereafter, only changes, if any, in the list of related persons set forth on page 2 would be required in summary sheets filed with amendments. A system of abbreviations is prescribed in the instructions to the summary sheet to enable the registrant to set forth the relationships in abbreviated form. Incorporation by reference to other information would not be permitted in the summary sheet in view of the necessity for a complete record in concise form to achieve the purposes described above.

The information in the summary sheets would be confined substantially to information which is presently required by the forms, except for Social Security numbers or Internal Revenue Service employer's identification numbers of related persons and the beginning and ending dates (month and year) of the specified relationships. This information is needed for the purpose of recording multiple relationships of related persons. It would be required to be furnished if known to the registrant. However, it would be incumbent on the registrant to make all reasonable effort to obtain such information.

Paragraph (a) of Rule 402 (17 CFR 230.402(a)) and paragraph (a) of Rule 472 (17 CFR 230.472(a)) under the Act would be amended to provide that a total of 18 copies of the summary sheet be filed with every registration statement and amendment (other than amendments made by telegram or letter pursuant to Rule 473 (17 CFR 230.473)). Some copies would be kept in the Commission's principal office for the use of the staff and for public inspection. It is proposed that other copies would be placed in all regional offices of the Commission so that the information contained therein would be more readily available to interested persons, in line with the recommendations of the Commission's Special Study of Securities Markets.

The text of the proposed amendments to Rules 402, 404, and 472 and to the various forms, and copies of proposed summary sheet Forms 835 and 836 are set forth below.

The proposed amendments would be adopted pursuant to sections 7 and 19(a) of the Securities Act of 1933 and section 24(a) of the Investment Company Act of 1940. All interested persons are invited to submit views and comments with respect to the proposed amendments, which are reflected in the attached drafts of the summary sheets and proposed amendments to the rules and forms. Any such views or comments should be submitted in writing to the Securities and Exchange Commission, Washington, D.C. 20549, on or before May 2, 1969. All such communications should refer to Securities Act Release No. 4960, and they will be considered available for public inspection, except where it is requested they not be disclosed.

I. The Commission proposes to amend §§ 230.402, 230.404, and 230.472 of this chapter as follows:

§ 230.402 Number of copies; binding; signatures.

(a) Three copies of the complete registration statement, including exhibits and all other papers and documents filed as a part of the statement shall be filed with the Commission. Each copy of the registration statement so filed shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side stitching margin in such manner as to leave the reading matter legible. Five additional copies of the registration statement shall be furnished for use in the examination of the registration statement but such copies need not be accompanied by any exhibits other than indentures pertaining to securities being registered, and copies of the underwriting contracts and other documents relating to the distribution of the securities. Fifteen additional copies of the summary sheet required by paragraph (f) of § 230.404 shall also be furnished with each registration statement.

* * * * *

§ 230.404 Preparation of registration statement.

* * * * *

(f) Every registration statement and every amendment thereto, other than amendments made by telegram or letter pursuant to § 230.473, shall include as an exhibit a summary sheet of Form 835 (§ 239.41 of this chapter) or 836 (§ 239.42 of this chapter) as prescribed by the instructions to the exhibits of the appropriate form. An issuer filing pursuant to Schedule B of the Act (15 U.S.C. 77aa—Schedule B) shall include as an exhibit the summary sheet on Form 835 (§ 239.41 of this chapter).

§ 230.472 Filing of amendment; number of copies.

(a) Three copies of every amendment, other than telegraphic amendments pursuant to § 230.473, shall be filed with the Commission. Fifteen additional copies of the summary sheet required by paragraph (f) of § 230.404 shall also be furnished with each such amendment other than an amendment made by telegram or letter pursuant to § 230.473. If an amendment relates to the prospectus, a copy of the amended prospectus and of the cross reference sheet required by section 404(c) of this chapter, if amended, shall be included in each copy of the amendment filed; except that only the changed pages of the prospectus and cross reference sheet, if amended, need be included in an amendment filed pursuant to the undertaking referred to in § 230.415(a)(1).

* * * * *

II. Proposed forms: The Commission proposes to adopt Forms 835 and 836[1] as §§ 239.41 and 239.42 of this chapter and described as follows:

§ 239.41 Form 835, Summary sheet for registration statement or an amendment thereto, filed pursuant to Rule 404(f) (§ 230.404(f) of this chapter) under the Securities Act of 1933 for the registration of securities of a company other than an investment company.

This form shall be used as the blank fill-in form for the summary sheet required to be filed pursuant to § 230.404(f) of this chapter by each registrant thereto, filed under the Securities Act of 1933 for registration of securities of a company other than an investment company registered under the Investment Company Act of 1940. However, this form need not be filed with a delaying amendment made by telegram or letter pursuant to § 230.473 of this chapter, or with a request for withdrawal of

[1] Copies of these forms have been filed as part of this document and may be obtained from the Securities and Exchange Commission. Incorporation by reference approved by Director of Federal Register, Apr. 30, 1969.

a registration statement pursuant to § 230.477 of this chapter. In the case of a post effective amendment, the only purpose of which is to reduce the amount of securities registered to the amount sold, only items 1 through 8(b) need be completed. Exact copies of this form may be duplicated by registrants for filing purposes, or copies may be obtained from the Securities and Exchange Commission. Copies duplicated must be on good quality unglazed, white paper 8½ x 11 inches in size, with approximately ⅝-inch left-hand margin.

§ 239.42 Form 836, Summary sheet for registration statement or an amendment thereto, filed pursuant to Rule 404(f) (§ 230.404(f) of this chapter) under the Securities Act of 1933 for the registration of securities of an investment company registered under the Investment Company Act of 1940.

This form shall be used as the blank fill-in form for the summary sheet required to be filed pursuant to § 230.404 (f) of this chapter by each registrant as an exhibit to each copy of a registration statement, and to each amendment thereto, filed under the Securities Act of 1933 for registration of securities of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.). However, this form need not be filed with a delaying amendment made by telegram or letter pursuant to § 230.473 of this chapter, or with a request for withdrawal of a registration statement pursuant to § 230.477 of this chapter. In the case of a post effective amendment, the only purpose of which is to reduce the amount of securities registered to the amount sold, only items 1 through 7 need be completed. Exact copies of this form may be duplicated by registrants for filing purposes, or copies may be obtained from the Securities and Exchange Commission. Copies duplicated must be on good quality unglazed, white paper 8½ x 11 inches in size with approximately five-eighths inch left-hand margin.

(Secs. 7, 19(a), 48 Stat. 78, 85, 15 U.S.C. 77g, 77s(a); sec. 24(a), 54 Stat. 825, 15 U.S.C. 80a–24)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

APRIL 10, 1969.

[F.R. Doc. 69–5167; Filed, Apr. 30, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1131]

[Ex Parte No. MC–67; 98 M.C.C. 483]

MOTOR CARRIER TEMPORARY AUTHORITIES

Notice of Proposed Rule Making

APRIL 25, 1969.

Notice of petition, filed April 1, 1969, for modification of § 1131.2(c) of the temporary authorities rules.

Petitioners: American Trucking Associations, Inc., 1616 P Street, NW., Washington, D.C. 20036; Ashworth Transfer, Inc., Bell Lines, Inc., C. I. Whitten Transfer Co., Consolidated Freightways, Garrett Freightlines, Inc., McLean Trucking Co., Merchants Fast Motor Lines, Inc., Roadway Express, Smith Transfer Corp. of Staunton, Va., Southwestern Motor Transport, Inc., T.I.M.E.–D.C., Inc., Transcon Lines, Yellow Freight System, Inc., Texas-Oklahoma Express, Inc.

Petitioners representatives: Peter T. Beardsley, 1616 P Street NW., Washington, D.C. 20036; William B. Adams, 624 Pacific Building, Portland, Oreg. 97204; Joseph G. Dall, Jr., Federal Bar Building, 1815 H Street NW., Washington, D.C. 20006; Wentworth E. Griffin, Suite 812, Midland Building, 1221 Baltimore, Kansas City, Mo. 64105; Harry J. Jordan, Solar Building, 1000 16th Street NW., Washington, D.C. 20036; Eugene T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036; Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701; John M. Records, 92d and State Line, Post Office Box 8462, Kansas City, Mo. 64114; Reagan Sayers, 304 Century Life Building, Post Office Box 17007, Fort Worth, Tex. 76102; Keith E. Taylor, Kearns Building, Salt Lake City, Utah 84101; William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036.

Petitioners seek modification of the Commission's rules of practice and procedure relating to temporary authority applications under section 210a(a) of the Interstate Commerce Act, 49 CFR Part 1131, specifically § 1131.2(c) thereof, which reads in part:

> Each application for temporary authority must be accompanied by a supporting statement(s) designed to establish an immediate and urgent need for service which cannot be met by existing carriers, except that when the Department of Defense is the shipper such support may be furnished directly to the Temporary Authorities Board by the Washington office of that Department. Each such shipper's statement, except those submitted by the Department of Defense must contain a certification of its accuracy and must be signed by the person (or an authorized representative thereof) having such immediate and urgent need for motor carrier service.

Petitioners seek (1) deletion of the exceptions contained in said regulation relating to the Department of Defense, and (2) amendment thereof so as to require that the supporting statements of the Department of Defense (a) must accompany the application when it is filed at an appropriate field office, and (b) must contain a certification of its accuracy and must be signed by the person, or an authorized representative thereof, having such immediate and urgent need for motor carrier service.

Any interested person desiring to participate, shall file an original and 15 copies of written representations, views, and arguments in support of or against the petition on or before June 16, 1969.

By the Commission.

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

[F.R. Doc. 69–5121; Filed, Apr. 30, 1969; 8:45 a.m.]

[49 CFR Part 1307]

[Ex Parte No. MC–77]

RESTRICTIONS ON SERVICE BY MOTOR COMMON CARRIERS

Extension of Time

APRIL 25, 1969.

At the request of interested persons the time for the filing of written statements of facts, views, and arguments in the above-entitled proceeding has been extended to June 16, 1969.

By the Commission.

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

[F.R. Doc. 69–5224; Filed, Apr. 30, 1969; 8:51 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

CERAMIC WALL TILE FROM UNITED KINGDOM

Antidumping Proceeding Notice

APRIL 23, 1969.

On February 27, 1969, information was received in proper form pursuant to §§ 53.26 and 53.27, Customs Regulations (19 CFR 53.26, 53.27) indicating a possibility that ceramic wall tile from the United Kingdom is being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a) et seq.).

The information was submitted by Howrey, Simon, Baker & Murchison, Washington, D.C.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 53.29 of the Customs Regulations (19 CFR 53.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows: The information received tends to indicate that the prices for home consumption are higher than the prices of the merchandise sold for exportation to the United States.

This notice is published pursuant to § 53.30 of the Customs Regulations (19 CFR 53.30).

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

[F.R. Doc. 69-5202; Filed, Apr. 30, 1969; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 3753]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Reclamation, U.S. Department of the Interior, has filed an application, serial number A 3753, for withdrawal of lands from all forms of entry or disposition including the mining but not the mineral leasing laws.

The Bureau of Reclamation desires these lands for the construction of the Charleston Dam and its reservoir. The land would be used for material sites for the earthen filled dam, for relocation of the Southern Pacific Railroad and for recreational development in connection with the proposed facility. This withdrawal would be permanent, and would be made subject to valid existing rights.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comment, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party.

The lands involved in the application are as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 20 S., R. 21 E.,
Sec. 11, lots 1, 2, 3, and 4, and E½;
Sec. 14, lots 1, 2, 3, and 4 and E½E½;
Sec. 21 W½;
Sec. 23, lots 1, 2, 3, and 4 and E½NE¼;
Sec. 24;
Sec. 25 lots 1, 2, 3, 4, 5, and 6, N½ and SW¼;
Sec. 26, lots 1, 2, 3, and 4;
Sec. 28, W½;
Sec. 29;
Sec. 32;
Sec. 33, W½.

T. 21 S., R. 21 E.,
Sec. 3, W½SE¼;
Sec. 4, lots 2, 3, and 4, W½SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼, and W½NW¼SE¼;
Sec. 9, W½W½NE¼, W½, S½SE¼, NW¼SE¼, and SW¼NE¼SE¼;
Sec. 10, SW¼SW¼ and SW¼SE¼SW¼;
Sec. 12, S½NE¼.

T. 21 S., R. 22 E.,
Sec. 5, lots 1 and 2, S½SE¼ and NW¼SE¼;
Sec. 9, S½NW¼;
Sec. 33, lot 1, NE¼, and E½NW¼.

T. 22 S., R. 22 E.,
Sec. 4, lots 11, 23 to 33, inclusive, lots 36, 39, 40, 45, 46, 50, 57, 59, 62, 63, 67, 68, 69, 70, 72, 73, 76, 77, lots 82 to 85, inclusive, lots 87 to 90, inclusive, and lots 93 to 103, inclusive;
Sec. 9, lots 1, 2, 3, and 4, and E½NE¼.

The total areas described above aggregate approximately 6,535.50 acres. The Dam and Reservoir are features of the Central Arizona Project that have been authorized for construction by Public Law 90-537 (Act of September 30, 1968, 82 Stat. 888), within Cochise County, Arizona.

Dated: April 24, 1969.

RILEY E. FOREMAN,
Acting State Director.

[F.R. Doc. 69-5162; Filed, Apr. 30, 1969; 8:45 a.m.]

[Serials Nos. N-667, N-964]

NEVADA

Notice of Public Sale

APRIL 23, 1969.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427), 43 CFR Subpart 2243, two parcels of land will be offered to the highest bidder at a sale to be held at 1:30 p.m., local time, on Wednesday, June 11, 1969, at the Elko District Office, Bureau of Land Management, 2002 Idaho Street, Elko, Nev. 89801. The lands are in section 1 of T. 47 N., R. 64 E., Mount Diablo Base and Meridian; the parcels are described as follows:

Serial No.	Description	Acres	Appraised value
N-667	SW¼SW¼NW¼SW¼, N½SW¼NW¼SW¼, and SE¼NW¼NW¼SW¼.	10.0	$2,750
N-964	SW¼NE¼NE¼SW¼, W½SE¼NE¼SW¼.	7.5	$2,030

The publication costs to be assessed are estimated at $6 for each parcel.

The lands will be sold subject to all valid existing rights. Reservations will be made to the United States for rights-of-way for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals are to be reserved to the United States and withdrawn from appropriation under the public land laws, including the general mining laws.

Bids may be made by a principal or his agent, either at the sale, or by mail. An agent must be prepared to establish the eligibility of his principal. Eligible purchasers are: (1) Any individual (other than an employee, or the spouse of an employee, of the Department of the Interior) who is a citizen or otherwise a national of the United States, or who has declared his intention to become a citizen, aged 21 years or more; (2) any partnership or association, each of the members of which is an eligible purchaser, or (3) any corporation organized under the laws of the United States, or any state thereof, authorized to hold title to real property in Nevada.

Bids must be for all the land in a parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received by the Elko District Office, Bureau of Land Management, 2002 Idaho Street, Elko, Nev. 89801, prior to 4 p.m., on Tuesday, June 10, 1969. Bids made prior to the public auction must be in sealed envelopes, and accompanied by certified checks, payable to the Bureau of Land Management, for the full amount of the bid plus estimated publication

costs, and by a certification of eligibility, defined in the preceding paragraph. The envelope must show the sale number and date of sale in the lower left-hand corner: "Public Sale Bid, Sale N-667, June 11, 1969" or "Public Sale Bid, Sale N-964, June 11, 1969".

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids, if any, are received, the authorized officer shall declare the high bid. A successful oral bidder must submit a guaranteed remittance, in full payment for the parcel and cost of publication, before 4 p.m. of the day of the sale.

If no bids are received for a sale parcel on Wednesday, June 11, 1969, the parcel will be reoffered on the first Wednesday of subsequent months at 1:30 p.m., beginning July 2, 1969.

Any adverse claimants to the above-described lands should file their claims, or objections, with the undersigned before the time designated for sale.

The lands described in this notice have been segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act, from the date of notation of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office Manager, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89502, or to the District Manager, Bureau of Land Management, 2002 Idaho Street, Elko, Nev. 89801.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 69-5163; Filed, Apr. 30, 1969; 8:46 a.m.]

[N-3756]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 24, 1969.

The Bureau of Sport Fisheries and Wildlife has filed the above application for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws.

The applicant desires the land for the management of migratory birds and other wildlife as a part of the Ruby Lake National Wildlife Refuge.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 3008 Federal Building, 300 Booth Street, Reno, Nev. 89502.

The Department's regulations (43 CFR 2311.1-3(c)), provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN

T. 26 N., R. 57 E.,
Sec. 14, NW¼SW¼;
Sec. 22, SE¼SE¼;
Sec. 27, E½NE¼;
Sec. 34, W½E½.
T. 27 N., R. 57 E. (partially unsurveyed),
Sec. 24, N½SE¼, SW¼SE¼.

The areas described aggregate approximately 440 acres.

ROLLA E. CHANDLER,
Land Office Manager.

[F.R. Doc. 69-5164; Filed, Apr. 30, 1969; 8:46 a.m.]

WASHINGTON

Notice of Filing of Plat

APRIL 25, 1969.

1. Plat of survey of the land described below will be officially filed in the Land Office, Portland, Oreg., effective at 10 a.m., May 31, 1969.

WILLAMETTE MERIDIAN

T. 37 N., R. 2 W.,
Sec. 1, lot 1;
Sec. 16, lot 5.

The area described aggregates 0.96 acres of public land.

2. The land described as lot 1, sec. 1 is on the most easterly main rock of Parker Reef, at an elevation of 6 feet above sea level; all covered or awash at high tide.

The land described as lot 5, sec. 16 is named Freeman Island, and raises to an elevation of 30 feet at its highest point, and is covered with a moderate growth of fir, juniper, madrone timber, low brush, and grasses.

3. The land is under lease to Washington State Parks and Recreation Commission under the authority of the Recreation and Public Purposes Act.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 69-5165; Filed, Apr. 30, 1969; 8:46 a.m.]

National Park Service

SHENANDOAH NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Shenandoah National Park, proposes to issue a concession permit to Virginia Stage Lines, Inc., authorizing it to provide bus services for the public at Shenandoah National Park, for a period of approximately 4 months, from June 22, 1969, through October 19, 1969.

The foregoing concessioner has performed its obligations under a previous permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice.

Interested parties should contact the Superintendent, Shenandoah National Park, Luray, Va. 22835, for information as to the requirements of the proposed permit.

Dated: April 10, 1969.

R. TAYLOR HOSKINS,
Superintendent,
Shenandoah National Park.

[F.R. Doc. 69-5166; Filed, Apr. 30, 1969; 8:46 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 9F0818) has been filed by Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, proposing the establishment of tolerances (21 CFR Part 120)

for residues of the insecticide and fungicide 6-methyl-2,3-quinoxalinedithiol cyclic *S,S*-dithiocarbonate in or on raw agricultural commodities as follows: Strawberries at 6 parts per million; papayas at 5 parts per million; apricots, nectarines, and peaches at 4 parts per million; cherries at 3 parts per million; alfalfa hay, citrus, and grapes at 2.5 parts per million; apples, cantaloups, honeydew melons, muskmelons, pears, and summer squash at 1.5 parts per million; plums (fresh prunes) at 1 part per million; cucumbers, watermelons, and winter squash at 0.75 part per million; alfalfa (green) at 0.6 part per million; and walnuts at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the pesticide is a gas chromatographic procedure utilizing an electron-capture detection system.

Dated: April 23, 1969.

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

[F.R. Doc. 69-5158; Filed, Apr. 30, 1969; 8:45 a.m.]

FMC 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 9F0822) has been filed by FMC Corp., Niagara Chemical Div., Middleport, N.Y. 14105, proposing the establishment of tolerances (21 CFR 120.254) for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl *N*-methylcarbamate) and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl *N*-methylcarbamate in or on the raw agricultural commodities rice and rice straw at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide and its metabolite is a microcoulometric gas chromatographic technique with a nitrogen detector cell.

Dated: April 23, 1969.

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

[F.R. Doc. 69-5159; Filed, Apr. 30, 1969; 8:45 a.m.]

HUMBLE OIL & REFINING CO.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001, has withdrawn its petition (FAP 7B2168), notice of which was published in the FEDERAL REGISTER of June 6, 1967 (32 F.R. 8098), proposing an amendment to § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* to provide for additional safe use of petroleum alicyclic hydrocarbon resins as modifiers in wax-polymer blend coatings for corrugated paperboard containers intended for use, under conditions of refrigerated or frozen storage, in bulk packaging of meat, fish, poultry, and foods of types I, VII, VIII, and IX described in table 1 of § 121.2526(c).

Dated: April 24, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-5160; Filed, Apr. 30, 1969; 8:45 a.m.]

o-ISOPROPOXYPHENYL METHYLCARBAMATE

Notice of Establishment of Temporary Tolerance for Pesticide Chemical

On the basis of a petition from the Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, a temporary tolerance is established for residues of *o*-isopropoxyphenyl methylcarbamate in or on straws of barley, oats, and wheat at 1 part per million and grains of barley, oats, and wheat at 0.5 part per million. The Commissioner of Food and Drugs has determined that this temporary tolerance is safe and will protect the public health.

A condition under which this temporary tolerance is established is that the insecticide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Chemagro Corp. name.

This temporary tolerance expires on April 23, 1970.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: April 23, 1969.

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

[F.R. Doc. 69-5161; Filed, Apr. 30, 1969; 8:45 a.m.]

Office of the Secretary

INTERSTATE AIR POLLUTION IN NEW CUMBERLAND, W. VA.-KNOX TOWNSHIP, OHIO, AREA

Notice of Conference of Air Pollution Control Agencies

Whereas, the Common Council of the City of New Cumberland, W. Va., has made a written request pursuant to section 108(d)(1)(A) of the Clean Air Act, as amended (42 U.S.C. 1857d(d)(1)(A)), that a conference be called regarding air pollution originating in the State of Ohio which is alleged to endanger the health or welfare of persons in the State of West Virginia, and

Whereas, the Governor of the State of West Virginia and the State air pollution control agency for the State of West Virginia have concurred in said request.

Now, therefore, pursuant to section 108(d)(1)(A) of the Clean Air Act, as amended, I hereby give formal notification of the air pollution described above to, and call a conference of, the air pollution control agencies of the following:

State of Ohio (Ohio Air Pollution Control Board).
State of West Virginia (West Virginia Air Pollution Control Commission).

All the following municipalities as defined in section 302(f) of the Clean Air Act, as amended (42 U.S.C. 1857h(f)):

In the State of Ohio: Jefferson County; Knox Township, Jefferson County, and municipalities located within Knox Township.
In the State of West Virginia: City of New Cumberland.

Mr. William H. Megonnell is hereby designated as presiding officer of the conference, and Mr. Donald F. Walters is hereby designated as the official conference participant for the Department of Health, Education, and Welfare. The presiding officer will fix the date, time and place for convening the conference after consultation with representatives of the air pollution control agencies of the States of Ohio and West Virginia.

Dated: April 24, 1969.

JOHN T. MIDDLETON,
Commissioner.

[F.R. Doc. 69-5188; Filed, Apr. 30, 1969; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

KENAI AREA OFFICE, ALASKA

Notice of Closings

Notice is hereby given that on or about May 1, 1969, the Kenai Area is merged with the Anchorage Area and the Area Office located at Kenai, Alaska, will be closed. Services to the public formerly provided by the Kenai Area Office will be provided by the Anchorage Area Office, 632 Sixth Avenue, Anchorage, Alaska 99501.

Notice is also given that on or about May 1, 1969, that portion of the Cordova Area east of a southward extension of the Alaska-Yukon Territory boundary line will be merged with the Juneau Area and the Area Office at Cordova, Alaska, will be closed. Services formerly provided by the Cordova Area Office to the public for the area described immediately above

will be provided by the Juneau Area Office, Federal Building, Post Office Box 1647, Juneau, Alaska 99801. Services to the public formerly provided by the Cordova Area Office for that portion of the Cordova Area west of a southward extension of the Alaska-Yukon Territory boundary line will be provided by the Anchorage Area Office, 632 Sixth Avenue, Anchorage, Alaska 99501.

The above information will be reflected in the FAA Organizational Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Anchorage, Alaska, on April 21, 1969.

LYLE K. BROWN,
Director, Alaskan Region.

[F.R. Doc. 69-5186; Filed, Apr. 30, 1969; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

ANDALUSIA LIVESTOCK AUCTION ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ALABAMA	
Andalusia Livestock Auction, Andalusia, May 19, 1959.	Covington Livestock Auction, Inc., Mar. 21, 1969.
COLORADO	
Greeley Livestock Commission Co., Greeley, May 23, 1957.	Sunset Livestock Commission Co., Feb. 19, 1969.
KANSAS	
Weaver & Dunn Live Stock Auction Co., Syracuse, Apr. 13, 1950.	Syracuse Sale Company, Mar. 1, 1969.
OKLAHOMA	
Locust Grove Sale, Locust Grove, May 1, 1959	Locust Grove Sale Co., Inc., Dec. 1, 1968.
Pawnee Livestock Marketing Center, Pawnee, Apr. 27, 1959.	Pawnee Livestock Marketing Center, Inc., Nov. 6, 1968.
Tulsa Cow Palace, Inc., Tulsa, Dec. 7, 1965	Tulsa Agriculture Center, Inc., d/b/a Tulsa Cow Palace, Oct. 1, 1968.

Done at Washington, D.C., this 23d day of April 1969.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 69-5192; Filed, Apr. 30, 1969; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Order Extending Completion Date

Niagara Mohawk Power Corp. having filed a request dated March 17, 1969 for an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-16 for construction of a 1538 megawatt (thermal) single cycle, boiling water nuclear reactor at Nine Mile Point on the shore of Lake Ontario in the Town of Scriba, N.Y., and good cause having been shown for extension of said date pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of the Commission's regulations:

It is hereby ordered, That the latest completion date is extended to September 1, 1969.

Date of issuance: April 24, 1969.

For the Atomic Energy Commission.

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

[F.R. Doc. 69-5153; Filed, Apr. 30, 1969; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18078, etc.; Order 69-4-124]

SERVICE MAIL RATES

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of April 1969.

Service mail rates for transatlantic and transpacific priority mail, Docket 18078; Latin American service mail rate proceeding, Docket 15381; Latin American service mail rate for priority mail, Docket 20415.

By application filed December 26, 1968, the Postmaster General (Post Office Department) requests of the Board an order adopting mileages attached to his application as standard mileages for computation of mail payments for the pairs of points involved.

The requested standard mileages are indicated to be based upon the nonstop mileages as compiled by the Board, with the nonstop mileages selected only for those pair of points for which nonstop service is actually available.

In support of its application Post Office Department points out that its proposed new basis provides truly standard miles in that each is standard for the pair of points involved, irrespective of the carrier providing the transportation, and that it adheres to the principle of the like pay for like service upheld by the Board and followed by the carriers in their passenger fares and freight rates.

Post Office Department also indicates it is agreeable to an adjustment of the transatlantic and transpacific mail rates "to the degree deemed necessary and appropriate by the Board to permit the adoption of the standard mileages proposed." It also indicates that it will present its case in the open Latin America priority mail case [1] on the basis of the proposed standard mileages.[2]

On February 14, 1969, Post Office Department filed Motion for Leave to Amend Application for Revised Mileages [3] in order to reflect a different airport at Colombo, Ceylon; substitute TWA's shorter mileage between Dar es Salaam, Tanzania and JFK for that of Pan American; and to expand the mileage table to include additional mileage provided by TWA applicable to European, African, and Asian points, indicated to represent primarily the movement of military mail between foreign points.

The Board's orders establishing the foreign mail rates provide that changes may be made in the standard mileages when new points are involved or once each fiscal year to be effective July 1 of such fiscal year. Such revisions may be instituted by the Board, any carrier subject to the mail rate order, and the Postmaster General. The orders state that applications to the Board for standard mileage revisions will not be regarded as reopening the rate.

The orders also provide that, in establishing standard mileages to a new point,

[1] Docket 20415.

[2] Post Office Department anticipates that the Board will prescribe the rate on the basis of the proposed mileages and, therefore, it "sees no problem of yield in connection with their adoption at the present time."

[3] Motion to amend is hereby granted.

the Board will consider the routing of flights to such point and the number of flights required by the postal service. In connection with the fiscal year revisions, the orders explicitly provide that the Board will consider the effect of changes in airport locations, mail flow, and flight routings reflected in the carriers' general schedules during the first 7 days of May immediately preceding the July 1 effective date of such revisions.

On January 17, 1969, Northwest, Pan American, and TWA filed answers in opposition. All indicate that their acceptance of the rates in the Transatlantic and Transpacific Mail Rate Case[4] assumed revenues, which now would be reduced if Post Office Department's standard mileage revisions are adopted. The three carriers also allege various inadequacies, complexities, or problems with a rate adjustment as proposed by Post Office Department to compensate for the impact of the conversion from the present basis to the proposed nonstop mileage basis.

Regarding the principle of like pay for like service, each of the carriers claims that this result is now achieved on competitive segments through operation of the rate equalization proviso in the current mail rate orders.

We have decided to deny Post Office Department's request, which does not conform to the criteria prescribed for revision of standard mileages by the Board in the current service mail rate orders applicable to foreign routes, until such time as Post Office Department can show and we can evaluate the effect, if any, that its proposed revised mileages would have on the carriers. Post Office Department states that it is not seeking to reduce mail compensation under current rate orders and concedes that it would not object to some rate adjustment deemed necessary and appropriate by the Board to permit the adoption of the proposed standard mileages. There is no indication, however, of what this rate adjustment should be and we are concerned with the inequities that could result.

Northwest in its answer requests that the Board adopt mileages provided by the carrier and urges prompt action because it cannot submit final billings to Post Office Department for mail carried subsequent to June 30, 1968, absent a mileage determination. Pan American urges that final resolution of the matter is possible since all major carriers have already furnished revised mileages computed on the existing basis that would be applicable July 1, 1968.[5]

We are issuing an order to show cause proposing to make effective as of July 1, 1968, the current mileages or revised mileages advanced by the carriers in the instant proceeding and attached as appendices to this order. These mileages appear to be consistent with the principles and criteria prescribed in current rate orders.

Based upon the foregoing considerations, the Board tentatively finds and concludes that effective July 1, 1968:

(1) Order 68-9-9, September 4, 1968, should be amended to delete Appendix A thereto and substitute in lieu thereof a new Appendix A, attached to the instant order to show cause, providing revised standard mileages for carriage of U.S. mail by air in transatlantic and transpacific services.

(2) Order 68-9-8, September 4, 1968, should be amended to provide that for military mail transported between San Francisco, Portland, or Seattle and Tokyo, the mail ton-miles shall be computed on the basis of standard mileage of 4,865 in lieu of 4,843.

(3) Order E-23916, July 7, 1966, should be amended to delete Appendix A thereto and substitute in lieu thereof a new Appendix A,[6] attached to the instant order to show cause, providing revised standard mileages for carriage of U.S. mail by air in Latin America service.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and pursuant to the regulations promulgated in 14 CFR, Part 302:

It is ordered, That:

1. The application of the Postmaster General, filed December 26, 1968, is denied, without prejudice.

2. All interested parties in Dockets 18078, 15381, and 20415 are directed to show cause why the Board should not adopt the foregoing findings and conclusions and, effective July 1, 1968, fix the revised standard mileages for carriage of U.S. mail by air as follows:

a. As set forth in new Appendix A to Order 68-9-9, September 4, 1968, attached to the instant order to show cause, providing revised standard mileages in transatlantic and transpacific services.

b. As set forth in new Appendix A to Order E-23916, July 7, 1966, attached to the instant order to show cause, providing revised standard mileages in Latin America services.

c. For military mail transported between San Francisco, Portland, or Seattle, and Tokyo, 4,865 miles.

3. Further procedures herein shall be in accordance with the rules of practice, 14 CFR Part 302, and, if there is any objection to the rates or to the other findings and conclusions specified in the order, notice thereof shall be filed within 10 days, and, if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order.

4. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing, and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the rates and incorporating the findings and conclusions specified in the order.

5. If notice of objection and answer are filed, the issues shall be limited to those specifically raised by the answer except as provided in Rule 307 of the rules of practice.

6. This order shall be served on all interested parties in Dockets 18078, 15381, 20415.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 69-5204; Filed, Apr. 30, 1969; 8:49 a.m.]

[4] Order 68-9-9, Sept. 4, 1968.

[5] Post Office Department preceding its petition, had by letters dated July 10, 1968, and August 23, 1968, proposed revised mileages and served a table of revised mileages on the interested carriers. Northwest, Pan American, and TWA responded with modifications and "corrections".

[6] Filed as part of the original document.

[Docket No. 18650; Order 69-4-112]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority April 25, 1969.

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to specific commodity rates, Docket No. 18650, Agreement CAB 20806, R-8 through R-14.

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 resolution of Traffic Conference 1 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 14, 1969, names additional specific commodity rates, as set forth in the attachment hereto,[1] which reflect significant reductions from the general cargo rates.

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 20806, R-8 through R-14, 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

[1] Filed as part of the original document.

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. 69-5205; Filed, Apr. 30, 1969; 8:49 a.m.]

[Docket No. 18650; Order 69-4-116]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority April 25, 1969.

Agreement adopted by the Joint Conferences of the International Air Transport Association relating to specific commodity rates Docket 18650, Agreement CAB 20745, R-61 and R-62.

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 April 10, 1969, names additional specific commodity rates, as set forth below, which reflect significant reductions from the general commodity rates.

R-61:

Commodity Item 1197—Game Skins, 210 cents per kg., minimum weight 500 kgs., Beira/Lourenco to New York.

R-62:

Commodity Item 1563—Cigarettes, Cigars and Tobacco, 55 cents per kg., minimum weight 500 kgs., Shannon to New York.

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-61 and R-62, 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. 69-5206; Filed, Apr. 30, 1969; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report 437]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

APRIL 28, 1969.

Pursuant to §§ 1.227(b)(3) and 21.26(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No.; applicant; call sign; and nature of application

6122-C2-P-69—Nevada Telephone-Telegraph Co.; (New); C.P. for a new 2-way station to be located at Mount Brock, approximately 1 mile south of Tonopah, Nev., to operate on frequency 152.63 MHz.

6123-C2-P-69—Telephone Answering Service; (New); C.P. for a new 1-way station to be located at 5727 Tokay Boulevard, Madison, Wis., to operate on frequency 152.24 MHz.

6124-C2-TC-69—Kalama Telephone Co.; (KOP330); Consent to transfer of control from Darrel W. Coffey, Transferor, to: Ronald M. Coffey, Transferee.

6168-C2-P-69—General Telephone Co. of Ohio; (New); C.P. for a new 2-way station to be located at 550 Leader Street, Marion, Ohio, to operate on frequency 152.75 MHz.

6174-C2-P-69—Smith Communications Service; (KGA250); C.P. to install an additional channel to operate on base frequency 454.075 MHz at a site to be described as location No. 2: Investment Building, Towson, Md.

6175-C2-TC-69—Cascade Telephone Co., Snoqualmie, Wash.; (KOP320); Consent to transfer of control from B. Lamar Gaines, George S. Gaines, B. Lamar Gaines, and George S. Gaines as executors of the Estate of Donna E. Gaines, J. Kenneth Trolan, John Kenneth Trolan, J. Kenneth Trolan as Trustee for Mark Daniel Trolan, J. Kenneth Trolan, Trustee for Lesli Ann Trolan, Transferors, to: Telephone Utilities, Inc., Transferee.

6236-C2-P-(3)-69—American Radio-Telephone Service, Inc.; (New); C.P. for a new 2-way station to be located at WFMM Tower, north of U.S. No. 40, on Rolling Road, Catonsville, Md., to operate on base frequencies 454.025, 454.150, and 454.250 MHz.

6240-C2-P-69—Lafourche Telephone Co., Inc.; (New); C.P. for a new 1-way station to be located at 50 Rodrique Street, Larose, La., to operate on frequency 152.84 MHz.

6241-C2-P-69—RMD Electronics Inc.; (New); C.P. for a new 2-way station to be located at 1960 Lincoln Park West, Chicago, Ill., to operate on base frequency 454.025 MHz.

6255-C2-P-69—Carpenter Radio Co.; (New); C.P. for a new 1-way station to be located at 607 West High Street, Lima, Ohio, to operate on frequency 152.24 MHz.

6256-C2-P-(2)69—Industrial Communications Systems, Inc.; (KMD990); C.P. to add a second channel on base frequency 454.175 MHz at location No. 1: End of Silverdo Canyon Road, Santiago Peak, Calif., and location No. 3: Verdugo Peak, Calif.

6257-C2-P-69—Professional Administrative Services, Inc.; (KIG300); C.P. to relocate 1-way facilities operating on frequency 43.58 MHz to the First National Bank Building, 2 Peachtree Street, Atlanta, Ga.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

6258–C2–P–(5)69—R. O. Deaderick Co.; (KCI308); C.P. to relocate facilities at location No. 1 to: WBIR TV Tower, Knoxville, Tenn., operating on base frequency 152.03 MHz; repeater frequency 459.30 MHz and add repeater frequency 459.25 MHz. Location No. 2: 428 Depot Street, Knoxville, Tenn., reorient control antenna operating on 454.30 MHz and add a control channel on 454.25 MHz.

6263–C2–P–(2)69—Florida Telephone Corp.; (New); C.P. for a new 2-way station to be located at Fifth Street, Windermere, Fla., to operate on frequencies 152.54 and 152.60 MHz.

6264–C2–ML–(2)69—Berkshire Radio Dispatch; (KCA237); Modification of license to change the base frequency from 152.09 to 152.18 MHz at location No. 1: 24 Fasce Place, Pittsfield, Mass., and location No. 2: On Washington Mountain, Washington Road, Berkshire, Mass. All other terms of the existing license to remain the same.

6265–C2–P–(2)69—Cameron Telephone Co.; (KKO357); C.P. to add a second channel on base frequency 152.81 MHz and relocate present facilities operating 152.69 MHz to 0.2 mile north of State Highway No. 82 and 1.3 miles east of Cameron, La.

6274–C2–AL–69—Pioneer Telephone Co. of Carver County; (KFL881); Consent to assignment of license from Pioneer Telephone Co. of Carver County, Assignor, to: Pioneer-United Telephone Co., Assignee.

6275–C2–AL–69—Pioneer Telephone Co. of McLeod County; (KFL890); Consent to assignment of license from Pioneer Telephone Co. of McLeod County, Assignor, to: Pioneer-United Telephone Co., Assignee.

Renewal of licenses expiring April 1, 1969. Term: April 1, 1969, to April 1, 1974.

Licensee, State, and call sign

Atlantic Electronics, Inc.; Connecticut; KCA748.
Radiotelephone Co. of Indiana, Inc.; Indiana; KSA811.

MAJOR AMENDMENT

5301–C2–P–(3)–69—R. O. Deaderick Co.; (New); Amended to read: To operate on base frequency 152.12 MHz. All other particulars remain same as reported on public notice dated Mar. 17, 1969, Report No. 431.

RURAL RADIO SERVICE

6124–C1/C2–(3)–69—Kalama Telephone Co.; Consent to transfer of control from Darrel W. Coffey, Transferor, to: Ronald M. Coffey, Transferee. Stations: KYC71, Temporary-Fixed; KYO26, Weyerhaeuser Timber Co. near Pigeon Springs, Wash.

6266–C1–P/L–69—Southern Bell Telephone & Telegraph Co.; (New); C.P. and license for a new fixed station to be located at U.S. No. 27, approximately 28 miles west of Boca Raton, Fla., to operate on frequencies 157.80, 157.95, and 158.07 MHz communicating with Station KIG288 Pompano Beach, Fla.

6307–C1–P/L–69—Henry Bonham; (KPW91); C.P. and license to reinstate expired license to operate on frequency 157.89 MHz communicating with Station KOF904 The Dalles, Oreg. Location: 6.4 miles north-northwest of Appleton, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

6053–C1–P–69—The Pacific Telephone & Telegraph Co.; (New); C.P. for a new fixed station to be located at 36 East William Street, Sonora, Calif., to operate on 10,995 and 10,715 MHz toward Angels Peak, Calif., via passive reflector.

6054–C1–P–69—The Pacific Telephone & Telegraph Co.; (KMW70); C.P. to add 11,405 and 11,645 MHz toward Sonora, Calif., via passive reflector, located at Angels Peak, 4 miles southwest of Angels Camp, Calif.

6169–C1–MP–69—New England Telephone & Telegraph Co.; (KCL85); Modification of C.P. to change frequency from 6249.1 MHz to 10,735.0 MHz and add frequencies 6286.2 and 6404.8 MHz toward Dunbarton, N.H., at station located at 25 Concord Street, Manchester, N.H.

6170–C1–P–69—New England Telephone & Telegraph Co.; (New); C.P. for a new fixed station to be located on East Hill, 4 miles east of Enfield, N.H., to operate on frequencies 6034.2 and 6152.8 MHz toward West Lebanon, N.H., and Springfield, N.H.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

6171–C1–MP–69—New England Telephone & Telegraph Co.; (KZI59); Modification of C.P. to change frequency from 5997.1 MHz to 11,305 MHz and add frequencies 6034.2 and 6152.8 MHz toward Manchester, N.H., and add frequencies 6034.2 and 6152.8 MHz toward Springfield, N.H., at station located at 1 mile north of Dunbarton, N.H.

6172–C1–P–69—New England Telephone & Telegraph Co.; (New); C.P. for a new fixed station to be located on Oak Hill, 1 mile northwest of Little Sunapee Lake, Springfield, N.H., to operate on frequencies 6286.2 and 6404.8 MHz toward Dunbarton, N.H., and Enfield, N.H.

6173–C1–P–69—New England Telephone & Telegraph Co.; (New); C.P. for a new fixed station to be located at 1 mile northeast of West Lebanon, N.H., to operate on frequencies 6286.2 and 6404.8 MHz toward Enfield, N.H.

6176–C1–P–69—Southwestern Bell Telephone Co.; (KLV29); C.P. to replace transmitters operating on 5969.6 and 6108.3 MHz toward Amarillo, Tex.; change the antenna system and relocate facilities to 10th and Jackson Streets, Amarillo, Tex.

6177–C1–P–69—Southwestern Bell Telephone Co.; (KLV30); C.P. to change the point of communication to Amarillo Junction, Tex., on frequencies 6241.7 and 6360.4 MHz at station located at 24 miles north of Amarillo, Tex.

6237–C1–P–69—The Pacific Telephone & Telegraph Co.; (KMJ79); C.P. to change frequencies from 6135 and 6375 MHz to 6189.8 and 6338.1 MHz toward Borrego, Calif., and replace the transmitters operating on same, at station located at Mount Laguna, Calif.

6238–C1–P–69—The Pacific Telephone & Telegraph Co.; (KMN97); C.P. to change frequencies from 6015 and 6255 MHz to 5937.8 and 6056.4 MHz toward Mount Laguna, Calif., at station located at 2.5 miles east of Borrego, Calif.

6125–C1–ML–69—Evergreen Telephone Co.; (KYO93); Modification of license to change the bandwidth from 800F9 to 3500F9.

6126–C1–ML–69—Evergreen Telephone Co.; (KYO94); Modification of license to change frequency from 2128.4 to 2127.0 MHz and change bandwidth from 800F9 to 3500F9.

6127–C1–ML–69—Evergreen Telephone Co.; (KYO95); Modification of license to change the bandwidth from 800F9 to 3500F9.

6128–C1–ML–69—Evergreen Telephone Co.; (KYO96); Modification of license to change frequency from 2118.8 to 2113.0 MHz and change bandwidth from 800F9 to 3500F9.

6129–C1–ML–69—Evergreen Telephone Co.; (KYO97); Modification of license to change frequency from 2178.4 to 2177.0 MHz and change 2160.8 to 2163.0 MHz, also change bandwidth from 800F9 to 3500F9. All other terms of the above licenses are to remain the same.

6259–C1–P–69—Indiana Bell Telephone Co.; (KSP82); C.P. to add frequencies 6360.3 and 10,875 MHz and an antenna system toward Portage, Ind., at station located at 118 East Eighth Street, Michigan City, Ind.

6260–C1–P/L–69—General Telephone Co. of Pennsylvania; (New); C.P. and license for a new fixed station to be located at 1001 State Street, Erie, Pa., to operate on frequency 5975.0 MHz.

6261–C1–P–69—Southern Bell Telephone & Telegraph Co.; (KIB25); C.P. to add frequencies 10,715 and 11,035 MHz toward Decatur (WATL–TV), Ga., at station located at 51 Ivy Street NE., Atlanta, Ga.

6267–C1–P–69—General Telephone Co. of the Northwest, Inc.; (KOT61); C.P. to add frequencies 11,285 and 11,445 MHz toward Round Mountain, Idaho; 11,365 and 11,525 MHz toward Cooks Mountain Pass, Idaho, and toward Newport, Wash., via passive reflector, at station located at Little Blacktail Mountain, 2.6 miles southeast of Cocolalla, Idaho.

6268–C1–P–69—General Telephone Co. of the Northwest, Inc.; (KOU45); C.P. to add frequencies 10,755 and 10,915 MHz toward Little Blacktail Mountain, Idaho; add 10,795 and 10,955 MHz toward Bonners View Pass, Idaho, and Bonners Ferry, Idaho, via passive reflector, at station located at 9 miles south-southwest of Bonners Ferry, Idaho.

6269–C1–P–69—General Telephone Co. of the Northwest, Inc.; (KVU69); C.P. to add frequencies 11,325 and 11,485 MHz toward Bonners View Passive and to Round Mountain, Idaho, via passive reflector and add frequencies 11,245 and 11,405 MHz toward Dawson Ridge Passive, to Duck Lake Passive and Troy, Mont., via passive, at station located at the northwest corner of Denver and Van Buren Avenues, Bonners Ferry, Idaho.

6270–C1–P–69—General Telephone Co. of the Northwest, Inc.; (New); C.P. for a new fixed station to be located at Second and Kootenai Street, Troy, Mont., to operate on frequencies 10,715 and 10,875 MHz toward Duck Lake Passive and via Dawson Ridge Passive to Bonners Ferry, Idaho, and to operate on frequencies 10,835 and 10,995 MHz toward Preacher Mountain Passive via Sheldon Mountain, Passive, to Libby, Mont.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

6271–C1–P–69—General Telephone Co. of the Northwest, Inc.; (KOY43); C.P. to add frequencies 11,365 and 11,525 MHz toward Sheldon Mountain Passive and via Preacher Mountain Passive to Troy, Mont., at station located at 114 East Fourth Street, Libby, Mont.

6272–C1–P–69—General Telephone Co. of the Northwest, Inc.; (New); C.P. for a new fixed station to be located at West 423 3d Street, Newport, Wash., to operate on frequencies 10,835 and 10,955 MHz toward Cooks Mountain Passive and via passive to Little Blacktail Mountain, Idaho.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

6243–C1–P–69—Wyoming Microwave Corp.; (New); C.P. for a new station at Borie, Wyo., 10 miles west-southwest of Cheyenne, Wyo., at lat. 41°06'03" N., long. 105°00'16" W. Frequency 6167.2 MHz on azimuth 297°43'.

6244–C1–P–69—Wyoming Microwave Corp.; (New); C.P. for a new station at 8 miles east-southeast of Laramie, Wyo., at lat. 41°16'04" N., long. 105°26'00" W. Frequency 6390.0 MHz on azimuth 325°30'.

6245–C1–P–69—Wyoming Microwave Corp.; (New); C.P. for a new station at Sullivan Ranch 10 miles east-northeast of Difficulty, Wyo., at lat. 42°06'20" N., long. 106°13'01" W. Frequency 6167.6 MHz on azimuth 352°11'.

6246–C1–P–69—Wyoming Microwave Corp.; (New); C.P. for a new station at Casper Mountain, 7 miles south of Casper, Wyo., at lat. 42°44'03" N., long. 106°20'00" W. Frequency 4170.0 MHz on azimuth 299°59'.

6247–C1–P–69—Wyoming Microwave Corp.; (KPB65); C.P. to add frequency 3730.0 MHz on azimuth 321°41' at station located at Copper Mountain, 12.3 miles north-northwest of Bonneville, Wyo., at lat. 43°26'15" N., long. 107°59'47" W.

6248–C1–P–69—Wyoming Microwave Corp.; (KPS63); C.P. to add frequency 4170.0 MHz on azimuth 19°20' at station located on Cedar Mountain, 5.3 miles southwest of Cody, Wyo., at lat. 44°29'06" W.

6249–C1–P–69—Western Microwave, Inc.; (KPV60); C.P. to add frequency 11,625 MHz on azimuth 30°14' at station located at Greeno, 11.5 miles southeast of Laurel, Mont., at lat. 45°32'04" N., long. 108°38'28" W.

6250–C1–P–69—Western Microwave, Inc.; (New); C.P. for a new station at KULR–TV, 2.7 miles east of Billings, Mont., at lat. 45°45'35" N., long. 108°27'14" W. Frequency 5989.6 MHz on azimuth 282°45'.

6251–C1–P–69—Western Microwave, Inc.; (KPZ42); C.P. to add frequency 5945.0 MHz on azimuth 338°00' at station located 18 miles northeast of Greycliff, Mont., at lat. 45°55'35" N., long. 109°29'44" W.

6252–C1–P–69—Western Microwave, Inc.; (KPQ43); C.P. to add frequency 6010.0 MHz on azimuth 323°00' at station located at Little Belt Mountain, 8 miles southwest of Buffalo, Mont., at lat. 46°44'50" N., long. 109°57'10" W.

6253–C1–P–69—Western Microwave, Inc.; (KPQ44); C.P. to add frequency 6182.5 MHz on azimuth 295°00' at station located 8.2 miles northeast of Raynes Ford, Mont., at lat. 47°22'25" N., long. 110°38'20" W.

6254–C1–P–69—Western Microwave, Inc.; (KSQ33); C.P. to add frequency 6271.4 MHz on azimuth 204°01' at station located 6 miles north of Great Falls, Mont., at lat. 47°35'42" N. long. 111°20'25" W. (Informative: Applicants propose to provide ABC programing now available at KFBC–TV of Cheyenne, Wyo., to KTWO–TV in Casper, Wyo.; KULR–TV in Billings, Mont., and to KFBB–TV in Great Falls, Mont.)

6306–C1–P–69—West Texas Microwave Co.; (KTQ80); C.P. to add new point of communication at Roscoe, Tex. Azimuth 280°33'. Frequencies 6212.0, 6271.3, and 6330.7 MHz. Receiver will intercept signals from path licensed toward Colorado City, Tex. Location 2 miles east of Sweetwater, Tex., at lat. 32°29'08" N., long. 100°21'58" W. (Informative: Applicant proposes to provide television signals of stations WFAA–TV, KTVT, and KERA–TV of Fort Worth-Dallas area for delivery to Roscoe TV Cable Service in Roscoe, Tex.)

6312–C1–MP–69—Western Microwave, Inc.; (KPQ42); Modification of construction permits to (a) change frequency 6260.0 MHz to 6241.7 MHz toward Big Timber and Little Belt Mountain, Mont., on azimuths of 252°00' and 338°00', respectively and (b) change frequency 5960.0 MHz to 6271.3 MHz toward Greeno, Mont., on azimuth of 122°48'. Transmitter location: 19 miles northeast of Greycliff, Mont.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—continued

6313–C1–MP–69—Western Microwave, Inc.; (KPV60); Modification of construction permits to change frequencies 6110.0 MHz and 6210.0 MHz to 6197.2 and 6093.5 MHz toward Laurel (326°22'), Red Lodge (229°59'), Sarpy (75°49'), and Billings CATV (13°16'), all in Mont. Transmitter location: Greeno, 11.5 Miles southeast of Laurel, Mont.

Major Amendment

2413–C1–P–69—Upper Peninsula Microwave, Inc.; (KYO47); Application amended to change frequency 5974.8 MHz to 5967.4 MHz toward Perrinton, Mich., on azimuth of 324°45'. Transmitter location: 3.5 miles north of Williamston, Mich.

2414–C1–P–69—Upper Peninsula Microwave, Inc.; (KYO48); Application amended to change frequency 6256.5 MHz to 6219.5 MHz toward Mount Pleasant, Mich., on azimuth of 347°45'. Transmitter location: 1.5 miles southeast of Perrinton, Mich.

2415–C1–P–69—Upper Peninsula Microwave, Inc.; (KYO49); Application amended to change frequency 5974.8 MHz to 5967.4 MHz toward Harrison, Mich., on azimuth of 353°02'. Transmitter location: 2 miles south of Mount Pleasant, Mich.

2416–C1–P–69—Upper Peninsula Microwave, Inc.; (KYO50); Application amended to change frequency 6256.5 MHz to 6219.5 MHz toward Grayling and Cadillac, Mich., on azimuths of 04°05' and 296°03', respectively. Transmitter location: Harrison, Mich.

2417–C1–P–69—Upper Peninsula Microwave, Inc.; (KQM44); Application amended to change frequency 5974.8 MHz to 5967.4 MHz toward Leetsville, Mich., on azimuth of 311°38'. Transmitter location: 7 miles southwest of Grayling, Mich. All other particulars are as reported in public notice dated Oct. 28, 1968, Report No. 411.

INFORMATIVE

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

Its appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reason of potential electrical interference and/or economic competition:

Missouri

Business Communications Inc., KAA888, File No. 4247–C2–P–69.

Leonard A. Voyles, doing business as General Communications, KPQ940, File No. 5001–C2–P–69.

Texas

Radio Paging Inc., (New), File No. 3823–C2–P–69.

Houston Mobilfone Inc., KKA343, File No. 4139–C2–P–69.

Roy M. Teel doing business as, Houston Radiophone Service, KKA344, File No. 4137–C2–P–69.

Radio Dispatch Inc., KLB701, File No. 4138–C2–P–69.

[F.R. Doc. 69–5193; Filed, Apr. 30, 1969; 8:48 a.m.]

[FCC–436]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

APRIL 24, 1969.

The following application was tendered April 2, 1969, seeking the identical facilities of former Station KICM, Golden, Colo. Accordingly, we have this date waived the provisions of Note 2 to § 1.571 of the Commission's rules and accepted this application for filing. Similarly, we will accept any other application for consolidation which proposes essentially the same facilities.

NEW, Golden, Colorado, Voice of Reason, Inc., Req: 1250 kc, 1 kw, DA, Day.

Pursuant to the provisions of §§ 1.227 (b)(1), 1.591(b), and Note 2 to § 1.571 of the Commission's rules, an application, in order to be considered with this application must be in direct conflict and tendered no later than June 2, 1969.

The attention of any party in interest desiring to file pleadings concerning this application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements related to such pleadings.

Action by the Commission April 23, 1969.[1]

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

[F.R. Doc. 69-5194; Filed, Apr. 30, 1969; 8:48 a.m.]

[FCC 69-434]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

APRIL 25, 1969.

The following application was tendered April 4, 1969, seeking the identical facilities of Station KFNF, Shenandoah, Iowa, the operation of which is to be terminated pursuant to Commission action of February 6, 1969. Accordingly, we have this date waived the provisions of note 2 to § 1.571 of the Commission's rules and accepted the application for filing. Similarly, we will accept any other application for consideration which proposes essentially the same facilities.

NEW, Shenandoah, Iowa, John Bozeman, Req: 920 kc, 500 w, 1 kw-LS, U.

Pursuant to the provisions of §§ 1.227 (b)(1), 1.591(b), and note 2 to § 1.571 of the Commission's rules, an application, in order to be considered with this application must be in direct conflict and tendered no later than June 2, 1996.

The attention of any party in interest desiring to file pleadings concerning this application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements related to such pleadings.

Action by the Commission April 23, 1969.[2]

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

[F.R. Doc. 69-5195; Filed, Apr. 30, 1969; 8:48 a.m.]

[Dockets Nos. 18529, 18530; FCC 69-424]

BRINSFIELD BROADCASTING CO. AND CASS COUNTY BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of J. Stewart Brinsfield, Sr., and J. Stewart Brinsfield, Jr., doing business as Brinsfield Broadcasting Co., Raytown, Mo., Requests: 100.7 mcs, No. 264; 100 kw.; 459 feet, Docket No. 18529, File No. BPH-6329; Cass County Broadcasting Co., Harrisonville, Mo., Requests: 100.7 mcs, No. 264; 27.1 kw.; 345 feet, Docket No. 18530, File No. BPH-6406; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue also will be specified.

3. According to the information in its application, Brinsfield Broadcasting Co. would require $91,263 to construct and operate its proposed station for 1 year without revenue. Although applicant indicates reliance on revenues to cover its operational costs, its supporting information merely indicates that certain businesses "might spend" a stated amount on station advertising. None of the businesses have committed themselves to spending these amounts or even stated that it was their firm intention to do so. Lacking such assurances, no credit can be given for anticipated revenues. Applicant's estimate for construction costs is based in part on a lease arrangement with Capital Leasing Corp., but only hearsay support has been shown for its availability. As a result we are unable to determine whether this lease arrangement is available or what applicant's costs for construction would be without it. Applicant's reliance on new capital is also unacceptable since the balance sheet for the partners who are to provide it is out of date. Under these circumstances an issue will be specified regarding applicant's costs for construction and first-year operation and the availability of the necessary funds, taking into account the existence of copending applications for Peoria, Ill. (BPH-6519); Oil City, Pa. (BPH-6662); Corry, Pa. (BP-18396); LaPlata, Md. (BALH-1144); and Utica, N.Y. (BALH-1176); for which these principals would assume financial responsibility.

4. Cass County Broadcasting's application indicates that $76,387 would be needed for construction and first-year operation of its proposed station. To meet these needs it has shown $7,250 in available liquid assets and $50,000 available from a bank loan. The total thus available ($57,250) is short of its needs and an issue will be specified regarding the additional funds required.

5. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961), and our public notice of August 22, 1968 (FCC 68-847), we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Although Brinsfield Broadcasting Co. appears to have made an adequate survey it has not adequately listed the suggestions received, or the programing proposed to meet the needs as evaluated. Thus, we are unable at this time to determine whether it is aware of and responsive to the needs of the area. Accordingly, a Suburban issue is required.

6. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

7. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the amount required by Brinsfield Broadcasting Co. to construct and operate its proposed station for 1 year without revenues and whether it has available to it sufficient funds for this purpose to thus demonstrate its financial qualifications.

(2) To determine whether Cass County Broadcasting Co. has available to it the additional $19,137 required for construction and first year operation to thus demonstrate its financial qualifications.

(3) To determine the efforts made by Brinsfield Broadcasting Co. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(4) To determine the areas and populations which would receive FM service of 1 mv/m or greater intensity from the respective proposals and the availability of other primary aural services in such areas.

(5) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

(6) To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

(7) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants, 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.

9. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the

[1] Commissioners Hyde (Chairman), Cox, Wadsworth, and H. Rex Lee, with Commissioner Johnson concurring in the result.

[2] Commissioners Hyde (Chairman), Cox, Wadsworth, Johnson, and H. Rex Lee.

Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, 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 23, 1969.

Released: April 28, 1969.

FEDERAL COMMUNICATIONS COMMISSION [1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-5196; Filed, Apr. 30, 1969; 8:48 a.m.]

[Docket Nos. 18526, 18527; FCC 69-422]

CLICK BROADCASTING CO. AND R-J CO.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Robert E. Thomas and Ferris A. Maloof, doing business as Click Broadcasting Co., Blue Ridge, Ga., Requests: 1500 kc., 500 w, Day, Docket No. 18526, File No. BP-17409; Robert P. Joseph and Jacqueline A. Joseph, doing business as R-J Co., Clarksville, Ga., Requests: 1500 kc., 5 kw., 500 w-CH, Day, Docket No. 18527, File No. BP-17691; for construction permits.

1. The Commission has before it for consideration (a) the above captioned applications; (b) a petition to deny the application of Click Broadcasting Co. (Click), filed by Copper Basin Broadcasting Co., Inc. (Copperhill), licensee of standard broadcast Station WLSB, Copperhill, Tenn.; and (c) pleadings in opposition and reply thereto; (d) a petition to deny the application of R-J Co. (R-J), filed by Habersham Broadcasting Co., Inc. (WCON), licensee of standard broadcast Station WCON, AM and FM, Cornelia, Ga.; and (e) pleadings in opposition and response thereto.

2. Copperhill claims standing as a party in interest on the basin that Station WLSB, operating in a community 12 miles from Blue Ridge, Ga., serves much of the same audience and depends upon many of the same advertisers as Click's proposal. We find that this petitioner does have the necessary standing within the meaning of section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470, 9 RR 2008 (1940).

3. Copperhill bases its request for denial of a hearing on alleged misrepresentations and fraud in connection with Click's program and advertising surveys, and also challenges the applicant's financial qualifications. The petitioner's claim of misrepresentation as to the program survey arises from Click's description of one of its proposed programs, the "County Agent's Report", a program devised through the cooperation of the county agents in the area and designed to keep interested persons informed in agriculture, gardening and related subjects. The program is to be aired daily except Sunday. Section IV of Click's application contains a statement that "the Fannin County, Ga., agent has assured the parties of the applicant that there is a definite need for this type coverage and he will co-operate fully." The petitioner asserts that "the agent, according to the applicant, agreed to participate in a daily program." The petitioner has attempted to bolster this interpretation of Click's representations by securing an affidavit stating that he (the agent) "has made no commitment to cooperate on any scheduled basis * * *." We are of the view that Click's statements in its program survey report cannot be fairly construed as a representation of, or an attempt to imply, a commitment on the part of the county agent to appear on the program in question on a daily basis. Therefore, Copperhill's request for an issue to determine whether the applicant has misrepresented to the Commission the availability of programing proposed in its application will be denied.

4. In an effort to establish the necessary financial resources for its proposal, the Click application contains signed form statements of some of the local merchants, each of which contains the merchant's estimate of the amount that he "would have available for radio advertising" on the proposed station. Copperhill contends that the aforesaid statements appear to be based upon misrepresentations to the signatory merchants as to the nature of the instrument they were signing, and to the Commission on the nature of the instruments so obtained. This contention is apparently based principally if not solely on the fact that the applicant has used the term "advertising commitments" to introduce the aforesaid statements as one of the exhibits in its application. In its opposition pleading, Click states that it was not its intention to suggest that the statements were formal advertising contracts or commitments in any legally binding sense, and observes that the statements themselves belie any suggestion of obligation. In construing this matter in the language of the Ultravision requirements,[1] we are of the view that the applicant's use of the word "commitment", while perhaps careless, was not intended, nor did it result, in fact, in a belief or understanding on the part of the signatory merchants (or the Commission) that they were entering into binding agreements or commitments to advertise on the applicant's proposed station. Moreover, the affidavits which Copperhill obtained from some of these merchants expressly confirms this interpretation and understanding.[2]

5. Even more serious than the foregoing misrepresentations, states Copperhill, is the fact that one of these is a forgery and fraud upon the Commission. The petitioner attaches an affidavit of Raymond Akins, President of Chastain-Pack Funeral Homes, Inc., in which the affiant states, inter alia, that the purported signature in behalf of Chastain-Pack by Raymond Akins is not his signature but a forgery. Click in its opposition states that the charge is preposterous, that no motive has been suggested for such conduct on the part of the applicant, and that a comparison of the Akins signature on the two documents demonstrates that "the forgery accusation is, charitably speaking, less than accurate." [3] Because of these allegations, and the fact that the affiant has not repudiated his sworn statement claiming forgery, an issue will be specified to determine whether the applicant has presented forged and fraudulent materials to the Commission.

6. Finally, Copperhill challenges Click's financial qualification, contending that neither partner has established the necessary liquidity to meet his partnership capital commitment and also challenging the validity of the applicant's Ultravision showing. In addition to existing capital in the amount of $13,800, Click attempts to establish an Ultravision showing in the amount of $37,000, to cover the balance of its estimated first year costs of construction and operation, which total $42,518. As to the Ultravision showing, Copperhill contends that $7,700 of the $19,400 for which the applicant has statements of potential advertisers has been "disavowed or forged", and that the remaining $11,700 are of dubious value. Further, as to the remaining $17,600 of the applicant's estimated first year revenues, which it attempts to document with some economic data, we agree with the opposition that the applicant has clearly failed to make a proper Ultravision showing. Thus, even if the "commitments" of $19,400 prove to be valid, Click has failed to establish the necessary available assets to meet its first year financial requirements. Accordingly, a financial issue will also be specified.

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[1] Commissioner Bartley absent; Commissioner Robert E. Lee concurring in result.

[1] Ultravision Broadcasting Co., 1 FCC 2d 544, 5 RR 2d 343 (1965), which requires only that there is a reasonable assurance that sufficient funds to meet this standard will be available. The applicant here observes that as a former radio licensee (WDMF, Buford, Ga.), Mr. Thomas, who prepared the exhibit, was fully aware that there was no requirement that revenue estimates be supported by enforceable agreements.

[2] E.g., Mr. Robert L. Turner states (Attachment C, Petition to Deny): "* * * he told Mr. Thomas that he was not interested in doing any advertising with the new radio station * * * and that at no time * * * did he ever commit himself or Red and White Food Store to pay to the proposed new radio station * * * any funds whatsoever * * *".

[3] Click states that although Akins refused to sign a counter-affidavit "to clear up this serious matter", he did state that the signature on the advertising estimate looks like his signature and that although he does not remember signing the statement, he may very well have done so, and that he would be willing to come to Washington and explain the matter.

7. Habersham Broadcasting Co., Inc. (WCON) bases its claim of standing as a party in interest on the fact that the community of Clarkesville is located approximately 8 miles from Cornelia, and R–J's proposed station would provide Cornelia with a strong signal and would thus compete with station WCON for audience and advertising revenues. The Commission finds that the petitioner does have standing within the meaning of section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. FCC v. Sanders Bros. Radio Station, supra.

8. WCON contends that a grant of R–J's application would result in a loss of revenue which would force it to curtail or delete a substantial part of its public service programing, reduce its program staff, and make other changes in order to prevent the station from going silent. The applicant, in seeking to raise a Carroll issue[4] provides a substantial amount of information and economic data in its attempt to meet the pleading requirements set out in Missouri-Illinois Broadcasting, FCC 64–748, 3 RR 2d 232 (1964).

9. Pointing out that the population of Habersham County in 1960 was only 18,116 and that of Cornelia, Clarksville, and Demorest was 2,936, 1,352, and 1,029 respectively,[5] WCON states that the modest populations within the county plus the location of Clarksville with respect to Cornelia weaken the presumption of a need for the proposed station. Observing that Habersham County is not fortunate to be located near any major population center, the petitioner states that the only significant growth stimulant in the area since 1960 has been the Reigel Textile Corp. plant which employs 600 persons. In presenting its Missouri-Illinois data, the petitioner indicates that the retail sales for the county were $28.7, $31.9, and $36 million respectively for the years 1964 through 1966, and states that the increase is attributed mostly to the Reigel Textile Mill plus growth in the poultry farming.

10. WCON further reports that of a total of 242 businesses within Habersham County, only about 150 are potential advertisers in any of the advertising media. According to petitioner, there are seven legitimate advertising media competing for revenue in Clarksville and Habersham County, which between them have developed at least 90 percent of the available advertising potential.[6] Turning to its own economic situation the petitioner shows that although revenues increased from $76.1, to $85.9 thousand between 1964 and 1966, its profits decreased from $21 to $12.9 thousand during this period. Petitioner presents information relative to its staff and operating expenses to show why these are higher than those normally experienced by stations in comparable communities, and also states that it has invested in excess of $42,000 in new equipment over the past 3 years. As to anticipated loss of revenue to a new station, the petitioner states that WCON–AM (WCON–FM accounts for less than $100 per month of revenues) will lose all except approximately $3,200 of the approximately $19,300 presently being realized from Clarksville businesses and that a few Cornelia businesses which advertise on WCON will be forced (by virtue of their having interests in both places) to split their advertising budgets, resulting in an additional loss of approximately $13,200.

11. Going on to show how a new station would cause a net loss or degradation of program service to Clarkesville, Cornelia, and Habersham County, WCON states that, faced with a possible loss in revenue approaching $30,000, it would have to make numerous changes in its operation. The changes, which the petitioner describes in some detail, include the following: (i) Reduction of staff from eight full-time and three part-time employees to five or possibly four full-time and two part-time, for a savings of approximately $15,000, the result of which would be a "rip and read" operation with no production of programs whatsoever; (ii) elimination of the first class engineer, with a resulting diminution in use of some of the more sophisticated equipment; (iii) release of the full-time newsman; (iv) release of the sports announcer and certain clerical personnel, all resulting in curtailment or elimination of certain specific programs described by the petitioner. Finally, it foresees that the number of public service announcements would be reduced by one-half and public service programing to a mere fraction of its present level. Finally, WCON notes that R–J's application indicates an initial staff of four persons and an operating budget of less than $27,000, and asserts that these two factors alone raise substantial questions as to the ability of the applicant to provide the area with worthwhile and meaningful public service programing.

12. In its opposition to the WCON petition to deny, R–J states that sales in Habersham County have increased approximately 25 percent during the past 3 years, and cites WCON's growth in net profits and its surplus of $103,465.84 shown by its most recent financial statement (Habersham 1966 balance sheet) implying that from these factors "the dire results threatened by WCON are either figments or would occur only from a desire on the petitioner's part to avoid any change in its present profit position." In asserting that the petitioner's claims are grossly overstated or demonstrably untrue, the applicant observes that, contrary to WCON's premise, neither its own coverage nor that of WCON is limited to Habersham County, but in fact involves a multi-county area of which Habersham County is but a part. According to R–J, there is a storehouse of untapped potential advertising revenue outside of Cornelia and Clarkesville.[7] R–J further asserts that Habersham County alone could support two radio stations, citing such indicia as the rise in manufacturing and mining employment (from 3,547 in 1965 to 3,703 in 1966), 11 expanded or new industries since 1963, growth in individual income from $20 million in 1960 to $39.3 million in 1967, and an increase in bank deposits of 37.5 percent between 1960 and 1964.

13. After again adverting to the petitioner's financial figures and observing that "a 22 percent rate of profit on revenue is substantial," R–J challenges some of WCON's figures and arguments as to loss of revenue and observes further that in Voice of Middlebury, 7 RR 2d 349 (1966), the Commission found "that increased competition results in increased advertising budgets." The applicant then goes on to argue that even if WCON's "inherently incredible maximum figure" of $23,123 of revenue loss is accepted, and even assuming that WCON fails to develop new advertising, there would be no degradation of WCON's ability to program in the public interest. In support of this statement R–J contends that WCON's pay scale is higher than that in much larger markets, observes that WCON–FM accounts for less than $100 per month of revenues, and states that the WCON's AM profits are now well over the $23,123 that it speculates it will lose, so that even if revenues declined the full speculated amount no change in service would be required. Moreover, R–J asserts that the contemplated program cutbacks would not even be necessary if the staff were cut back or salaries reduced. Finally, R–J submits a brief outline of its planned programing in support of an allegation that it proposes more diverse programing than WCON assumes that it will be forced to abandon, and that the net result would be a net increase of programing in the public interest.

14. The petitioner in its reply states that while there has been economic growth in the area, it has not kept pace with the cost of doing business. WCON further states that none of the economic data attached to R–J's opposition has any bearing on monies available for or expended on radio advertising in Habersham County, but that its own data is based on facts determined by 14 years of operation of its station in that market.

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[4] Carroll Broadcasting v. FCC, 258 F 2d 440, 17 RR 2066 (1958).

[5] All population figures are from the U.S. Census unless otherwise noted.

[6] The following are enumerated by WCON: Station WCON–AM & FM, Station WRWH, Cleveland, Ga., and Stations WNEG and WLET, Toccoa, Ga.; also the following newspapers: Cornelia Northeast Georgian, Clarksville Tri-County Advertising, and the Gainesville Daily Times (Habersham County). Petitioner indicates that these media obtain most of their advertising from Habersham County—principally Cornelia and Clarksville, from whence 100 percent of its (Station WCON) revenue derives ($19,276 from Clarksville businesses and $68,711 from Cornelia, for 1966).

[7] R–J states that the 0.5 mv./m. signal of both WCON and R–J will cover large areas of White, Stephens, Franklin, Banks, Hall, Rabun, and Towns Counties, which, like Habersham County have experienced a substantial growth in trade. While it is true that the applicant's normal 0.5 mv./m. proposed contour, extending approximately 23 miles in diameter, covers a considerable part of these counties, its critical hours coverage is approximately 75 percent smaller. In any case, with the exception of Hall County, which the applicant's signal will barely reach, these counties are very sparsely populated.

Finally, the petitioner states that not only would it be compelled to curtail its staff and its programing, but it would also be necessary to cease separate programing on its sister station, WCON–FM, should the R–J application be granted.

15. Although R–J appears to have effectively rebutted many of the petitioner's economic allegations and data, we find that a hearing is required. In this regard, we note that the court in Folkways Broadcasting Co., 375 F. 2d 299, 8 RR 2d 2089 (1967), decreed that:

> * * * At times there might be a knowledge of a specific financial loss and its detrimental consequence on programing, but we think a Carroll hearing may not be limited to a case in which preknowledge of the exact economics of the situation is necessarily available. Requiring such precision would eliminate the doctrine as a practical matter.

16. For this reason, we find that there are substantial and material questions of fact concerning the ability of the Clarkesville-Cornelia area to support another standard broadcast station without a net degradation of program service to the public. Accordingly, a Carroll issue will be specified. In view of this finding, we come to the request by R–J that WCON's renewal application be called up (although not normally due until January 1, 1970) for consolidation for comparative hearing in this proceeding pursuant to § 1.539(c) of the rules. In support whereof R–J cites Herbert P. Michels, 17 RR 557 (1958). Our policy in the area, however, is set out in John Self, FCC 63–167, 24 RR 1177 (1963), where we stated that:

> The Commission, as a matter of policy, will not advance the filing date of the renewal application of an existing station, in order to consider it comparatively with an application for a construction permit for a new station against which the Carroll issue has been specified, even though the issue was included at the existing station's request. Should the Carroll issue be resolved against the applicant for the new station, he may file an application against the existing station's renewal application, and such application for construction permit will be considered comparatively with this renewal application.

We followed this in Bigbee Broadcasting Co., FCC 63–260, 25 RR 88 (1963), and also in William L. Ross, FCC 63–366, 25 RR 360 (1963), pointing out there that the Commission has always been circumspect in its discretionary use of the call-up procedure. Accordingly, the applicant's request in this regard will be denied.

17. Based on information provided by R–J, it is estimated that $18,101 will be required to meet first year construction and equipment costs, and $26,500 for 1 year's working capital, for a total of $44,601. On the basis of a projected balance sheet of the R–J Co., the applicant proposes to meet these expenses with current liquid assets consisting of cash in the amount of $30,000 and stocks listed on major exchange totaling $9,492. Since the projected balance sheet shows a total of $32,300 in current liabilities, however, no more than $7,192 of those assets can be considered as available quick assets. Moreover, the offer of $30,000 made by Emma M. Joseph (mother of partner Robert P. Joseph) is not substantiated by a balance sheet or financial statement as required.

18. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

19. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary service to such areas and populations.

(2) To determine whether the purported signature of Raymond Akins found on the advertising statement filed with the application of Click Broadcasting Co. is, in fact, Raymond Akins' signature.

(3) To determine, in the event issue 2 is resolved in the negative, whether Click Broadcasting Co. made an intentional misrepresentation to the Commission.

(4) To determine, in light of the evidence adduced pursuant to issues 2 and 3, above, whether Click Broadcasting Co. has the requisite qualifications to be a licensee of the Commission.

(5) To determine, with respect to the application of Click Broadcasting Co.:

(a) The sources of additional funds necessary to meet the costs of construction and operation of the proposed station during the first year.

(b) In light of the evidence adduced pursuant to (a) above, whether this applicant is financially qualified.

(6) To determine, with respect to the application of R–J Co.:

(a) Whether a loan of $30,000 is available to the applicant.

(b) The sources of additional funds necessary to meet the costs of construction and operation of the proposed station during the first year.

(c) In light of the evidence adduced pursuant to (a) and (b) above, whether this applicant is financially qualified.

(7) To determine whether there are adequate revenues available to support an additional standard broadcast station in the area proposed to be served by R–J Co., without a net loss or degradation of broadcast service to such area.

(8) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

(9) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either of the applications should be granted.

20. *It is further ordered*, That, the burden of proceeding with the introduction of evidence and the burden of proof with respect to Issue 7, above, are hereby placed upon Habersham Broadcasting Co., Inc.

21. *It is further ordered*, That the petition of Copper Basin Broadcasting Co., Inc., is granted to the extent indicated above, and is denied in all other respects.

22. *It is further ordered*, That, the petition of Habersham Broadcasting Co., is granted to the extent indicated above, and Is denied in all other respects.

23. *It is further ordered*, That petitioners herein Are made parties to the proceeding.

24. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 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.

25. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, 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 23, 1969.

Released: April 28, 1969.

FEDERAL COMMUNICATIONS COMMISSION*

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-5197; Filed, Apr. 30, 1969; 8:49 a.m.]

[Docket No. 18528; FCC 69-423]

DeWITT RADIO

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Don Renault and Edwin Zaiontz doing business as DeWitt Radio, Yorktown, Tex., Requests: 1520 kc., 500 w, DA–Day, Docket No. 18528, File No. BP–17138, for construction permit.

1. The Commission has before it for consideration (a) the above-captioned application; (b) a petition to deny filed by Cuero Broadcasters, Inc., licensee of standard broadcast station KCFH, Cuero, Tex., and (c) pleadings in opposition and reply.

2. The petitioner claims standing as a party in interest on the ground that the proposed station would be located 17 miles east of Cuero and would serve substantially the same area, compete for

* Commissioner Bartley absent; Commissioners Robert E. Lee and Johnson concurring in the result.

audience and advertising revenues, and cause economic injury to KCFH. The Commission finds that the petitioner does have such standing within the meaning of section 309(d) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 9 RR 2008 (1940).[1]

3. Citing Carroll Broadcasting Co. v. Federal Communications Commission, 103 U.S. App. D.C., 346, 258 F. 2d 440, 17 RR 2066 (1958), and subsequent Commission actions for the proposition that "* * * when an existing licensee offers to prove that the economic effect of another station would be detrimental to the public interest, the Commission should afford an opportunity for presentation of such proof * * *", KCFH submits that a grant of the instant application would, owing to the economic limitations of the De Witt County market, result in substantial injury to KCFH and accordingly to the public, and that the application must be designated for hearing.[2] In support of this position the petitioner provides various data purporting to show that Yorktown is a small community with a virtually static population[3] and economy, that the median income in the county is $2,668, and that the number of retail establishments has declined from 371 to 299 in the period from 1958 to 1963.[4]

4. Responding to the questions posed in Missouri-Illinois, supra, the petitioner goes on to show that although retail sales in De Witt County increased from $22,186,000 to $30,166,000 between 1963 and 1965, the number of retail establishments in Yorktown decreased from 68 to 60 between 1963 and 1966, and in the county from 299 to 276. KCFH also observes that although its own advertising revenue has increased slightly, that of the other advertising media have remained the same or declined slightly.[5] Further, petitioner explains that its revenues have climbed only by virtue of increasing services and expenses; that other than $100 weekly for living expenses for the president, the officers have received no compensation for their work and, moreover, no corporate dividends have been declared.

5. The petitioner states that 32 Yorktown businesses do not advertise on KCFH,[6] and of these 16 stated that they would spend a total of $250 monthly on the proposed Yorktown station. A survey of businesses advertising on KCFH was conducted. Of the 17 advertisers actually interviewed, 9 would shift their entire advertising budgets to a Yorktown station and 7 would split their business between the stations, according to the petitioner. Because of the loss in advertising revenues which KCFH claims it would suffer, it states that it would be compelled to move some of its public service programs to less desirable time periods, and would shift personnel and the work schedule so that available labor hours could be devoted to selling advertising rather than preparing public service programs and announcements in order to "compensate to some degree for the loss of revenue should De Witt's application be granted." Moreover, in order to save some $200 per month, the Associated Press News Service would have to be eliminated, as would dues to the various broadcasters' organizations. Thus, concludes the petitioner, the loss of revenue to KCFH would result in a degradation of program service to the public.

6. In its opposition pleading, DeWitt challenges Cuero's argument concerning the economics of the Yorktown community, asserting that Yorktown is the most progressive town in De Witt County, with 36 new homes and 20 new business establishments, among other improvements. DeWitt challenges the validity of Cuero's advertising survey of local merchants[7] and also questions the judgment of the petitioner's sales manager who estimated that the maximum radio advertising potential of Yorktown is approximately $3,000 per year. The applicant goes on to state that they—Edwin Zaiontz, Don Renault and others—contacted 45 of the more than 100 business establishments and have written commitments of $36,235 for first year revenues. Finally, applicant states that there are many thousands of dollars not being discovered in Yorktown, and then presents a critical analysis of KCFH's programing and public service.

7. In its reply Cuero asserts that the allegations made by DeWitt do not in any way refute Cuero's showing. Specifically, the petitioner takes issue with some of the applicant's economic information such as the number of retail establishments and new homes in Yorktown, and also describes three businesses that have recently retrenched or closed due to poor business conditions. Cuero also asserts that the applicant is not financially qualified. Finally, Cuero noted that even if Don Renault plans to assume full-time duties at the new station, he, Mrs. Renault, and one announcer could not possibly perform all the news gathering and public service functions proposed.

8. Although the economic data provided by the petitioner is neither very current nor very extensive, it is obvious from the various statistics and the information before us that the two stations would be competing in a very thin market. Moreover, Cuero indicates that it would lose a substantial amount of revenue as several of its advertisers have stated that they would shift or split their advertising with a new station and further, that it would be forced to divide about $4,500 annually in national and regional advertising with the proposal.[8] Although DeWitt questions the extent of the potential losses in revenues, and also the necessity of some of the program curtailments indicated by the petitioner, we note that the court in Folkways Broadcasting Company, 375 F. 2d 299 (1967), decreed that:

> * * * At times there might be a knowledge of specific financial loss and its detrimental consequence on programing, but we think a Carroll hearing may not be limited to a case in which preknowledge of the exact economics of the situation is necessarily available. Requiring such precision would eliminate the doctrine as a practical matter.

On the basis of the foregoing, we find that the petitioner has raised substantial and material questions of fact concerning the ability of the Yorktown-Cuero area to support another standard broadcast station without a net degradation of program service to the public. Accordingly, a hearing will be ordered and a Carroll issue specified.

9. As to the applicant's financial qualifications, based on the information provided by the applicant, a total of $23,464 will be needed to meet the first year costs of construction and operation. Apart from the question, as suggested by Cuero, of whether DeWitt's estimated costs are realistic, the applicant's capitalization

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[1] The applicant's claim that the petitioner does not have the requisite standing because they do not consistently provide a 2 mv/m signal over the entire Yorktown area is not persuasive.

[2] In addition to the Sanders and Carroll cases, the petitioner cites KGMO Radio-Television, Inc. v. FCC, 119 U.S. App. D.C. 1, 336 F. 2d 920 (1964); Southwestern Operating Co. v. FCC, 122 U.S. App. D.C. 137 351 F. 2d 834, 5 RR 2d 2121 (1965); and also Missouri-Illinois Broadcasting Company, FCC 64-748, 3 RR 2d 232 (1964).

[3] U.S. Census figures show that the population of Yorktown decreased from 2,596 to 2,527 from 1950 to 1960; that of Cuero from 7,489 to 7,338; and De Witt County from 22,973 to 20,683 for the same period.

[4] U.S. Department of Commerce Bureau of Census County and City Data Book of 1962.

[5] Petitioner shows total revenues of 37½ thousand for 1964, 44 thousand for 1965, and 46 thousand (estimated) for 1966. Of this $2,165, $3,030, and $2,600 respectively were derived from Yorktown.

[6] Petitioner points out that some of these businesses may advertise on Station KAME, Kenedy-Karnes City, Tex. (The other competing media in the area, according to KCFH, are: The De Witt County View (Yorktown), the Yorktown News, The Cuero Record, the Yoakum Herald-Times, and Stations KAML and KCTI (Gonzales, Tex.). The applicant claims that the Yoakum Herald and Station KCTI do not compete for the Yorktown market, and that it could find only one Yorktown merchant who advertises on Station KAML. In fact, it appears that these media do compete in some areas outside of Yorktown which both KCFH and the applicant would be serving.

[7] This is a reference to a survey of advertisers and nonadvertisers which Cuero made in answer to the Missouri-Illinois query as to "the specific advertisers that would shift (or split) their advertising to the proposed station." DeWitt states that it was told that Cuero's salesman as well as a local Cuero lady were holding themselves out as representing the FCC for the survey. However, no affidavits or other documentation to support these allegations has been provided by the applicant. Moreover, the petitioner has filed affidavits refuting the latter allegations.

[8] As to documentation of the statements of these advertisers, the petitioner states that if necessary at a hearing it will submit work sheets of its surveys and affidavits as to their validity, but does not wish to do so at this time because of possible detrimental competitive effects.

of $20,000 falls over $3,000 short of the necessary first year funds.[9] Furthermore, neither of the partners has established sufficient available current assets to cover his initial partnership commitment, in the amount of $15,000 for Don Renault and $5,000 for Edwin Zaiontz.

10. Based on the foregoing, a financial issue is clearly required in this case. Even if we assume that DeWitt's cost estimates are realistic and it can operate on this budget, the applicant has failed to establish sufficient liquid assets to meet the Commission's financial requirements. Thus, an issue will be specified to determine whether the applicant's estimated first year costs of construction and operation are realistic, and whether applicant's principals, Don Renault and Edwin Zaiontz, have sufficient available funds to meet their commitments. As to the adequacy of its proposed staff, we note that the applicant proposes to provide extensive news coverage (28.5 percent of its total programing), 44½ percent of which will be devoted to local and area news. Furthermore, based on Exhibit VII of the application, applicant partner Don Renault will handle the news chores for this station, along with his other duties in both this and his other station, KWDR in Del Rio, Tex.[10] We therefore find that an issue should also be specified to determine whether the staff proposed by the applicant would be adequate to operate the station as proposed in the application.

11. Finally, the petitioner indicates that the applicant's program survey is inadequate to meet the Commission's requirements in this regard,[11] stating that DeWitt proposes to base its concept of programing primarily on a meeting of 40 people representing civic, social, religious, governmental, and educational groups, which lasted about 1 hour; and also that the applicant fails to show how it derived its programing proposal from the survey alluded to. In response, DeWitt states that it submitted a sample of its form entitled "Questionnaire for Proposed Radio Station" and "outlined many persons and interests contacted." In its application DeWitt describes this meeting, states that many helpful suggestions were obtained, and that the questionnaires, a sample of which it filed with the exhibit, were distributed at the meeting, filled in, signed by the attendees, and returned to the applicant. Applicant provides a list of 14 civic leaders and city officials, 16 businessmen, two high school students and six church pastors, whom it states were contacted at or after the meeting, with a comprehensive analysis and summary of the general types of program needs, as well as some specific civic needs, which the survey contacts had disclosed.

12. As we stated in our public notice of August 22, 1968 (33 F.R. 12113, 13 RR 2d 1903), an applicant's showing should include the significant suggestions as to community needs received through the consultations with community leaders, whether or not the applicant proposes to treat them through its programing service. In this case, DeWitt refers to a few "specific needs" which its survey disclosed, such as more and better coverage of local news, certain civic promotions such as tourism and other chamber of commerce activities, and the like. However, the applicant fails to enumerate and identify the specific suggestions allegedly made by the community leaders and individuals listed. Moreover, other than presenting a brief summary of some of the programs which the applicant plans to broadcast, the applicant does not relate the proposed programs and program service to the needs of the community as evaluated. Therefore, since the applicant has not provided sufficient information to enable the Commission to determine whether it is aware of and responsive to the needs of the Yorktown area, a Suburban issue will also be specified.

13. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of the above-captioned application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing in a consolidated proceeding, on the issues set forth below.

14. *Accordingly, It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application of DeWitt Radio for a construction permit is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether there are adequate revenues available to support an additional standard broadcast station in the area proposed to be served by DeWitt Radio, without a net loss or degradation of broadcast service to such area.

(2) To determine, the efforts made by the applicant to ascertain the community needs and interests of the area to be served, and the means by which it proposes to meet those needs and interests.

(3) To determine, with respect to the applicant:

(a) The basis of the applicant's estimate of construction and equipment costs.

(b) The basis of the applicant's estimated operating expenses for the first year of operation.

(c) The sources of additional funds necessary to meet the cost of construction and operation of the proposed station during the first year.

(d) In light of the evidence adduced pursuant to (a), (b), and (c) above, whether the applicant is financially qualified to operate the proposed station for 1 year without revenues.

(4) To determine whether the applicant's proposed staff is adequate in light of its operating and program plans.

(5) To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

15. *It is further ordered,* That, the burden of proceeding with the introduction of evidence and the burden of proof with respect to Issue 1, above, are hereby placed upon Cuero Broadcasters, Inc.

16. *It is further ordered,* That, the petition of Cuero Broadcasters, Inc., is granted, to the extent indicated above, and is denied in all other respects.

17. *It is further ordered,* That Cuero Broadcasters, Inc., licensee of Station KCFH, is made a party to the proceeding.

18. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and the respondent, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 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.

19. *It is further ordered,* That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, 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 23, 1969.

Released: April 28, 1969.

FEDERAL COMMUNICATIONS COMMISSION[12]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-5198; Filed, Apr. 30, 1969; 8:49 a.m.]

[9] DeWitt makes no Ultravision showing as to its claim in its opposition pleading that it has $36,235 in total advertising commitments from business establishments in Yorktown, and therefore can be given no credit for this asserted source of funds. Ultravision Broadcasting Company, 1 FCC 2d 544, 5 RR 2d 343 (1965).

[10] In his application for construction permit for Station KWDR, Mr. Renault states that he will be a full-time employee of proposed station, and will devote a generous share of his time to the news department. The license for that station was granted on September 13, 1968. Although the applicant states that Mr. and Mrs. Renault will move to Yorktown if the instant application is granted, a question arises as to how he could leave his Del Rio station in view of the foregoing as well as the fact that his Del Rio application indicates a staff there no larger than that proposed for Yorktown.

[11] Citing report and statement of policy re: Commssion En Banc Program Inquiry, 20 RR 1902 (1960), and Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961).

[12] Commissioner Bartley absent; Commissioners Robert E. Lee and Johnson concurring in result.

[Docket No. 18533; FCC 69-427]

NORTH DAKOTA BROADCASTING CO., INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of North Dakota Broadcasting Co., Inc., Jamestown, N. Dak., Docket No. 18533, File No. BPCT-4104, for construction permit for new television broadcast station.

1. The Commission has before it for consideration (a) the above-captioned application filed by North Dakota Broadcasting Co., Inc. (North Dakota); (b) objections, filed May 3, 1968, by the Association of Maximum Service Telecasters, Inc. (AMST); (c) further objections, filed July 11, 1968, by AMST; (d) opposition to further objections, filed July 24, 1968, by North Dakota; and (e) a pleading, filed March 24, 1969, by Spokane Television, Inc. (Spokane), licensee of television broadcast station KTHI-TV, Fargo, N. Dak.[1]

2. On March 19, 1968, North Dakota filed an application for a construction permit for a new television broadcast station to operate on Channel 7, Jamestown, N. Dak. The application specified a transmitter site which did not comply with the Commission's mileage separation requirements since it was short-spaced to Television Broadcast Station KCMT, Alexandria, Minn., and AMST filed an objection to a grant of the application. Subsequently, on June 14, 1968, North Dakota amended its application and specified a new transmitter site which complied with the mileage separation requirements with respect to Station KCMT, but was 188.4 miles from the transmitter site of 100-watt VHF translator Station K07HN, Dickinson, N. Dak., authorized to operate on Channel 7, Dickinson, N. Dak. AMST then filed further objections alleging that the new proposed site was short-spaced to the translator in Dickinson in violation of § 73.610(b)(1) of the Commission's rules for cochannel stations located in Zone II.[2]

3. Although we have held that the separation requirements of § 73.610 of the Commission's rules is applicable to high-power translators, see WLUC, Incorporated, 13 FCC 2d 406, 13 R.R. 2d 508 (1968), we think that, under the circumstances of this case, a waiver of the rule is warranted. The possibility of interference is remote because of the relatively small amount of short-spacing involved (1.6 miles) and because the translator station in Dickinson operates with only 100 watts of output power. Waiver of the separation requirement should not be construed as an indication that we would permit a regular television station to operate on the Dickinson channel from the same site.

4. Spokane alleges that North Dakota's application raises substantial questions as to whether a grant of the application would be in the public interest, convenience, and necessity. Spokane alleges that it is a party in interest since its Station KTHI-TV would compete for audience and revenues in the same market as the proposed station. It is also alleged that the station will be a satellite of commonly owned Station KXJB-TV, Valley City, N. Dak., and that a grant of the application would constitute an inefficient and wasteful use of the Channel 7 allocation to Jamestown, N. Dak. It is argued that the predicted Grade B contour of the proposed satellite station will cover approximately 5,400 square miles of which approximately 4,300 square miles is already being covered by the predicted Grade B contour of Station KXJB-TV. That is, there is an overlap of approximately 75 percent of the proposed station's Grade B contour by the commonly owned parent stations Grade B contour. Since the population in the 1,100 square miles that will be provided a Grade B signal for the first time is very sparse, the proposed satellite will add very little to the coverage of Station KXJB-TV, but will preempt the only allocated commercial television broadcast channel assigned to Jamestown.

5. The Commission is of the view that a substantial question is raised by Spokane's petition and that a hearing is required to determine whether the proposed operation would constitute an efficient use of the frequency and whether it would be in the public interest, convenience, and necessity to grant the application. A section 307(b) issue has, therefore, been specified.

6. John Boler, the president of applicant, owns 100 percent of the stock of Jamestown Broadcasting Co., Inc., which is a holding company, owning controlling interests in KXMB-TV, Inc., licensee of Station KXMB-TV, Channel 12, Bismarck, N. Dak.; South Dakota Television, Inc., licensee of Station KXAB-TV, Channel 9, Aberdeen, S. Dak.; and North Dakota Broadcasting Co., Inc., licensee of Station KXJB-TV, Channel 4, Valley City, N. Dak. A grant of the application would authorize a fourth commonly owned VHF television broadcast station in the market which might result in a regional concentration of control inconsistent with provisions of § 73.636 of the Commission's rules. Accordingly, an appropriate issue will be specified.

7. North Dakota has failed to demonstrate that it is financially qualified to construct and operate the proposed broadcast station for a period of 1 year, see Ultravision Broadcasting Company, 1 FCC 2d 544, 5 R.R. 2d 343 (1965). Based upon information contained in the application, at least $86,848 will be needed for the construction and first-year operation of the proposed station.[3] To meet the cash requirement, North Dakota relies upon existing capital and a $100,000 bank loan from The Fargo National Bank, Fargo, N. Dak. However, the balance sheet of North Dakota indicates that current liabilities exceed current and liquid assets so that we can not determine that any existing capital will be available. Furthermore, the balance sheet dated December 31, 1967, is approximately 15 months old and is, therefore, not current enough to rely upon in determining North Dakota's financial position. The bank letter is not a firm commitment to lend funds and, moreover, does not disclose the terms of repayment, interest, and security, if any. Under these circumstances, we can not determine the exact amount of funds which will be needed to construct and operate the station for a period of 1 year and also we can not determine that the bank loan is available. Accordingly, appropriate financial issues have been specified.

8. North Dakota's application is also deficient with respect to the programing information which is to be provided pursuant to part 1, section IV-B of FCC Form 301. North Dakota does not provide information concerning the identity, titles, and organizations of the community leaders interviewed and the suggestions that were received from the community leaders during the survey taken of people in the area to be served by the proposed broadcast station, see public notice of August 22, 1968, concerning the ascertainment of community needs by broadcast applicants. Therefore, a programing issue has been specified.

9. Except as otherwise indicated, the applicant is legally, financially, technically, and otherwise qualified to construct as proposed.

10. *It is ordered*, That the informal objections filed by the Association of Maximum Service Telecasters, Inc., are denied; that, to the extent indicated above, the informal objections filed by Spokane Television Inc., are granted, and in all other respects are denied; and that the application of North Dakota Broadcasting Co., Inc., is designated for hearing, at a time and place specified in a subsequent order, on the following issues:

(1) To determine whether a grant of the application would be consistent with section 307(b) of the Communications Act of 1934, as amended, with respect to whether the proposed operation would constitute an efficient use of the frequency.

(2) To determine whether, in light of the facts outlined above, a grant of the application would result in a concentration of control inconsistent with the provisions of § 73.636 of the Commission's rules.

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[1] Spokane asserts standing as a party in interest and requests waiver of the 30 day requirement for filing petitions to deny. In view of our disposition of objections on the merits, we do not reach the question of standing.

[2] Section 73.610(b)(1) provides that the minimum cochannel station separation for stations in Zone II is 190 miles.

[3] Consisting of down payment on equipment ($11,111), first-year payments on equipment including interest ($21,587), land ($500), buildings ($16,900), miscellaneous expenses ($750), and first-year operating costs ($36,000).

(3) To determine whether, the bank loan from The Fargo National Bank is available, and, if so, the terms of repayment, and conditions, if any, of the loan.

(4) In view of the evidence adduced under issue "3" the extent, if any, to which the cash requirement will be increased by the first-year repayments on the bank loan.

(5) To determine whether, in view of the evidence adduced under issues "3" and "4," North Dakota has available sufficient funds to meet its cash requirements, and if not, whether North Dakota will have available additional sufficient resources to supplement available funds.

(6) To determine whether, in light of the evidence adduced under issues "3," "4," and "5," the applicant is financially qualified.

(7) To determine the efforts made by North Dakota, to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(8) To determine, in light of the evidence adduced pursuant to the above issues, whether a grant of the application would serve the public interest, convenience, and necessity.

11. *It is further ordered*, That, in the event that this application is granted, § 73.610 of the Commission's rules shall be waived.

12. *It is further ordered*, That, Spokane Television, Inc., on the Commission's own motion, is made a party to the proceeding.

13. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the parties herein, 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 the order.

14. *It is further ordered*, That, North Dakota Broadcasting Co., Inc., pursuant to section 311(a)(1) of the Commission's rules, shall 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 Commission's rules.

Adopted: April 23, 1969.

Released: April 28, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-5199; Filed, Apr. 30, 1969; 8:49 a.m.]

[4] Commissioner Bartley absent; Commissioner Robert E. Lee concurring in the result.

[Docket Nos. 18531, 18532; FCC 69-425]

VISTA BROADCASTING CO., INC., AND KNET, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Vista Broadcasting Co., Inc., Palestine, Tex., Requests: 94.3 mcs, No. 232; 3 kw.; 300 feet, Docket No. 18531, File No. BPH-6292; Knet, Inc., Palestine, Tex., Requests: 94.3 mcs, No. 232; 3 kw.; 300 feet, Docket No. 18532, File No. BPH-6405; for construction permits.

1. The Commission has under consideration the above captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make a statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

3. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine in the light of the evidence adduced pursuant to the foregoing issue, which of the applications for construction permit should be granted.

4. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, 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.

5. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, 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 23, 1969.

Released: April 28, 1969.

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

[F.R. Doc. 69-5200; Filed, Apr. 30, 1969; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Commission Order 1 (Revised), Amdt. 4]

MANAGING DIRECTOR

Delegation of Authority

Section 7 *Specific authorities delegated to the Managing Director* is hereby amended as follows:

A new section 7.15 is added to read as follows:

7.15 Authority to issue notices of intent to cancel inactive tariffs of carriers in the domestic offshore trades, after a diligent effort has been made to locate the carrier without success, or if the carrier has advised the Commission that it no longer offers a domestic common carrier service but refuses to cancel its tariff upon written request; and to cancel such tariff if within 30 days after publication, the carrier does not furnish reasons why such tariff should not be canceled.

JOHN HARLLEE,
Rear Admiral,
U.S. Navy (Retired), Chairman.

[F.R. Doc. 69-5207; Filed, Apr. 30, 1969; 8:49 a.m.]

[Commission Order 201.1 (Revised), Amdt. 5]

DIRECTOR, BUREAU OF DOMESTIC REGULATION

Redelegation of Authority

Section 6 *Specific authorities redelegated to the Director, Bureau of Domestic Regulation* is hereby amended as follows:

A new section 6.10 is added to read as follows:

6.10 Authority to issue notices of intent to cancel inactive tariffs of carriers in the domestic offshore trades, after a diligent effort has been made to locate the carrier without success, or if the carrier has advised the Commission that it no longer offers a domestic common carrier service but refuses to cancel its tariff upon written request; and to cancel such tariff if within 30 days after publication, the carrier does not furnish reasons why such tariff should not be canceled.

JAMES E. MAZURE,
Acting Managing Director.

[F.R. Doc. 69-5208; Filed, Apr. 30, 1969; 8:49 a.m.]

[1] Commissioner Bartley absent.

[Docket No. 69-21]

TRANSCONEX, INC.

General Increase in Rates in U.S. South Atlantic/Puerto Rico-Virgin Islands Trades; Order of Investigation

There has been filed with the Federal Maritime Commission by Transconex, Inc., a nonvessel operating common carrier by water in the domestic trades, the following revised pages to its Freight Tariff FMC-F No. 1 scheduled to become effective April 30, 1969, which generally increase rates and charges in the subject trades:

Second Revised Page 8.
Third Revised Page 9.
Second Revised Page 15.
Third Revised Page 16.
Third Revised Page 18.
Sixth Revised Page 19.
Seventh Revised Page 20.
Eighth Revised Page 21.
Fourth Revised Page 21-A.
First Revised Page 22.
Second Revised Page 23.
Second Revised Page 24.
Third Revised Page 25.
Third Revised Page 26.
Second Revised Page 27.
Second Revised Page 28.
Second Revised Page 29.
Fifth Revised Page 30.
Fifth Revised Page 31.
Fifth Revised Page 32.
Fifth Revised Page 33.
Seventh Revised Page 34.
Third Revised Page 34-A.
Third Revised Page 34-B.
Third Revised Page 35.
Fourth Revised Page 36.
Second Revised Page 37.
Second Revised Page 38.
Second Revised Page 39.
Second Revised Page 40.
Second Revised Page 41.
Second Revised Page 42.

Upon consideration of the said tariff pages there is reason to believe that the increased rates and charges, and the governing rules and regulations, should be made the subject of a public investigation and hearing to determine whether they would be 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 sections 18(a) and 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 the said tariffs with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is changed or amended before this investigation has been concluded, such changed or amended matter will be included in this investigation;

It is further ordered, That Transconex, Inc. be named as respondent in this proceeding;

It is further ordered, That the 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 herein, (II) the said respondent be duly notified of the time and place of the hearing, and (III) this order be published in the FEDERAL REGISTER and notice of 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. 69-5209; Filed, Apr. 30, 1969; 8:50 a.m.]

8900 LINES RATE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Stanley O. Sher, Esquire, Bebchick, Sher & Kushnick, 919 18th Street NW., Washington, D.C. 20006.

Agreement No. 8900-3, between the members of the 8900 Lines Rate Agreement, operating in the trade from U.S. Atlantic and Gulf ports to Persian Gulf ports between Karachi and Aden, both excluded, modifies the basic agreement by adding the following new paragraph No. 7:

7. *Activities with Nonmember Carriers.* No party hereto or its agents shall directly or indirectly charter space on a vessel being operated in the Arabian/Persian Gulf Trade for the account of a carrier not a party hereto nor solicit, arrange for, book or re-book cargo on such a vessel.

Dated: April 28, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-5210; Filed, Apr. 30, 1969; 8:50 a.m.]

INDIA, PAKISTAN, CEYLON AND BURMA OUTWARD FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. William L. Hamm, General Secretary, The India, Pakistan, Ceylon and Burma Outward Freight Conference, 25 Broadway, New York, N.Y. 10004.

Agreement No. 7690-12 between the member lines of the India, Pakistan, Ceylon and Burma Outward Freight Conference, operating in the trade from U.S. Atlantic and Gulf of Mexico ports to ports in India, Pakistan, Ceylon, and Burma, modifies the basic agreement by amending paragraph 7 which presently provides that prepayment of rates or other charges for transportation within the scope of the agreement may be accepted in freely convertible and readily transferable Indian Rupees. Paragraph 7 further provides that it may be amended upon consent of three-quarters of the member lines entitled to vote at the time the amendment may be made, but no such amendment shall become effective until 60 days after its adoption, unless such amendment is adopted by the unanimous consent of the members entitled to vote at the time any such amendment may be made.

The modification provides: "Any such amendment shall deal only with matters relating to Indian Rupees."

The intent is to clarify that the aforementioned voting procedure applies to paragraph 7 only.

Dated: April 28, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-5211; Filed, Apr. 30, 1969; 8:50 a.m.]

MEDCHI FREIGHT POOL

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Eric G. Brown, Secretary, Medchi Freight Pool, 10 Place De La Joliette (2me), Bouches-Du-Rhone, Marseilles, France.

Agreement No. 9020-7 modifies the basic pooling agreement as follows:

1. Eliminates temporary provisions which substitute calls at Cadiz for calls at Seville and extend all related pool activities to that port.

2. Makes "Automobiles new, unlicensed, unboxed, not privately owned" an unrestricted exception to those cargoes covered by the pooling agreement.

3. Makes changes in the carrying money for which Commission approval is not required.

4. Adds new provisions which will cause a member line's pool share to be reduced during any pool period for failure to effect the minimum number of loading or discharge calls even though it carried more than its quota.

Dated: April 28, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-5212; Filed, Apr. 30, 1969; 8:50 a.m.]

[Independent Ocean Freight Forwarder License 1193]

RICHARD M. COSTIGAN

Suspension of License

By letter dated April 11, 1969, Richard M. Costigan, 2116 North 117th Street, Seattle, Wash., advised that he voluntarily was canceling his surety bond, and requested that his independent ocean freight forwarder license No. 1193 be suspended until such time as active status is again desired.

Section 510.9(e) of the Commission's General Order 4 states, in pertinent part:

A license will be automatically suspended or revoked, without hearing or other proceeding, for failure of a licensee to maintain a valid surety bond on file. The Commission upon receipt of notice of cancellation of any bond, will notify the licensee in writing that his license will automatically be suspended or revoked, effective on the bond cancellation date, unless a new or reinstated bond is submitted to and approved by the Commission prior to such date.

Absent extreme hardship or reasonable justification, the Commission's policy is to disallow indefinite suspensions. Therefore, by letter dated April 23, 1969, the Bureau of Domestic Regulation notified Mr. Costigan that a temporary suspension of his license would be allowed to commence May 14, 1969 (the surety bond termination date), and terminate December 31, 1969, without prejudice to automatic reactivation of his license on January 1, 1970, provided certain conditions, hereinbelow set forth, were met.

Accordingly, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, section 6.03:

It is ordered, That the independent ocean freight forwarder license No. 1193 of Richard M. Costigan be and is hereby suspended effective May 14, 1969, for automatic reissuance not later than January 1, 1970, provided:

1. License No. 1193 is returned promptly to the Commission to be held in suspension for a period not longer than December 31, 1969;

2. Richard M. Costigan submits to the Commission on or before December 31, 1969, a new and valid surety bond as required by General Order 4, and a statement attesting to complete inactivity as an independent ocean freight forwarder during the period of suspension; and

3. Richard M. Costigan submits, together with the aforesaid new bond and statement of inactivity, a true statement of any changes in the facts called for in Form FMC-18 (application form to operate as an independent ocean freight forwarder) occurring during the period of suspension.

It is further ordered, That failure to submit the required bond within the time stated above shall result in automatic revocation of license No. 1193 effective January 1, 1970; such revocation to be without prejudice to reapplication for a license at a later date. Failure to submit the aforesaid statements together with the required bond shall result in formal determination by the Commission of licensee's eligibility to be reinstated as an independent ocean freight forwarder.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon the licensee.

LEROY F. FULLER,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 69-5213; Filed, Apr. 30, 1969; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Dockets Nos. RI69-430—RI69-432]

MOBIL OIL CORP. ET AL.

Order Amending Orders Providing for Hearings on and Suspension of Proposed Changes in Rates To Permit Substitute Rate Filings

APRIL 23, 1969.

Mobil Oil Corp. (Operator) et al., docket No. RI69-430; Mobil Oil Corp., docket No. RI69-431; Northern Natural Gas Producing Co., docket No. RI69-432.

On December 5 and 6, 1968, Mobil Oil Corp. (Operator) et al., and Mobil Oil Corp. (both referred to herein as Mobil), filed with the Commission proposed rate changes[1] which pertain to Mobil's jurisdictional sales of natural gas in the San Juan Basin Area to El Paso Natural Gas Co. (El Paso). On December 5, 1968, Northern Natural Gas Producing Co. (Northern Natural) filed two proposed rate increases, among others, for its sales of gas from the San Juan Basin Area to El Paso.[2] The Commission by order issued December 31, 1968, in dockets Nos. RI69-430 and RI69-431 (Mobil) and RI69-432 (Northern Natural) suspended, among others, for 5 months Mobil and Northern Natural's proposed rate increases until June 5 and 6, 1969, as shown in Appendix A, and thereafter until made effective in the manner prescribed by the Natural Gas Act.

On March 24, 1969, Mobil and Northern Natural filed for tax reimbursement on rates which were previously suspended. Mobil and Northern Natural inadvertently omitted from their original filings tax reimbursement for the full 2.55 percent New Mexico Emergency School Tax and have submitted revised rate changes to reflect such tax reimbursement. The proposed substitute rate filings are set forth in Appendix A hereof.

[1] Designated as Supplement No. 13 to Mobil Oil Corp. (Operator) et al., FPC Gas Rate Schedule No. 38, and Supplement Nos. 14 and 9 to Mobil Oil Corp.'s FPC Gas Rate Schedule Nos. 314 and 427, respectively.

[2] Designated as Supplement Nos. 12 and 13 to Northern Natural's FPC Gas Rate Schedule Nos. 26 and 27, respectively.

Mobil and Northern Natural's revised rate filings reflect partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax which was increased on April 1, 1963. The buyer, El Paso, in accordance with its policy of protesting tax filings proposing reimbursement for the New Mexico Emergency School Tax in excess of 0.55 percent, is expected to file a protest to these rate increases. El Paso questions the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effected a higher rate of at least 0.55 percent, it claims there is controversy as to whether or not the new legislation effected an increase in excess of 0.55 percent. In view of the contractual problem presented, we shall provide that the hearings herein shall concern themselves with the contractual basis for the rate filings, as well as the statutory lawfulness of Mobil and Northern Natural's proposed increased rates and charges.

On February 20, 1969, the suspension order issued in Docket No. RI69–431 was amended only so far as to permit Mobil's two proposed contract amendments adding acquired acreage and proposed rate increase, designated as Supplement No. 9 to Mobil's FPC Gas Rate Schedule No. 427 to be filed and suspended in Docket No. RI69–431. The suspension period for such filing will terminate concurrently with the suspension period (June 6, 1969) in effect in said docket for Supplement No. 8 to Mobil's FPC Gas Rate Schedule No. 427.

Mobil and Northern Natural's proposed rates exceed the area ceiling for increased rates in the San Juan Basin Area as announced in the Commission's statement of general policy No. 61–1, as amended, as did the previously suspended rates in said dockets. Consistent with prior Commission action on similar rate filings, we conclude that it would be in the public interest to accept Mobil and Northern Natural's revised notices of change in rates subject to the suspension proceedings in Dockets Nos. RI69–430, RI69–431, and RI69–432, with the suspension periods for such substitute rate filings to terminate concurrently with the suspension periods (June 5 and 6, 1969) (Mobil) and June 5, 1969 (Northern Natural) of the original rate filings in said dockets.

The Commission orders:

(A) The suspension order issued December 31, 1968, in Docket No. RI69–430 et al., and the amending order issued February 20, 1969, in Docket No. RI69–431, be amended, insofar as Dockets Nos. RI69–430, RI69–431, and RI69–432 are concerned, to reflect the increased rates set forth in Appendix A hereof in lieu of the increased rates shown in the above orders, subject to the suspension proceedings in Dockets Nos. RI69–430, RI69–431, and RI69–432. The suspension periods for such substitute filings shall terminate concurrently with the suspension periods (June 5 and 6, 1969) (Mobil) and June 5, 1969 (Northern Natural) of the original rate filings in said dockets.

(B) In all other respects, the order issued by the Commission on December 31, 1968, in Dockets Nos. RI69–430, RI69–431, and RI69–432, shall remain unchanged and in full force and effect.

By the Commission.

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69–430	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, Tex. 77001, Attention: R. D. Howarth, Esq.	38	1 to 13	El Paso Natural Gas Co. (Jicarilla Area, Rio Arriba County, N. Mex.) (San Juan Basin Area).	$6,080 1,756	3-24-69	[1] 4-24-69	[2] 6-5-69	[6] [7] 15.0541 [7] [8] 13.0469	[3] [4] [5] 15.2510 [3] [4] [8] 13.2175	
RI69–431	Mobil Oil Corp.	314	1 to 14	El Paso Natural Gas Co. (San Juan Basin Field, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	976	3-24-69	[1] 4-24-69	[9] 6-5-69	[10] 14.0578	[3] [4] [5] 14.2678	
	do	427	10	El Paso Natural Gas Co. (Flora Vista Field, San Juan County, N. Mex.) (San Juan Basin Area).	473	3-24-69	[1] 4-24-69	[11] 6-6-69	[12] 15.0619	[3] [4] [5] 15.2869	
RI69–432	Northern Natural Gas Producing Co., Post Office Box 1774, Houston, Tex. 77001, Mr. R. D. Howarth, Esq.	27	1 to 13	El Paso Natural Gas Co. (Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	579	3-24-69	[1] 4-24-69	[13] 6-5-69	[14] 14.0505	[3] [4] [5] 14.2343	
	do	26	1 to 12	do	450	3-24-69	[1] 4-24-69	[14] 6-5-69	[14] 14.0505	[3] [4] [5] 14.2343	

[1] The stated effective date is the first day after expiration of the statutory notice.
[2] End of the suspension period for the previously filed rates in Docket No. RI69–430.
[3] Tax reimbursement increase.
[4] Pressure base is 15.025 p.s.i.a.
[5] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.
[6] High pressure gas.
[7] Rate suspended in Docket No. RI69–430 until June 5, 1969.
[8] Low pressure gas.
[9] End of the suspension period for the previously filed rate in Docket No. RI69–431.
[10] Rate suspended in Docket No. RI69–431 until June 5, 1969.
[11] End of the suspension period for the previously filed rate in Docket No. RI69–431.
[12] Rate suspended in Docket No. RI69–431 until June 6, 1969.
[13] End of the suspension period for the previously filed rate in Docket No. RI69–432.
[14] Rate suspended in Docket No. RI69–432 until June 5, 1969.

[F.R. Doc. 69–5080; Filed, Apr. 30, 1969; 8:45 a.m.]

[Docket No. RI69–720]

SOHIO PETROLEUM CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

APRIL 23, 1969.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under

its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.[1]

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention 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 and 1.37(f)) on or before June 9, 1969.

By the Commission.

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

[1] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-720..	Sohio Petroleum Co., 970 First National Bank Annex, Oklahoma City, Okla. 73102.	145	2	Phillips Petroleum Co.[3] (West Panhandle Field, Hutchinson County, Tex.) (R.R. District No. 10).	$498	4-2-69	[2] 5-16-69	[4] 5-17-69	[5] 13.0	[6][7] 14.0	

[3] It cannot be determined to which of Phillips' plants in the area the gas involved is dedicated. Phillips resells the residue gas from such plants to interstate pipeline companies at rates which are in effect subject to refund.
[2] The stated effective date is the contractual effective date.
[4] The suspension period is limited to 1 day.
[5] Periodic rate increase.
[6] Pressure base is 14.65 p.s.i.a.
[7] Sweet gas rate. Buyer deducts 0.4466 cent if gas is sour.

Sohio Petroleum Co. (Sohio) proposes a periodic rate increase from 13 cents to 14 cents per Mcf for a wellhead sale of gas to Phillips Petroleum Co. (Phillips) from the West Panhandle Field, Hutchinson County, Tex. (Railroad District No. 10). Phillips gathers and processes the gas and resells the gas to interstate pipeline companies at rates which are in effect subject to refund. Sohio's proposed rate exceeds the area increased rate ceiling for Texas Railroad District No. 10 as announced in the Commission's statement of general policy No. 61–1, as amended. Since Phillips' resale rates are in effect subject to refund, we conclude that Sohio's rate increase should be suspended for one day from May 16, 1969, the proposed effective date.

[F.R. Doc. 69-5081; Filed, Apr. 30, 1969; 8:45 a.m.]

[Docket No. RI69-711 etc.]

UNION OIL COMPANY OF CALIFORNIA ET AL.

Order Accepting Contract Agreement, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

APRIL 23, 1969.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-711..	Union Oil Co. of California, Union Oil Center Center, Los Angeles, Calif. 90017.	24	9	Northern Natural Gas Co. (Farnsworth Unit, Ochiltree County, Tex.) (R.R. District No. 10).	$108	4- 2-69	[2] 5- 3-69	10- 3-69	[3] 17.0	[3][4] 18.5	
RI69-712..	Service Gas Products Co. (Operator), 1010 Wilshire Blvd., Los Angeles, Calif. 90017.	1	6	Lone Star Gas Co. (Doyle Plant, Stephens County, Okla.) (Oklahoma "Other" Area).	12,940	4- 3-69	[2] 5- 4-69	10- 4-69	[5] 14.0	[4] 15.0	
	----do----------	2	3	Lone Star Gas Co. (Aylesworth Plant, Marshall County, Okla.) (Oklahoma "Other" Area).	12,910	4- 3-69	[2] 5- 4-69	10- 4-69	[5] 12.0	[4] 13.0	
	----do----------	3	6	Lone Star Gas Co. (West Hoover Plant, Carter County, Okla.) (Oklahoma "Other" Area).	1,250	4- 3-69	[2] 5- 4-69	10- 4-69	[5] 14.0	[4] 15.0	
	----do----------	4	1	----do----------	11,620	4- 3-69	[2] 5- 4-69	10- 4-69	15.0	[4] 17.0	
	----do----------	5	2	Lone Star Gas Co. (Doyle Plant, Stephens County, Okla.) (Oklahoma "Other" Area).	69,900	4- 3-69	[2] 5- 4-69	10- 4-69	15.0	[4] 17.0	
RI69-713..	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	231	2	Arkansas Louisiana Gas Co. (Southeast Lacy Field, Blaine County, Okla.) (Oklahoma "Other" Area).	640	4- 3-69	[2] 5- 4-69	10- 4-69	15.0	[4] 16.0	
RI69-714..	Sinclair Oil Corp., Post Office Box 521, Tulsa, Okla. 74102.	[11] 309	2	Natural Gas Pipeline Co. of America (East Laketon Field, Gray County, Tex.) (R.R. District No. 10).	705	3-28-69	[2] 4-28-69	9-29-69	[8] 17.0	[4][9] 18.5	

See footnotes at end of table.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-715..	Skelly Oil Co. (Operator) et al., Post Office Box 1650, Tulsa, Okla. 74102, Attention: David E. Byers, Esq.	136	[3] 6	El Paso Natural Gas Co. (Bisti Field, San Juan County, N. Mex.) (San Juan Basin Area).	$1,061	4-3-69	[2] 5-4-69	10-4-69	14.0578	[4] [11] 15.0619	RI64-498.
RI69-716..	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020, Attention: F. E. Sweat, Manager, Natural Gas Sales.	305	6	El Paso Natural Gas Co. (South Andrews Field, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	365	3-27-69	[2] 4-27-69	9-27-69	12.81	[4] [13] 13.5705	
RI69-717..	Bert Fields, Jr., 1181 First National Bank Bldg., Dallas, Tex. 75202, Attention: Mark D. Jackman, Superintendent.	12	2	El Paso Natural Gas Co. (Basin Dakota Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	600	3-24-69	[2] 4-24-69	9-24-69	[15] 13.0	[4] [14] [15] 14.0	
RI69-718..	El Paso Products Co., [17] Post Office Box 3086, Odessa, Tex. 79760, Attention: John B. Mason, Esq.	1	[3] 7	El Paso Natural Gas Co. (San Juan Basin Area, San Juan County, N. Mex.) (San Juan Basin Area).	.....	4-1-69	[2] 5-2-69	(Accepted)	.....	.....	
		1	8		9,037	4-1-69	[2] 5-2-69	10-2-69	[15] 12.0495	[4] [15] 14.0578	RI64-652.
RI69-719..	The Nueces Co. (Operator), 1001 Americana Bldg., Houston, Tex. 77002.	3	12	El Paso Natural Gas Co. (Fort Stockton Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	41,173	4-1-69	[2] 5-2-69	10-2-69	14.50	[4] [13] 18.243	

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] Respondent filing from initial certificated rate for acreage added by Supplement No. 8 to present contract rate under periodic pricing provisions of contract.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] Periodic rate increase.
[7] Settlement rate by order issued July 18, 1966, in Dockets Nos. RI62-18 and RI63-249. Moratorium on rate increases on all rate schedules in excess of the area ceiling expired Apr. 1, 1969.
[8] Two-step periodic rate increase.
[9] The stated effective date is the effective date requested by Respondent.
[10] Respondent filing from initial certificated rate to initial contract rate.
[11] Subject to downward and upward B.t.u. adjustment.
[12] Atlantic Richfield Co. filed notice of succession to all of Sinclair's rate schedules on Mar. 17, 1969.
[13] Does not apply to acreage added by Supplements Nos. 3 and 5 for which gas Skelly is receiving 13 cents per Mcf.
[14] Pressure base is 15.025 p.s.i.a.
[15] Increase from applicable area ceiling rate to contract rate adjusted for quality.
[16] Does not include the 1 cent per Mcf minimum guarantee for liquids provided for in contract.
[17] Subsidiary of El Paso Natural Gas Co.
[18] Letter agreement dated Jan. 25, 1968, which provides for change in delivery from buyer's high pressure line to buyer's low pressure line and for payment under low pressure contract (Rate Schedule No. 6). Also provides that buyer is not obligated to take or pay for, if not taken, any specific portion of gas but will take gas in a ratable manner.
[19] Rate provided for in Rate Schedule No. 6 which is to govern the payment provision for the subject gas. (Rate is effective subject to refund in Docket No. RI64-468.)

Union Oil Company of California requests waiver of the statutory notice to permit its proposed rate increase to become effective as of the date of filing, April 2, 1969. Service Gas Products Co. (Operator) requests an effective date of April 1, 1969, for its proposed rate increases. Bert Fields, Jr., requests a retroactive effective date of January 1, 1969 for his rate increase filing. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

The basic contract related to the proposed rate increase filed by Bert Fields, Jr. (Fields), contains a 1 cent per Mcf minimum guarantee for liquids provision but this 1 cent has been excluded from the proposed rate. Fields is advised that a notice of change in rate will be required if he intends to collect the 1 cent per Mcf minimum guarantee for liquids in the future. See the Commission's order issued December 7, 1967, in Docket No. RI64-491 et al., Union Texas Petroleum, a Division of Allied Chemical Corporation (Operator) et al.

Concurrently with the filing of its rate increase, El Paso Products Co. (El Paso Products) submitted a letter agreement dated January 25, 1968, designated as Supplement No. 7 to El Paso Products' FPC Gas Rate Schedule No. 1, which provides the basis for its proposed rate increase. We believe that it would be in the public interest to accept for filing El Paso Products' proposed letter agreement to become effective on May 2, 1969, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as hereinafter ordered.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56), with the exception of the rate increases filed by the producers in the Permian Basin Area which exceed the just and reasonable rates established by the Commission in Opinion No. 468, as amended, and should be suspended for five months as ordered herein.

The Commission finds:

(1) Good cause has been shown for accepting for filing the letter agreement filed by El Paso Products, as set forth above, and for permitting such supplement to become effective on May 2, 1969, the expiration date of the statutory notice.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplement referred to in paragraph (1) above).

The Commission orders:

(A) Supplement No. 7 to El Paso Products' FPC Gas Rate Schedule No. 1 is accepted for filing and permitted to become effective as of May 2, 1969, the expiration date of the statutory notice.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplement set forth in paragraph (A) above).

(C) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Notices of intervention 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 and 1.37(f)) on or before June 9, 1969.

By the Commission.

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

[F.R. Doc. 69-5082; Filed, Apr. 30, 1969; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2250]

COMSTOCK-KEYSTONE MINING CO.

Order Suspending Trading

APRIL 25, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Comstock-Keystone Mining Co., now known as Memory Magnetics International, Inc., 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 26, 1969, through May 3, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-5170; Filed, Apr. 30, 1969; 8:46 a.m.]

ELECTROGEN INDUSTRIES, INC.

Order Suspending Trading

APRIL 25, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Electrogen Industries, Inc., formerly Jodmar Industries, Inc., may be known as American Lima 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 27, 1969, through May 6, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-5171; Filed, Apr. 30, 1969; 8:46 a.m.]

[811-1794]

TREDUOC FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be Investment Company

APRIL 25, 1969.

Notice is hereby given that Treduoc Fund, Inc., 245 Park Avenue, New York, N.Y. 10017 ("Applicant"), a Delaware corporation registered as a diversified closed-end investment company under the Investment Company Act of 1940 ("Act"), 15 U.S.C. section 80a-1 et seq., has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is now, and has been since its inception, a shell corporation with no assets or stockholders. The original intent of the promoters to make a public offering of Applicant's securities and to engage in the business of investing, reinvesting, owning, holding, and trading in securities has been abandoned. Applicant does not intend to issue any shares or to operate in any manner whatsoever.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order which, if necessary for the protection of investors, may be made upon appropriate conditions, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 20, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall 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 Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. 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. 69-5168; Filed, Apr. 30, 1969; 8:46 a.m.]

UNITED AUSTRALIAN OIL, INC.

Order Suspending Trading

APRIL 25, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of United Australian Oil, Inc., Dallas, Tex., and all other securities of United Australian Oil, Inc., 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 26, 1969, through May 5, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-5172; Filed, Apr. 30, 1969; 8:46 a.m.]

[811-1793]

WELL-HART HEDGE FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be Investment Company

APRIL 25, 1969.

Notice is hereby given that Well-Hart Hedge Fund, Inc., 245 Park Avenue, New York, N.Y. 10017 ("Applicant"), a Delaware corporation registered as a diversified closed-end investment company under the Investment Company Act of 1940 ("Act"), 15 U.S.C. section 80a-1 et seq., has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is now, and has been since its inception, a shell corporation with no assets or stockholders. The original intent of the promoters to make a public offering of Applicant's securities and to engage in the business of investing, reinvesting, owning, holding, and trading in securities has been abandoned. Applicant does not intend to issue any shares or to operate in any manner whatsoever.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order which, if necessary for the protection of investors, may be made upon appropriate conditions, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 20, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall 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 Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. 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. 69-5169; Filed, Apr. 30, 1969; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

RELATED INDUSTRIES, INC.

Notice of Withdrawal of Request To Operate and Participate in Small Business Defense Production and Research and Development Pool

Pursuant to sections 9(d) and 11 of the Small Business Act (72 Stat. 391, 394), and section 1 of Executive Order 10493 (18 F.R. 6583), dated October 15, 1953, notice of publication is hereby given of the following small business concerns which have withdrawn from membership in Related Industries, Inc., a small business defense production and research and development pool:

Liberty Plastics Co., Woodstown, N.J.
Rodman H. Martin Co., Inc., Norristown, Pa.

The original list of applicants was published in 28 F.R. 1817 (Feb. 27, 1963).

Dated: April 22, 1969.

HILARY SANDOVAL, Jr., *Administrator.*

[F.R. Doc. 69-5173; Filed, Apr. 30, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1290]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

APRIL 25, 1969.

The following applications are governed by Special Rule 1.247 [1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rules, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, 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.

No. MC 1459 (Sub-No. 5) (Amendment) filed March 6, 1969, published in the FEDERAL REGISTER issue of April 4, 1969, and republished as amended, this issue. Applicant: ROYAL MOTOR EXPRESS, INC., 410 West Silver Street, Lebanon, Ohio 45036. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract 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, and those requiring special equipment), between points in Ohio, on the one hand, and, on the other, St. Louis, Mo., and points in Indiana, Illinois, Kentucky, and West Virginia, restricted to shipments moving in shipper owned semitrailers, under contract with the Standard Oil Co. of Ohio and its subsidiaries. NOTE: This republication is for the purpose of adding the above restriction. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 2202 (Sub-No. 369), filed April 3, 1969. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309. Applicant's representatives: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and Douglas Faris, Post Office Box 471, Akron, Ohio 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Denton and Greenville, Tex., over Texas Highway 24, as an alternate route for operating convenience only, serving no intermediate points and serving McKinney for purposes of joinder only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Dallas, Tex.

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 2542 (Sub-No. 13), filed April 9, 1969. Applicant: THE ADLEY CORPORATION, doing business as ADLEY EXPRESS COMPANY, 900 Chapel Street, New Haven, Conn. Applicant's representative: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, and those injurious or contaminating to other lading), between junction Interstate Highway 91 and Massachusetts-Vermont State line and Island Pond, Vt., from junction Interstate Highway 91 and the Massachusetts-Vermont State line over Interstate Highway 91 to the end of Interstate Highway 91 near Norwich, Vt., thence over U.S. Highway 5 to St. Johnsbury, Vt., thence over Vermont Highway 114 to Island Pond, Vt., and return over the same route, as an alternate route, in connection with applicant's authorized regular route authority, serving no intermediate points. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at New Haven or Hartford, Conn.

No. MC 2860 (Sub-No. 54), filed April 4, 1969. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Alvin Altman, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food* (except commodities in bulk), from Allentown, Pa., to points in Florida, Georgia, North Carolina, and South Carolina. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Philadelphia, Pa., or Washington, D.C.

No. MC 3854 (Sub-No. 11), filed April 7, 1969. Applicant: BURTON LINES, INC., Post Office Box 11306, East Durham Station, Durham, N.C. 27703. Applicant's representative: Edward G. Villalon, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and shale products, pipe conduit, wall coping, fittings, and fire brick* from (1) Greensboro and Gulf, N.C., to points in Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, the New York, N.Y., commercial zone, Wilmington, Del., Philadelphia, Pa., Baltimore and Elkton, Md., points in Monmouth, Middlesex, Morris, Passaic, Bergen, Hudson, Essex, Union, and Somerset Counties, N.J., Maine and the District of Columbia; and (2) from Columbia, S.C., to points in Florida, Alabama, Georgia, Tennessee, Kentucky, South Carolina, North Carolina, West Virginia, Virginia, Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia. NOTE: Applicant holds contract carrier authority under MC 118864 Sub 1, therefore dual operations may be involved. Applicant states it does not intend to tack, and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at (1) Raleigh, N.C., or (2) Greensboro, N.C.

No. MC 10761 (Sub-No. 239), filed April 11, 1969. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, Mich. 48209. Applicant's representatives: L. G. Naidow (same address as applicant) and A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, coffee whitener, dessert topping, pudding, baking items and base baking and cooking products*, nondairy, from the plant-site and storage facilities of Rich Products, located at Buffalo, N.Y., to Muskegon, Mich., and Gallipolis and Marietta, Ohio. NOTE: Common control may be involved. Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 14552 (Sub-No. 28), filed March 20, 1969. Applicant: J. V. McNICHOLAS TRANSFER COMPANY, a corporation, 555 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: Paul F. Berry, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe, conduit, metallic tubing, and fittings therefor*, unloaded by mechanical devices furnished by the carrier, from Glendale, W. Va.; Carnegie, Ambridge, and New Kensington, Pa.; and Niles, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, South Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, Missouri, Minnesota, Georgia, Florida, and the District of Columbia. NOTE: Applicant states it would tack with its existing authority to serve northeastern Ohio or northwestern Pennsylvania. Applicant holds contract authority under MC 123991, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 25798 (Sub-No. 185), filed April 11, 1969. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Sioux City, Iowa, to points in Alabama, Georgia, and Tennessee (except Memphis, Tenn.), restricted to traffic originating at Sioux City, Iowa. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Miami or Tampa, Fla.

No. MC 25869 (Sub-No. 89), filed April 9, 1969. Applicant: NOLTE BROS. TRUCK LINE, INC., 4734 South 27th Street, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Glenwood, Iowa, to points in South Dakota, Nebraska, Colorado, Kentucky, Missouri, Kansas, Indiana, Illinois, Iowa, Wisconsin, Michigan, and Minnesota. NOTE: Common control may be involved. Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 29886 (Sub-No. 247), filed April 11, 1969. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46621. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities which require the use of special equipment or special handling by reason of size or weight;* and (2) *ordnance equipment, materials, and supplies, and quartermaster supplies* (except household goods and commodities in bulk), to, from and/or between military installations of Defense Department establishments in the United States (except Hawaii). NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 32562 (Sub-No. 30), filed April 10, 1969. Applicant: POINT EXPRESS, INC., Box 10185, Station C, Charleston, W. Va. 25312. Applicant's representative: R. J. Hyman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those

of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), serving Hamlin, W. Va., as an off route point in connection with carrier's regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Columbus, Ohio.

No. MC 34689 (Sub-No. 10), filed February 5, 1969. Applicant: H. MAYNARD GOULD CO., a corporation, Union Street, East Walpole, Mass. 02081. Applicant's representative: Francis E. Barrett, Jr., Investors Building, 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and materials and supplies* used in the installation thereof (except in bulk, in tank vehicles); (1) from Walpole and Norwood, Mass., to Boston, Mass., and points in Connecticut, Rhode Island, and New Hampshire; (2) from Phillipsdale, R.I., to points in Connecticut, Massachusetts, Vermont, and New Hampshire; and (3) from Norwood and Walpole, Mass., and Phillipsdale, R.I., to points in York, Cumberland, Oxford, Androscoggin, Sagadahoc, Franklin, Kennebec, Waldo, Lincoln, Knox, Penobscot, Hancock, and Somerset Counties, Maine. NOTE: Applicant holds contract carrier authority under docket No. MC 43251 and Subs, therefore, dual operations may be involved. Applicant intends to tack this to the extent possible, but not beyond the States presently authorized to be served, by his regular routes, to wit: Massachusetts, Rhode Island, Connecticut, New Hampshire, and New Jersey. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 42156 (Sub-No. 4), filed April 10, 1969. Applicant: WALTON BULIFANT (WALTON BULIFANT, JR., AND DONALD BULIFANT - EXECUTORS) doing business as M. BULIFANT, 972 North Frost Street, Philadelphia, Pa. 19123. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Philadelphia, Pa., to points in Suffolk and Nassau Counties, N.Y., and *refused, damaged and returned shipments* on return. Restriction: The authority sought shall not be joined or tacked with applicant's existing operating rights. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 48221 (Sub-No. 2), filed April 10, 1969. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 2501 O Street, Omaha, Nebr. 68107. Applicant's representative: Gerald C. Morehouse (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant and warehouse facilities of Swift & Co., at or near Glenwood, Iowa, to Chicago, Elgin, and Rochelle, Ill.; Grand Island and Omaha, Nebr.; and points in Colorado. NOTE: Applicant states it does not intend to tack and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 59117 (Sub-No. 34), filed April 2, 1969. Applicant: ELLIOTT TRUCK LINE, INC., Post Office Box 1, Vinita, Okla. 74301. Applicant's representative: Carll V. Kretsinger, 450 Professional Building, 1103 Grand Avenue, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kraft paper*, from the Georgia-Pacific Corp. plant, Crossett, Ark. to the Mid-American Industrial District, Pryor, Okla. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at (1) Oklahoma City, Okla.; (2) Kansas City, Mo.

No. MC 61396 (Sub-No. 213), filed April 2, 1969. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Omaha, Nebr. 68101. Applicant's representative: Donald L. Stern, 360 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil* (edible) in bulk, in tank vehicles, from the plantsite of Archer Daniels, Midland Plant near Lincoln, Nebr., to points in Arkansas, Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oklahoma, Oregon, North Dakota, South Dakota, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 61396 (Sub-No. 214), filed April 9, 1969. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Post Office Box 189, Omaha, Nebr. 68101. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles; (1) from Marshalltown, Iowa, to points in Illinois, Iowa, Missouri, Minnesota, and Wisconsin; (2) from Cowden, Ill., to points in Illinois, Indiana, Iowa, Missouri; and (3) from Spencer, Iowa, to points in Iowa, Minnesota, North Dakota, Nebraska, South Dakota, and Wisconsin. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 64932 (Sub-No. 471), filed April 7, 1969. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible tallow* and/or *grease, vegetable oils and blends*, and *mixtures thereof*, from Hammond, Ind., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 64932 (Sub-No. 472), filed April 14, 1969. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic pellets, granules and cubes*, in bulk, in tank or hopper type vehicles, from Henry, Ill., to points in Arkansas, Connecticut, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, and Wisconsin. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 65525 (Sub-No. 19), filed April 17, 1969. Applicant: WHITE BROTHERS TRUCKING CO., a corporation, Box 96, Wasco, Ill. 60183. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast concrete slabs and beams*, of such size and weight as to require the use of special equipment, and *accessories and materials* incidental to the installation thereof, from points in Montgomery County, Ohio, to points in Michigan, Kentucky, Indiana, and Pennsylvania, and (2) *supplies and materials*, incidental to the manufacture of prestressed concrete slabs and beams, from points in Michigan, Kentucky, Indiana, and Pennsylvania, to points in Montgomery County, Ohio. NOTE: Applicant states it presently holds authority to transport precast concrete slabs and beams et al., from Dayton, Ohio, to points in Michigan, Kentucky, Indiana, and Pennsylvania, and supplies and materials incidental to the manufacture of prestressed concrete slabs and beams, from points in Michigan, Kentucky, Indiana, and Pennsylvania, to Dayton, Ohio. Dayton, Ohio is located

within Montgomery County, Ohio. This application is to expand the base point of Dayton, Ohio, to that of Montgomery County, Ohio, with no duplication of authority sought. Applicant further states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Chicago, Ill.

No. MC 65941 (Sub-No. 29), filed April 3, 1969. Applicant: TOWER LINES, INC., Post Office Box 907, Wheeling, W. Va. 26003. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, from Atlanta, Ga., to Wheeling, W. Va., restricted to traffic having a prior movement by motor carrier which originated at Moss Point, Miss., and Mobile, Ala. NOTE: Applicant states that it can presently perform this service by interline over Macon, Ga. The purpose of this application is to substitute Atlanta, Ga., in lieu of Macon, Ga., as an interchange point on this movement of traffic. Applicant further states that it intends to tack this authority with presently held authority at Macon, Ga., to serve points in Pennsylvania, Ohio, and West Virginia. Applicant seeks to perform no service through this application which it cannot perform over Macon, Ga. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or Atlanta, Ga.

No. MC 67818 (Sub-No. 80), filed April 9, 1969. Applicant: MICHIGAN EXPRESS, INC., 1122 Freeman Avenue SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk), serving the plantsite of Montgomery Elevator Co., located in Henry County, Ill., as an off-route point in connection with applicant's presently authorized regular route operations to and from Moline, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Moline, Ill.

No. MC 73165 (Sub-No. 264), filed April 7, 1969. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 1348, Birmingham, Ala. 35201. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment*, (2) *Machinery and equipment used in the wood products, forestry, particle board, composition board and hard board industries*, (3) *Parts, attachments and accessories for the commodities described* in (1) and (2) above, between points in Jefferson and Talledega Counties, Alabama and Washington County, Oreg., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states it does not intend to tack, and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 75830 (Sub-No. 8), filed April 7, 1969. Applicant: INTER-CITY TRANSPORT & MOTOR COMPANY, a corporation, Post Office Box 88, Buckhannon, W. Va. 26201. Applicant's representative: Herbert Baker and James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Yarn*, from Fort Atkinson, Wis., to McKeesport, Pa., under contract with G. C. Murphy Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Columbus, Ohio.

No. MC 76032 (Sub-No. 240), filed April 7, 1969. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ordnance and Quartermaster supplies* (except household goods and commodities in bulk), between all points in the United States (except Alaska and Hawaii). Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Applicant also states that the authority sought herein duplicates in part its pending application under MC 76032 (Sub-No. 233). If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82492 (Sub-No. 26), filed April 10, 1969. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 693 Plymouth Avenue NE., Grand Rapids, Mich. 49505. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles*, distributed by meat packinghouses, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Hillsdale, Mich., to points in Iowa, Nebraska, and Minnesota, restricted to traffic originating at the plantsite and/or warehouses utilized by Great Markwestern Packing Co., at Hillsdale, Mich. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 82841 (Sub-No. 56), filed April 7, 1969. Applicant: HUNT TRANSPORTATION, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trench excavating machines*, from Omaha, Nebr., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 83885 (Sub-No. 10), filed March 27, 1969. Applicant: UNITED STATES TRUCKING CORPORATION, 66 Murray Street, New York, N.Y. 10007. Applicant's representative: Herbert Burstein, 160 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bars*, from New York, N.Y., to Colwyn, Pa., under contract with Minnesota Mining & Manufacturing Co. NOTE: Applicant holds common carrier authority under MC 11712, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 85465 (Sub-No. 17), filed March 20, 1969. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Drawer 350, Scottsbluff, Nebr. 69361. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, ordnance and quartermaster supplies;* (a) between military installations or Defense Department establishments in the United States; and (b) between points in (a) above and points in Nebraska, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) and the District of Columbia. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 85934 (Sub-No. 51), filed April 11, 1969. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming, Dearborn, Mich. 48120. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in pneumatic tank vehicles, from Manistee, Port Huron, St. Clair, and Detroit, Mich., to points in Illinois, Indiana, and Ohio. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 92633 (Sub-No. 14), filed April 1, 1969. Applicant: ZIRBEL TRANSPORT, INC., 420 28th Street North, Lewiston, Idaho 83501. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, from points in Boville (Latah

County), Idaho, to points in Toledo (Lincoln County), Oreg. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash., or Boise, Idaho.

No. MC 94350 (Sub-No. 222), filed April 10, 1969. Applicant: TRANSIT HOMES, INC., Haywood Road, Post Office Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr., Post Office Box 1628, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from points in Monroe County, Miss., to all points east of the Mississippi River including Louisiana and Minnesota, but excluding Flint, Mount Clemens, and Detroit, Mich. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Miss.

No. MC 95540 (Sub-No. 742), filed April 7, 1969. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when transported in the same vehicle with meats, meat products, and meat byproducts, and *articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and/or warehouse facilities of Geo. A. Hormel & Co., Austin, Minn., Fort Dodge, Iowa, and Fremont, Nebr., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held in Minneapolis, Minn., or Omaha, Nebr.

No. MC 101053 (Sub-No. 8), filed April 7, 1969. Applicant: DRY BULK TRANSPORT, INC., Rural Delivery No. 5, Marietta, Ohio 45750. Applicant's representative: James W. Muldoon, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, as are susceptible of being unloaded by dumping*, in dump truck; (1) between points in Athens, Morgan and Noble Counties, Ohio, on the one hand, and, on the other, points in Harrison, Jackson, Wetzel, Mason, Roane, Ritchie, Calhoun, Tyler, Marshall, Doddridge, Wirt, Gilmer, and Kanawaha Counties, W. Va.; and (2) between points in Washington County, Ohio, on the one hand, and, on the other, points in Kanawaha County, W. Va. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 103498 (Sub-No. 17), filed April 10, 1969. Applicant: W. D. SMITH, doing business as W. D. SMITH TRUCK LINE, Post Office Box 68, DeQueen, Ark. 71832. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building., Little Rock Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquetts*, from Dierks, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, and Wisconsin. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 103993 (Sub-No. 334) (Amendment), filed August 23, 1968, published FEDERAL REGISTER issue of September 12, 1968, amended and republished as amended, this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representatives: Paul Borghesani (same address as above) and William P. Lippman, 1824 R Street NW., Washington, D.C. 20009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel buildings;* (2) *building sections, panels, materials, parts*, and accessories, from points in Mahoning and Trumbull Counties, Ohio, to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states this authority will be tacked with applicant's existing Sub 21 to serve the following States: Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, Wisconsin, and West Virginia. The purpose of this republication is to include the tacking information. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 103993 (Sub-No. 397), filed March 28, 1969. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel containers, and storage racks, and materials* used in the erection and completion thereof, from Macedonia, Ohio, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 103993 (Sub-No. 398), filed April 14, 1969. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck campers, camp coaches, and trailers* designed to be drawn by passenger automobiles, from Magoffin County, Ky., to points in the United States, excluding Alaska and Hawaii. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky.

No. MC 106644 (Sub-No. 96), filed March 24, 1969. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Atlanta, Ga. 30321. Applicant's representatives: Guy H. Postell and Frank D. Hall, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquors, malt, beer, beer tonic, porter, stout, and related advertising material;* from Pabst, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and that part of Tennessee on and East of U.S. Highway 431, and *empty containers, pallets, and refused and rejected shipments on return*. NOTE: Applicant states it intends to tack authority sought where possible with its existing authority wherein as pertinent herein it conducts operations in the States of Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and West Virginia. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 106760 (Sub-No. 100), filed April 10, 1969. Applicant: WHITE-HOUSE TRUCKING, INC., 5020 Angola Road, Toledo, Ohio 43615. Applicant's representatives: Irvin Tull, 1925 National Plaza, Tulsa, Okla. 74151 and Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, ventilator parts, ventilator equipment, ventilator systems, including accessories* used in the installation thereof, from Philadelphia, Pa., Keyser, W. Va., and Junction City, Ky., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it does not intend to tack and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 107012 (Sub-No. 91), filed April 3, 1969. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Martin A. Weissert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture*, from points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin, to points in Arkansas. NOTE: Applicant asserts there is a possibility of tacking but fails to specify the details thereof, and indicates that tacking is not the purpose of this application. Accordingly, it is assumed that no tacking is contemplated. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock or Fort Smith, Ark., or Washington, D.C.

No. MC 107012 (Sub-No. 92), filed April 7, 1969. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Martin A. Weissert, Post Office Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture and furnishings*, from Oklahoma City and Vinita, Okla., and points in Beckham County, Okla., to points in Texas, New Mexico, Colorado, Kansas, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Mississippi, Michigan, Indiana, Ohio, Kentucky, Tennessee, Alabama, Georgia, and Florida. NOTE: Applicant states that it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Washington, D.C.

No. MC 107107 (Sub-No. 396), filed March 27, 1969. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Miami, Fla. 33142. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when transported in the same vehicle with meats, meat products, and/or meat byproducts, as defined by the Commission, from Austin, Minn., Fort Dodge, Iowa, and Fremont, Nebr., to points in Alabama, Florida, Georgia, North Carolina, and South Carolina. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking, if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 193), filed April 4, 1969. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representatives: Dale L. Cox, Post Office Box 146, Farmer City, Ill. 61842, and Mack Stephenson, 301 Building, 391 North Second Street, Springfield, Ill. 62702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drywall accessories, including adhesives, cement, tape, beads, corners, studs, and nails*, from Cleveland, Ohio, to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states it intends to tack with MC 107295 where feasible. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 107496 (Sub-No. 724), filed April 4, 1969. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, edible, in bulk, from the Archer-Daniels-Midland Co. plantsite at or near Lincoln, Nebr., to points in Arkansas, Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oklahoma, Oregon, North Dakota, South Dakota, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states it does not intend to tack and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 107496 (Sub-No. 725), filed April 11, 1969. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement, cement blocks, and bricks*, from Fort Scott, Kans., to points in Missouri, Arkansas, Oklahoma, Nebraska, and Iowa. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Des Moines, Iowa.

No. MC 107515 (Sub-No. 652), filed April 11, 1969. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Hilldale, Mich., to points in North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Florida, Tennessee, and Kentucky, restricted to traffic originating at the plant and/or warehouse utilized by Great Markwestern Packing Co., at Hilldale, Mich. NOTE: Applicant indicates tacking possibilities with authorized authority under MC 107515 (Sub-No. 507) to serve points in Virginia. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 107839 (Sub-No. 135), filed April 11, 1969. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4985 York Street, Denver, Colo. 80216. Applicant's representative: Rodger Spahr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of the Pillsbury Co., at or near Denison, Tex., to points in Colorado, Kansas, Missouri, Nebraska, Oklahoma, and Tennessee. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Dallas, Tex., or Washington, D.C.

No. MC 109637 (Sub-No. 360), filed March 21, 1969. Applicant: SOUTHERN TANK LINES INC., Post Office Box 1047, 4107 Bells Lane, Louisville, Ky. 40201. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and grain neutral spirits*, in bulk, in tank vehicles, from Pekin, Ill., to Baltimore, Md., Richmond, Va., and points in New Jersey and New York. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110193 (Sub-No. 167), filed April 11, 1969. Applicant: SAFEWAY TRUCK LINES, INC., 20450 Ireland Road, Post Office Box 2628, South Bend, Ind. 46613. Applicant's representative: William J. Monheim (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; and (2) *foodstuffs*, from Milwaukee, Wis., to points in Ohio, New York, New Jersey, Pennsylvania, Maine, New Hampshire, Vermont, Delaware, Connecticut, Massachusetts, Rhode Island, Maryland, District of Columbia, Virginia, West Virginia, Nebraska, Iowa, Minnesota, and Missouri. NOTE: Common control may be involved. Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110525 (Sub-No. 904), filed April 3, 1969. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Edwin H. van Deusen (same address as above), and Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Delaware County, Ohio, to points in Michigan. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 110683 (Sub-No. 56), filed March 14, 1969. Applicant: SMITH'S TRANSFER CORPORATION OF STAUNTON, VA., Post Office Box 1000, Staunton, Va. 24401. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Greenville, S.C., and Atlanta, Ga., (1) from Greenville, over U.S. Highway 29 to Atlanta, and return over the same route, (2) from Greenville, over Interstate Highway 85 to Atlanta, and return over the same route, and (3) serving intermediate and off-route points within 15 miles of Atlanta in connection with the above routes. Restriction: Service is restricted to traffic moving to, from or through points in Albermarle, Augusta, or Rockbridge Counties, Va. NOTE: The purpose of this application is to obtain a Greenville, S.C.-Atlanta, Ga., route to be joined at Greenville, S.C., with routes extending from Greenville through Virginia to northeastern terminal locations of the applicant. Presently operations are conducted by applicant between Atlanta, Ga., on the one hand, and, on the other, via routes through Tennessee. The principal effect of approval of the application will be to shorten applicant's existing route between Augusta County, Va., and Atlanta from 544 miles to 504 miles. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111812 (Sub-No. 378) filed April 7, 1969. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products* as described in sections A, B, C, of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 706 (except commodities in bulk and hides); (1) from Estherville, Iowa, to points in South Dakota, Nebraska, Illinois, Kansas, and Missouri, (2) from Madison, S. Dak., to points in Minnesota, Iowa, Nebraska, Kansas, and Missouri, (3) from Ottumwa, Iowa to points in Minnesota, South Dakota, Nebraska, Missouri, Illinois, and Kansas, and (4) from Sioux Falls, S. Dak. to points in Iowa, Minnesota, Nebraska, and Missouri restricted to traffic originating at the plantsite or warehouse facilities of John Morrell & Co., and destined to named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 112801 (Sub-No. 91), filed April 2, 1969. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 50272, Chicago, Ill. 60650. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in bulk, in tank vehicles, from Lincoln, Nebr., to points in Arkansas, Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, New Mexico, Oklahoma, Oregon, North Dakota, South Dakota, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112822 (Sub-No. 110), filed April 9, 1969. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, Cushing, Okla. 74023. Applicant's representative: Carl L. Wright, Jr. (same address as applicant), and Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Hillsdale, Mich., to points in Oklahoma, Texas, Missouri, Kansas, Mississippi, Louisiana, and Arkansas, restricted to traffic originating at the plantsite and/or warehouses utilized by Great Markwestern Packing Co., at Hillsdale, Mich. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 113388 (Sub-No. 89), filed April 11, 1969. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, Post Office Box 248, Bridgeville, Del. 19933. Applicant's representative: H. Charles Ephraim, 1411 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned, preserved foodstuffs*, not coldpack or frozen, from Red Creek, Waterloo, Rushville, Egypt, Penn Yan, Fairport, Lyons, Newark, and Syracuse, N.Y., and West Chester, Pa., to points in Virginia, North Carolina, South Carolina, Georgia, and Florida, restricted to shipments originating at the plantsites and storage facilities of Comstock-Greenwood Division, the Borden Co. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113843 (Sub-No. 148), filed March 27, 1969. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02110. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carnivorous animal feedstuffs*, unfit for human consumption (except commodities in bulk) from points in Illinois, Indiana, Minnesota, Ohio, and Wisconsin, to Toledo, Marion, and Bowling Green, Ohio; Deep Run, Allentown, Camp Hill, and Philadelphia, Pa., New Bedford, Woburn, and Boston, Mass., and Princess Anne, Md. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 114106 (Sub-No. 73), filed April 2, 1969. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 573, Lexington, N.C. 27292. Applicant's representative: William P. Sullivan, Federal Bar Building, West, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends of corn products and sugar*, from Greer, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant has contract carrier authority in MC 115176 and subs thereunder, therefore dual operations may be involved. Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114211 (Sub-No. 123), filed April 7, 1969. Applicant: WARREN TRANSPORT, INC., 305 Whitney Road, Post Office Box 420, Waterloo, Iowa 50704. Applicant's representative: Charles Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except tractors with vehicle beds, bed frames or fifth wheels), *agricultural machinery and implements, industrial and construction machinery and equipment, snowmobiles, equipment* designed for use in connection with tractors, *trailers* designed for the transportation of the commodities described above (except trailers designed to be drawn by passenger

automobiles), *attachments* for the commodities described above, *internal combustion engines, and parts and accessories* of the commodities described herein above when moving in mixed loads with such commodities, (1) from ports of entry on the International Boundary line between the United States and Canada located at Detroit and Fort Huron, Mich., and Buffalo and Niagara Falls, N.Y., to points in the United States (except Alaska and Hawaii), restricted to shipments originating at the plant and warehouse sites and experimental farm of Massey-Ferguson Industries Ltd., at Toronto, Brantford, and Milliken, Ontario, (2) from Des Moines, Iowa, Clearfield, Utah, Detroit, Mich., Algoma and Kaukauna, Wis., and Cuyahoga Falls, Ohio, to points in the United States (except Alaska and Hawaii), restricted to shipments originating at the plant and warehouse sites and experimental farms of Massey-Ferguson, Inc., its affiliates and subsidiaries. NOTE: Applicant has existing authority to transport the involved commodities (except snowmobiles) from all origins specified in (2) except Algoma and Kaukauna and Cuyahoga Falls to the territory requested. No duplicating authority will be sought. Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 114273 (Sub-No. 41), filed April 3, 1969. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prokuski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tire tubes*, from Mansfield, Ohio, to Millersburg, Iowa, and return of rejected shipments from Millersburg, Iowa, to Mansfield, Ohio. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115162 (Sub-No. 170), filed April 3, 1969. Applicant: WALTER POOLE, doing business as POOLE TRUCK LINE, Post Office Box 310, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles, and portable cranes* moving incidental thereto, between Mobile, Ala., and Pensacola, Fla., on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or Pensacola, Fla.

No. MC 115322 (Sub-No. 59), filed March 26, 1969. Applicant: REDWING REFRIGERATED, INC., Post Office Box 1698, 2939 Orlando Drive, Sanford, Fla. 32771. Applicant's representative: J. V. McCoy, Post Office Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products and frozen vegetables*, from Easton, Portland, Presque Isle, and Washburn, Maine, to points in Alabama, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Washington, D.C.

No. MC 116077 (Sub-No. 260) (Amendment), filed February 26, 1969, published in FEDERAL REGISTER issue of March 20, 1969, amended April 14, 1969, and republished as amended, this issue. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid ethylene*, from Baton Rouge, La., to points in Alabama, Arkansas, Illinois, Kansas, Kentucky, South Carolina, Tennessee, Texas, Michigan, and California. NOTE: Applicant states that the authority sought would be tacked with its present authority in MC 116077 Subs 6 and 136 in Harris and Brazoria Counties, Tex., to points in the United States not directly here involved (except to Wyoming). The purpose of this republication is to add the State of Kansas as a destination point. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 116474 (Sub-No. 18), filed April 1, 1969. Applicant: LEAVITTS FREIGHT SERVICE, INC., Route 1, Box 170B, Springfield, Oreg. 97477. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and lumber products*, (a) from points in Oregon to points in Washington and California; (b) from points in Washington to points in Oregon; (c) from points in California to points in Oregon; and (d) from points in Oregon and Washington to points in Idaho and Montana, under contract with Weyerhaeuser Co., Duco-Lam, Inc., Rosboro Lumber Co., Koppers Co., Inc., Al Disdero Lumber Co., Clear Fir Products Co., and Cascadian Co.; (2) *laminated wood products, prefabricated wood timbers, trusses and beams, and accessories* used in the erection, construction, and completion of the foregoing when shipped therewith, from Riddle, Oreg., to points in Oregon, Washington, Idaho, Montana, Nevada, and California, under contract with Riddle Laminators; (3) *wooden poles and piling*, from Eugene, Oreg., to points in Washington, under contracts with J. H. Baxter & Co., and L. D. McFarland Co.; (4) *building board* such as hardboard, fibreboard, chip board, particle board, and pressed board (excepting gypsum board, paper board and pulp board), from Springfield, Oreg., to points in Oregon, Washington, Nevada, and California, under contracts with Weyerhaeuser Co.; (5) *waste paper*, from points in California to Springfield, Oreg., under contract with Weyerhaeuser Co.; and (6) *pulp*, in bales, from Longview, Wash., to Springfield, Oreg., under contract with Weyerhaeuser Co. NOTE: No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 117815 (Sub-No. 146), filed April 9, 1969. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Hillsdale, Mich., to points in Iowa, Nebraska, Minnesota, Kansas, and Missouri restricted to traffic originating at the plantsite and/or warehouses utilized by Great Markwestern Packing Co., at Hillsdale, Mich. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 117883 (Sub-No. 122), filed April 10, 1969. Applicant: SUBLER TRANSFER, INC., East Main Street, Versailles, Ohio 45380. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Hillsdale, Mich., to points in Maine, New Hampshire, Vermont, Illinois, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia (restricted to traffic originating at the plantsite and/or warehouses utilized by Great Markwestern Packing Co., at Hillsdale, Mich.). NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 118292 (Sub-No. 19), filed April 7, 1969. Applicant: BALLENTINE PRODUCE, INC., Post Office Box 312, Alma, Ark. 72921. Applicant's representative: Lester M. Bridgeman, 1000 Woodward Building, Washington, D.C. 20005.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry and poultry products*, cooked and uncooked, from Heavener, Okla., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Nebraska, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, Texas, Washington, and Wisconsin. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 118904 (Sub-No. 5) (Clarification), filed February 3, 1969, published FEDERAL REGISTER issue of March 6, 1969, and republished as clarified this issue. Applicant: LONNIE WOOD TRUCKAWAY, LTD., 1915 F Avenue, Lawton, Okla. 73501. Applicant's representative: D. D. Brunson, Post Office Box 671, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be transported by passenger automobiles and equipped with hitchball connectors, and (2) *buildings*, complete, knocked down or in sections, when transported on wheeled undercarriages, from points in Mayes and Creek Counties, Okla., to points in the United States (except Hawaii and Alaska). NOTE: The purpose of this republication is to more clearly set forth the commodity in (1) above by adding "transported by passenger automobiles". If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla., or Dallas, Tex.

No. MC 118904 (Sub-No. 6) (Clarification), filed February 3, 1969, published in FEDERAL REGISTER issue of March 6, 1969, and republished as clarified this issue. Applicant: LONNIE WOOD TRUCKAWAY, LTD., 1915 F Avenue, Lorton, Okla. 73501. Applicant's representative: David D. Brunson, Post Office Box 671, Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be transported by passenger automobiles and equipped with hitchball connector, in initial movements, from Claremore, Okla., to points in the United States (except Hawaii). NOTE: The purpose of this republication is to redescribe the commodity description. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Dallas, Tex., or Tulsa, Okla.

No. MC 118959 (Sub-No. 41), filed April 8, 1969. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and rubber articles and equipment, materials and supplies* used or useful in the installation or sales of these articles, from Shelbyville, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, North Carolina, Ohio, South Carolina, and Wisconsin. NOTE: Applicant holds contract carrier authority under MC 125664, therefore dual operations may be involved. Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Chicago, Ill.

No. MC 119641 (Sub-No. 80), filed April 7, 1969. Applicant: RINGLE EXPRESS, INC., 450 South Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, agricultural machinery, and parts* for agricultural implements and agricultural machinery, from the plantsite and warehouse facilities of Oliver Corp., located at or near South Bend, Ind., to ports of entry on the international boundary line between the United States and Canada, located at Port Huron and Detroit, Mich. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119903 (Sub-No. 9) (Correction), filed February 19, 1969, published in the FEDERAL REGISTER issues of March 13, 1969, and April 17, 1969, and republished, as corrected this issue. Applicant: D. J. WALRAVEN, 2713 Maple Avenue, Rome, Ga. 30161. Applicant's representative: Alan E. Serby and Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, in bulk or in bags, from Hanceville, Ala., to points in that part of Georgia on and north or the south and east line of Troup, Coweta, Spalding, Butts, Jasper, and Putnam Counties, and on and west of U.S. Highway 441; and points in Knox, Blount, Sevier and Anderson Counties, Tenn., and (2) *fertilizer and fertilizer materials*, in bags and in bulk, from Tyner, Tenn., to points in Alabama, under a continuing contract or contracts, with Cotton Producers Association of Atlanta, Ga., and its affiliates. NOTE: This republication is for the purpose of showing the origin as Tyner, Tenn., in lieu of Tyner, Tex., as previously published in error. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 120737 (Sub-No. 6), filed March 17, 1969. Applicant: STAR DELIVERY & TRANSFER, INC., 948 North Fifth Avenue, Canton, Ill. 61520. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, between Ashtabula, Ohio, on the one hand, and points in Fulton County, Ill., on the other. NOTE: Applicant states it will tack with its presently held authority in its Sub 2, wherein a portion of its authority authorizes operations between points within 50 miles of Pottstown, Ill., on the one hand, and, on the other, Chicago, Rock Island, East St. Louis, and Moline, Ill. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 121060 (Sub-No. 6), filed April 2, 1969. Applicant: ARROW TRUCK LINES, INC., 1220 West Third, Post Office Box 5568, Birmingham, Ala. 35407. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime, cement, lumber, concrete products, pipe, brick, and Terra Cotta pipe*, between Birmingham, Ala., including points within 25 miles of Birmingham, and points in Alabama; and (2) *road building and excavating equipment; building and construction material and supplies* such as: *limestone, cement, lime, slag, sand, brick, construction steel, rock, tile, contractor's forms, tool houses, tool boxes, culverts, iron and steel construction articles, contractors machinery, including boilers, plant machinery, railroad steel rails, and track materials, storage tanks, and iron and steel and iron and steel articles*, between points in Alabama, within a radius of 150 miles of Birmingham, Ala. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 123314 (Sub-No. 12), filed March 14, 1969. Applicant: JOHN F. WALTER, INC., Box 175, Newville, Pa. 17241. Applicant's representative: Eugene T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned, preserved and processed food products and materials, equipment and supplies used in the production, sale and distribution thereof*, between the H. J. Heinz Company Distribution Center in the Borough of Mechanicsburg, Pa., on the one hand, and, on the other, points in Indiana and Ohio. (2) *Prepared food products, advertising matter, stationery and materials, supplies and equipment*, used or useful in the manufacture of prepared food products (a) from the H. J. Heinz Company Distribution Center in the Borough of Mechanicsburg, Pa., to Antwerp, Buffalo, Rochester, and Syracuse, N.Y., Baltimore, Md., Harrisburg and Philadelphia, Pa., and Washington, D.C., and (b) from Medina, N.Y., Chambersburg, Pa., Baltimore, Md., and Salem, N.J., to the H. J. Heinz Company Distribution Center in the Borough of Mechanicsburg, Pa.; and (3) *Prepared food products, and materials, equipment and supplies* used in or incidental to the preparation, packing, and sale thereof (except liquid commodities in bulk, in tank vehicles) from the H. J. Heinz Company Distribution Center in the Borough of Mechanicsburg, Pa., to points in Florence Township, Burlington County, N.J. NOTE: Applicant states it does not intend

to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125045 (Sub-No. 4), filed March 28, 1969. Applicant: SHERMAN MOLDE, doing business as MOLDE TRUCKING COMPANY, 955 11½ Street SW., Rochester, Minn. 55901. Applicant's representative: Richard E. White, Room 8, District Building, 316 First Avenue SW., Rochester, Minn. 55901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in section B of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, and *ice cream*, from Rochester, Minn., to points in Iowa on and north of U.S. Highway 6 and points in Wisconsin, under contract with Marigold Foods, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 125194 (Sub-No. 10), filed April 4, 1969. Applicant: STATE LINE DAIRY, INC., 1015 State Line Road, Niles, Mich. 49120. Applicant's representative: J. M. Neath, Jr., 1 Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products and filled and imitation milk and dairy products, fruit drinks and salads*, (1) from Indianapolis, Ind., to points in Michigan and Ohio, and (2) from Livonia, Mich., to points in Indiana, and Ohio, under contract with The Kroger Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., Chicago, Ill., or Detroit, Mich.

No. MC 126049 (Sub-No. 6), filed April 2, 1969. Applicant: DODEN TRUCKING COMPANY, INC., Woden, Iowa 50484. Applicant's representative: Clayton L. Wornson, 824 Brick & Tile Building, Mason City, Iowa 50401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *"Salted Sheepskins"*, from Scottsbluff, Nebr., to Mason City, Iowa. NOTE: Applicant states it does not intend to tack and apparently is willing to accept a restriction against tacking if warranted. NOTE: If a hearing is deemed necessary, applicant requests it be held at Mason City, Iowa.

No. MC 127038 (Sub-No. 3), filed April 2, 1969. Applicant: SAM N. COLE, doing business as ALABAMA-GEORGIA EXPRESS, 2616 Commerce Boulevard (Irondale), Post Office Box 6608, Birmingham, Ala. 35210. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except explosives and commodities requiring special equipment), between the plantsite of Bibb Manufacturing Co., at Percale, Ga., on the one hand, and, on the other, points within 15 miles of Birmingham. NOTE: Applicant states that it would tack at Birmingham, Ala. If a hearing is deemed necessary, applicant requests it be held at Macon or Atlanta, Ga.

No. MC 127042 (Sub-No. 33), filed April 2, 1969. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 6, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials and expanded plastic materials*, from Belvidere, Ill., to points in Iowa, Nebraska, Minnesota, Colorado, North Dakota, and South Dakota. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 127193 (Sub-No. 3), filed April 9, 1969. Applicant: LEONARD BROS. VAN & STORAGE CO., a corporation, 7060 West Fort Street, Detroit, Mich. 48209. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Huron, Tuscola, Sanilac, Saginaw, Gratiot, Montcalm, Muskegon, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genessee, Lapeer, St. Clair, Macomb, Oakland, Livingston, Ingham, Eaton, Barry, Allegan, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe Counties, Mich., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 127252 (Sub-No. 1), filed April 3, 1969. Applicant: WAYNE TARVIN AND RICHARD TARVIN, a partnership, doing business as TARVIN TRUCKING CO., Dewey, Ill. Applicant's representative: Charles R. Young, West Seminary Street, Danville, Ill. 61832. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery* (except those commodities which, because of size or weight, require special equipment), from Des Moines and Waterloo, Iowa, to Paxton, Farmer City, and Monticello, Ill., under contracts with Paxton Farm Equipment Co., Paxton, Ill., Hawn & Overton, Farmer City, Ill., and J. F. Heath & Son, Monticello, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 127362 (Sub-No. 2), filed April 2, 1969. Applicant: H. L. KNEPSHIELD, Rural Delivery No. 1, Sigel, Pa. 15860. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs and lumber*, (1) from points in New York to points in Pennsylvania and Ohio, (2) from points in Pennsylvania to points in Ohio, New York, Indiana, Michigan, West Virginia, Virginia, and Maryland, and (3) from points in Ohio to points in Pennsylvania and New York. NOTE: Applicant states it will request revocation of existing authority to the extent that it duplicates the proposed authority, if this application is approved. Applicant further states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 127539 (Sub-No. 9), filed April 10, 1969. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Seattle, Wash., to points in Oregon and Washington. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Applicant holds contract carrier authority under MC 124593, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 128201 (Sub-No. 1), filed April 2, 1969. Applicant: SCHUSTER GRAIN COMPANY, INC., LeMars, Iowa. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds and animal health products* (except liquids in bulk), (a) from the plantsite and warehouse facilities of Nixon & Co., a division of Nebraska Consolidated Milling Co., at Sioux City, Iowa, to points in Minnesota, Nebraska, and South Dakota, (b) from the plantsite and warehouse facilities of Nixon & Co., a division of Nebraska Consolidated Milling Co., at Omaha, Nebr., to the plantsite and warehouse facilities of Nixon & Co., a division of Nebraska Consolidated Milling Co., at Sioux City, Iowa, and (2) *animal and poultry feed ingredients* (except liquids in bulk), from points in Minnesota, Nebraska, and South Dakota to the plantsite and warehouse facilities of Nixon & Co., a division of Nebraska Consolidated Milling Co., at Sioux City, Iowa, under contract with Nixon & Co., a division of Nebraska Consolidated Milling Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 128273 (Sub-No. 43), filed April 4, 1969. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189,

Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products, products* produced or distributed by manufacturers and converters of paper products, and (2) *materials and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities which, because of size or weight, require the use of special equipment), (a) between points in Crow Wing and Carlton Counties, Minn., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois (except points north of U.S. Highway 24), Indiana (except points north of U.S. Highway 24), Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming, and (b) between points in Winnebago and Outagamie Counties, Wis., on the one hand, and, on the other, points in Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, and California. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 128273 (Sub-No. 44), filed April 3, 1969. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from Monroe and West Monroe, La., to points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nevada, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, New Hampshire, District of Columbia, Kansas City, Mo., and Kansas City, Kans., and their commercial zones, St. Louis, Mo., and East St. Louis, Ill., and their commercial zones, Chicago, Ill., and its commercial zone. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction if warranted. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128273 (Sub-No. 45), filed April 3, 1969. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, including classes A and B explosives, moving for the account of the Federal Government, between points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128343 (Sub-No. 7), filed April 8, 1969. Applicant: C-LINE, INC., Tourtellot Hill Road, Cheppachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical and automotive goods, appliances, equipment, parts, and related accessory items used in the manufacture and distribution thereof*, from points in New Jersey and New York to points in Alabama, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and (2) *materials, equipment and supplies*, used in the manufacture of the commodities set forth in paragraph (1) above, on return, under contract with Avnet, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Providence, R.I.

No. MC 128555 (Sub-No. 2), filed April 7, 1969. Applicant: MEAT DISPATCH, INC., 1000 Jefferson Road, Rochester, N.Y. 14623. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by department stores*, between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia (except from Rochester, N.Y., to points in Florida), under a continuing contract or contracts, with Neisner Bros., Inc., of Rochester, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 128920 (Sub-No. 1), filed April 3, 1969. Applicant: LEIGHTON D. CHARLSEN, doing business as CHARLSEN TRUCKING SERVICE, 1030 South Fourth Street, Stillwater, Minn. 55082. Applicant's representative: Robert E. Swanson, 1211 South Sixth Street, Stillwater, Minn. 55802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bed and furniture parts, and materials, and supplies* therefor, between St. Paul, Bayport, and Stillwater, Minn., and Luck, Wis., under contract with St. Croix Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 129092 (Sub-No. 2), filed April 2, 1969. Applicant: HARVEY TRANSPORT LIMITED, Post Office Box 637, du Pont Street, Alma, Lac St. Jean, Quebec, Canada. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, rough and polished, in blocks and slabs, semifinished and finished, from ports of entry on the international boundary line between the United States and Canada located at or near Derby Line, Norton, Highgate Springs, and Morses Line, Vt., and Jackman, Maine, to points in Maine, New Hampshire, Vermont, Massachusetts, New York, Connecticut, and Rhode Island, under contract with National Granite, Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albany or Plattsburgh, N.Y.

No. MC 129184 (Sub-No. 2), filed April 3, 1969. Applicant: KENNETH L. KELLAR, Post Office Box 449, Blaine, Wash. 98230. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquor and cigarettes*, (1) from Blaine, Wash., to Anacortes, Bellingham, Everett, Ferndale, Olympia, Seattle, and Tacoma, Wash., restricted to traffic having had a prior movement in Canada or a prior movement by water under continuing contracts with Exports, Inc., and Provincial Warehouse, Inc., and (2) from Blaine, Wash., to Eastport, Idaho, Noyes, Baudette, International Falls, Grand Portage and Duluth, Minn., and (3) from Duluth, Minn., to Detroit, Mich., Chicago, Ill., Milwaukee, Wis., and Minneapolis, Minn., restricted to traffic having had a prior movement in Canada or a prior movement by water under a continuing contract with Exports, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 129613 (Sub-No. 5), filed April 8, 1969. Applicant: ARTHUR H. FULTON, Stephens City, Va. 22655. Applicant's representative: Eston H. Alt, Post Office Box 81, Winchester, Va.

22601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, N.J., to Winchester, Va., under contract with A. K. Wingert and Winston Wallace, Jr., doing business as W & W Sales. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133076 (Sub-No. 1), filed April 7, 1969. Applicant: P. STANLEY COBANE, doing business as COBANE AIR FREIGHT, Box 3, Rural Route 1, Deer Grove, Ill. 61243. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. 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, and those requiring special equipment), between points in Lee and Whiteside Counties, Ill., and Clinton County, Iowa, on the one hand, and, on the other, O'Hare International Airport, Midway Airport and Meigs Field, at or near Chicago, Ill., restricted to traffic having prior or subsequent movement by air. NOTE: Applicant states it intends to interline with air freight carriers operating out of named airports. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133128 (Sub-No. 2), filed April 7, 1969. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1891 West 2100 South Street, Salt Lake City, Utah 84117. Applicant's representative: Duane W. Acklie, 521 South 14th Street, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal food, and advertising matter, premiums, and display materials*, when shipped in the same vehicle with the commodities as described above, from Los Angeles, Calif., and its commercial zone to points in Colorado, Nebraska, Utah, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Kentucky, Illinois, Indiana, Ohio, Michigan, Pennsylvania, New York, New Jersey, and the District of Columbia, under contract with Kal Kan Foods, Inc., a division of M & M/Mars. Applicant holds common carrier authority in MC 125433, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at (1) Salt Lake City, Utah, (2) Los Angeles, Calif.

No. MC 133309 (Sub-No. 1), filed March 28, 1969. Applicant: ENGEL & GRAY, INC., 745 West Betteravia Road, Santa Maria, Calif. 93454. Applicant's representative: Warren N. Grossman, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment, materials and supplies*, from San Luis Obispo, Santa Maria, and Pismo Beach, Calif., to the site of the Diablo Canyon Nuclear Power Plant, located about 7 miles northwest of Avila Beach, Calif., under contract with Pacific Gas and Electric Company. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 133359 (Sub-No. 2), filed April 7, 1969. Applicant: DWAYNE W. HIBBARD, doing business as HIBBARD MOVING AND STORAGE COMPANY, 1452 Veterans Boulevard, Redwood City, Calif. 94063. Applicant's representative: George M. Carr, 351 California Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Marin, Contra Costa, Alameda, San Mateo, Santa Clara, and San Francisco Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points requested, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 133377 (Sub-No. 2) (Amendment), filed January 6, 1969, published in FEDERAL REGISTER issues of January 30, 1969, and February 27, 1969, amended February 12, 1969 and April 11, 1969, respectively, and republished as amended this issue. Applicant: COMMERCIAL SERVICES, INC., Lakeside, Iowa 50588. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, articles distributed by meat packing houses and commodities used by meat packers*, as described in sections A, C, and D of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and *Foodstuffs* when transported in mixed shipments with the commodities named above, (1) from Fort Dodge, Iowa, to points in Iowa and Missouri, and (2) between Fremont, Nebr.; Algona and Fort Dodge, Iowa; Austin and Owatonna, Minn. Restriction: Service in parts (1) and (2) above is restricted to traffic originating at the plantsite and/or warehouse facilities of the Geo. A. Hormel & Co., and destined to the points and States specified. NOTE: The purpose of this republication is to include the point of Algona, Iowa, in (2) above. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 133414 (Sub-No. 2), filed April 11, 1969. Applicant: L. C. ROBINSON & SON, INC., doing business as ROBINSON TRUCKING COMPANY, Post Office Box 425, Hogansville, Ga. 30230. Applicant's representative: Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, crushed stone, field dirt, plant mix concrete, and road base material* (except dry cement); (a) from points in Troup, Coweta, Muscogee, and Richmond Counties, Ga., to points in Allendale, Barnwell, Aiken, McCormick, and Edgefield Counties, S.C., and (b) from points in Coweta, Troup, Muscogee, and Richmond Counties, Ga., to points in Alabama. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133415 (Sub-No. 2), filed April 7, 1969. Applicant: SID PLANAMENTA, doing business as S & R AUTO PARTS DELIVERY SERVICE, 913 McKinley Street, Peekskill, N.Y. 10566. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer and distributor of automobile parts, uncrated and crated, from site of shipper's warehouse at Bayonne, N.J., to points in Nassau, Suffolk, and Westchester Counties, N.Y., and *returned shipments*, from points in Nassau, Suffolk, and Westchester Counties, N.Y., to site of shipper's warehouse at Bayonne, N.J., under a continuing contract, or contracts, with the Maremont Marketing, Inc., of Bayonne, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133515 (Sub-No. 1), filed April 7, 1969. Applicant: ART WILSON ENTERPRISES, INC., 3936 55th Street, Des Moines, Iowa 50310. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Yogurt, snack dips, ice cream, ice milk, fruit flavored drinks, dairy products, and vegetable fat products*, (a) from Kansas City, Mo. to points in Iowa; Omaha, Nebr.; and Rock Island, Ill., (b) between Des Moines, Iowa and Rock Island, Ill.; and (2) *ice cream and ice milk products*, from Chicago, Ill., and Milwaukee, Wis., to points in Iowa, under contract with Borden, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 133545 (Amendment), filed March 5, 1969, published FEDERAL REGISTER issue of April 4, 1969, and amended this issue. Applicant: DAVID LEMONS, doing business as LEMONS HOUSE MOVING, 1250 Houston, Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Houses or buildings*, set up or in sections, other than knocked down flat and not including mobile homes or buildings designed for transportation in tow-away service, from points in Idaho south of the Salmon River, to points in Montana and points in Teton, Sublette, Lincoln, Uinta, Sweetwater, Park, and Fremont Counties, Wyo., and that portion of Yellowstone National Park lying in Wyoming. NOTE: The purpose of this republication is to include "that portion of Yellowstone National Park lying in Wyoming" as a destination area. If a hearing is deemed

necessary, applicant requests it be held at Pocatello or Boise, Idaho.

No. MC 133571 (Correction), filed March 18, 1969, published FEDERAL REGISTER issues of April 4, and April 17, 1969, and republished this issue. Applicant: NESTLERODE TRUCKING CO., INC., 615 West Walnut Street, Lock Haven, Pa. 17745. Applicant's representative: Harry H. Frank and S. Berne Smith, 100 Pine Street, Post Office Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from points in Cattaraugus and Allegany Counties, N.Y., to points in Cameron, Elk, McKean, and Potter Counties, Pa. NOTE: The purpose of this republication is to show the origin point of Cattaraugus County in lieu of Cattarauguo County as previously published. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 133595, filed March 21, 1969. Applicant: VERNON W. HITCHCOCK, doing business as LANCASTER MOVING & STORAGE CO., 44814 North Yucca, Lancaster, Calif. 93534. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Los Angeles and Kern Counties, Calif., restricted to shipments; (1) moving on a through bill of lading of a freight forwarder operating under the section 402(b)(2) exemption, and (2) having a prior or subsequent line-haul movement by rail, motor, water, or air. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 133611 (Sub-No. 1), filed April 7, 1969. Applicant: KING TRANSPORT, INC., 753 Marion Road, Columbus, Ohio 43207. Applicant's representative: K. H. Thomas (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in group III of appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 between Columbus, Ohio, on the one hand, and, on the other, (1) points in Cabell, Jackson, Mason, Pleasants, Wayne, and Wood Counties, W. Va., and (2) points in Boyd and Greenup Counties, Ky., under a continuing contract, or contracts with The Brown Steel Co., of Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 133623, filed April 2, 1969. Applicant: TRIAD DISTRIBUTORS, INC., 800 Main Street, Paterson, N.J. 07503. Applicant's representative: David D. Brunson, 519 Northwest Ninth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, mirrors, furniture parts*, in boxes, crates, or packages, from Paterson, N.J., to points in New Jersey, Delaware, and New York; that part of Pennsylvania on and east of U.S. Highway 15; and Connecticut. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Chicago, Ill., or Oklahoma City, Okla.

No. MC 133636, filed April 7, 1969. Applicant: JOHN S. GOODRICH, Box 66, Avoca, N.Y. 14809. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by drive-in restaurants and in connection therewith, *equipment, materials and supplies* used in the conduct of such business, between points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, under a continuing contract or contracts, with Drive-in Management Corp., and affiliated companies, and Carrols Development Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y.

No. MC 133638, filed April 11, 1969. Applicant: HENRY J. SOLECKI, doing business as LIPIN ROBINSON DELIVERY SERVICE, 21150 Beverly Road, Taylor, Mich. 48180. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated appliances and hospital supplies*, from Taylor, Mich., to points in Ohio and Michigan, and *damaged, rejected and refused merchandise*, on return, under contract with Lipin Robinson Warehouse Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 133651, filed April 14, 1969. Applicant: DENRU TRUCKING CO., INC., 806 South 13th Street, Newark, N.J. 07108. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed meats*, in vehicles equipped with mechanical refrigeration; (1) from the piers in the New York, N.Y., commercial zone as defined by the Commission, to the plantsite of Jaka Ham Co., Inc., at Somerset, N.J., and (2) from the plantsite and warehouse facilities of Jaka Ham Co., Inc., at Somerset and Secaucus, N.J., to points in Connecticut, Massachusetts, New York, Rhode Island, and points in Pennsylvania on and east of U.S. Highway 15, and Baltimore, Md., under a continuing contract with Jaka Ham Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 412), filed April 9, 1969. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: Richard Fryling (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Hunterdon and Somerset Counties, N.J., and extending to points in the United States including Alaska, but excluding Hawaii and New York City, N.Y. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Newark or Somerville, N.J.

No. MC 99891 (Sub-No. 11), filed April 7, 1969. Applicant: HENRY LIENHART, doing business as ARROW COACH LINES, 2715 West 10th Street, Little Rock, Ark. 72204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers. Regular routes: (1) between McComb and Natchez, Miss., from McComb over U.S. Highway 98 to junction Mississippi Highway 24 (also Mississippi Highway 48), thence over Mississippi Highway 24 (also Mississippi Highway 48), to Liberty, Miss., thence over Mississippi Highway 48 to Centerville, Miss., thence over Mississippi Highway 33 to junction unnumbered highway, thence over highway to Natchez, and return over same route, serving all intermediate points, (2) between Liberty and Gloster, Miss., over Mississippi Highway 24, serving all intermediate points. Irregular routes: *Passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points on the above described routes and extending to points in the United States (excluding Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Liberty, McComb or Jackson, Miss.

No. MC 110310 (Sub-No. 2), filed April 7, 1969. Applicant: INTER-COUNTY BUS LINES, INC., 513 South Adams Street, Havre de Grace, Harford, Md. 21078. Applicant's representative: John W. Hardwicke, 300 Title Building, Baltimore, Md. 21202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special operations, beginning and ending at points in Harford and Cecil Counties, Md., and extending to Delaware Park, Stanton, Del., during the racing season that is May 30 through August 9, 1969. NOTE: Applicant states it does not intend to tack, and is apparently willing to accept a restriction against tacking if warranted. If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md.

No. MC 117324 (Sub-No. 3), filed April 2, 1969. Applicant: FORT DODGE TRANSPORTATION COMPANY, a corporation, 1 North 20th Street, Fort Dodge, Iowa 50501. Applicant's representative: Cecil I. Goettsch, 11th Floor Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a

common carrier, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, mail, and newspapers* in the same vehicle with passengers, between Spirit Lake, Iowa, and Worthington, Minn., from Spirit Lake, Iowa, over Iowa Highway 9 to junction Iowa Highway 9 and Iowa Highway 238, thence over Iowa Highway 238 to Harris, Iowa, thence over unnumbered county roads to the Iowa-Minnesota State line, thence over Minnesota Highway 264 to Round Lake, Minn., thence over unnumbered county road to Worthington, Minn., and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary applicant requests it be held at Des Moines or Fort Dodge, Iowa.

APPLICATION FOR WATER CARRIER

No. W-1244 (GLEASON MARINE TOWING CO. Common Carrier Application), filed April 8, 1969. Applicant: GLEASON MARINE TOWING CO., a corporation, 13654 Hoxie, Chicago, Ill. 60633. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, Ill. 60603. Application of Gleason Marine Towing Co., filed April 8, 1969, to institute a new operation as a *common carrier*, by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, (1) Regular routes: Between ports or points between Chicago, Ill., Indiana Harbor, Ind., Gary, Ind., Joliet, Ill., Burns Ditch, Ind., Michigan City, Ind., Waukegan, Ill., Kenosha, Wis., Racine, Wis., Milwaukee, Wis., St. Joseph, Mich., South Haven, Mich., Manitowoc, Wis., Port Washington, Wis., and Algoma, Wis., and (2) Irregular routes: Between points and places on the Chicago River, Sag Canal, Illinois River, and generally the Illinois Waterway System in the State of Illinois.

APPLICATIONS FOR BROKERAGE LICENSES

No. MC 12759 (Sub-No. 2), filed April 7, 1969. Applicant: SKI-O-RAMA TOURS, INC., 7 South Franklin Street, Hempstead, N.Y. 11550. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. For a license (BMC 5) to engage in operations as a *broker* at Hempstead, N.Y., in arranging for transportation in interstate or foreign commerce of passengers and their baggage, both as individuals and in groups, in round-trip, all expense tours, throughout the year, beginning and ending at Denver, Colo.; New Orleans, La.; Miami, Fla.; Chicago, Ill.; Los Angeles, San Francisco, and San Diego, Calif.; Seattle, Wash.; Houston, San Antonio, Fort Worth, Laredo, and Dallas, Tex.; and Las Vegas, Nev., and extending to points in the United States (except Hawaii). Restriction: The transportation sought is to be subject to the prior or subsequent movement by interstate air or interstate railroad commerce from points in Nassau and Suffolk Counties and New York, N.Y., of passengers and their baggage to the points of origin herein above set out.

No. MC 130087, filed March 20, 1969. Applicant: GLENN E. WATSON, 402 East Ash Street, Columbus, Mo. For a license (BMC-5) to engage in operations as a *broker* at Columbia, Mo., in arranging for the transportation of *passengers and their baggage*, in charter operations, beginning and ending at points in Boone, Cole, Calaway, Audrian, Cooper, and Randolph Counties, Mo., and extending to points in Missouri, Illinois, Indiana, and Kentucky.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 1515 (Sub-No. 134), filed April 11, 1969. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, Ohio 44113. Applicant's representative: Barrett Elkins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between the junction of U.S. Highway 6 and Ohio Highway 199 (formerly U.S. Highway 23) at New Rochester, Ohio, and Bowling Green, Ohio, over U.S. Highway 6, serving no intermediate points, but serving the junction of U.S. Highway 6 and Ohio Highway 199 (formerly U.S. Highway 23) at New Rochester, Ohio, and Bowling Green, Ohio, for purposes of joinder only, restricted to the transportation of passengers having a prior or subsequent movement by rail. NOTE: Common control may be involved.

MOTOR CARRIER OF PROPERTY

No. MC 127355 (Sub-No. 4), filed April 7, 1969. Applicant: M & N GRAIN COMPANY, a corporation, 902 East Wooter, Nevada, Mo. 64772. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New and used pipeline skids*, between points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wisconsin, and Wyoming, under contract with Pipeline Skid Service, Inc., Chanute, Kans.

By the Commission.

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

[F.R. Doc. 69-5131; Filed, Apr. 30, 1969; 8:45 a.m.]

[No. MC-C-6344]

WILD BIRDSEED BELL EXEMPTION

Petition for Declaratory Order

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on the 15th day of April 1969.

It appearing, that by petition filed January 2, 1969, Loft-Dahlgren, Inc., of Crookston, Minn., seeks a declaratory order under section 5(d) of the Administrative Procedure Act, finding that a commodity described as "wild birdseed bell" is exempt from transportation regulation under section 203(b)(6) of the Interstate Commerce Act, because it is included in the phrase "agricultural (including horticultural) commodities (not including manufactured products thereof)";

It further appearing, that inasmuch as the said petition does not specify the exact method of production, including amounts of each commodity used, the evidence of record is insufficient to make a full and complete determination of the issue raised; and good cause appearing therefor:

It is ordered, That notice of this order be published in the FEDERAL REGISTER.

It is further ordered, That the said petition be, and it is hereby, designated for processing under the modified procedure.

It is further ordered, That within 30 days of the service date of this order petitioner shall submit verified statements, including statements of shippers, in support of its position on petition.

It is further ordered, That other persons having an interest in this proceeding, if any there be, may submit verified statements in support or opposition to the petition within 45 days from the date of publication of the notice of this order in the FEDERAL REGISTER.

It is further ordered, That if verified statements in opposition are submitted, petitioner may submit its verified statements in rebuttal within 10 days after the last day for the filing of statements in opposition.

It is further ordered, That a copy of each statement submitted to the Commission shall be served on other parties of record and the statements submitted shall so certify.

It is further ordered, That after expiration of the time fixed for filing of verified statements, the matter be, and it is hereby, referred to an appropriate board for consideration and disposition.

It is further ordered, That in the event petitioner fails to submit verified statements as required by the third ordering paragraph hereof, this order, to the extent any relief is granted petitioner, shall have no force and effect, and the petition shall be deemed denied.

By the Commission, Division 1.

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

[F.R. Doc. 69-5222; Filed, Apr. 30, 1969; 8:50 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 28, 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. 41623—Methanol (methyl alcohol) from Allemania, La. Filed by Southwestern Freight Bureau, agent (No. B-30), for interested rail carriers. Rates on methanol (methyl alcohol), in tank carloads, as described in the application, from Allemania, La., to specified points in Illinois, Indiana, Minnesota, and North Dakota.

Grounds for relief—Market competition.

Tariff—Supplement 73 to Southwestern Freight Bureau, agent, tariff ICC 4722.

By the Commission.

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

[F.R. Doc. 69-5223; Filed, Apr. 30, 1969; 8:51 a.m.]

[Notice 823]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 28, 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 730 (Sub-No. 308 TA), filed April 23, 1969. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate*, in bulk, in tank vehicles, from San Francisco, Calif., to Salt Lake City, Utah, for 180 days. Supporting shipper: Boldemann Chocolate Co., Inc., 620 Folsom Street, San Francisco, Calif. 94107. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 14552 (Sub-No. 32 TA), filed April 23, 1969. Applicant: J. V. McNICHOLAS TRANSFER CO., 555 West Federal Street, Youngstown, Ohio 44501. Applicant's representative James W. Muldoon, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the plantsite of Stouffer Foods, Division of Litton Industries, at Cleveland, Ohio, to points in Pennsylvania on and west of U.S. Highway 15, for 180 days. Supporting shipper: Stouffer's, Division of Litton Industries, 1375 Euclid Avenue, Cleveland, Ohio 44115. Send protests to: G. J. Baccei, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 67866 (Sub-No. 26 TA), filed April 22, 1969. Applicant: FILM TRANSIT, INC., 291 Hernando, Post Office Box 444, Memphis, Tenn. 38103. Applicant's representative: James W. Wrape, Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, and livestock), between Memphis, Tenn., and points in its commercial zone, on the one hand, and, on the other, points in Arkansas in the counties of Monroe, Jackson, Woodruff, Chicot, Lonoke, Prairie, White, and Pulaski, and the cities of Marvel, McGehee, Dumas, De Witt, Stuttgart, Hamburg, Crossett, Monticello, Star City, Pine Bluff, White Hall, Batesville, Mountain Home, Gassville, Heber Springs, Fordyce, Warren, El Dorado, Smackover, Hampton, Benton, Conway, Clinton, Leslie, Marshall, Harrison, Russellville, Atkins, Hot Springs, Malvern, Arkadelphia, Gurdon, Prescott, Camden, Bearden, Magnolia, Hope, Dardanelle, Danville, Paris, Booneville, Fort Smith, Camp Chaffee, Greenwood, Ozark, Charleston, Clarksville, Van Buren, Alma, Fayetteville, Springdale, Bentonville, Rogers, Yellville and Morrilton, Ark. Restrictions: (1) No service shall be rendered in the transportation of any package or article weighing more than 70 pounds or exceeding 108 inches in length and girth combined. (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, for 180 days. Supporting shippers: There are approximately 223 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 390 Federal Office Building, Memphis, Tenn. 38103.

No. MC 100666 (Sub-No. 137 TA), filed April 23, 1969. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, La. 71107. Applicant's representative: Mal Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products*, from Jackson, Ark., to Columbus, Ohio, for 180 days. Supporting shipper: Arkansas Precast Corp., Post Office Box 216, North Little Rock, Ark. 72115. NOTE: Applicant states it does not intend to tack. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operation., Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 106398 (Sub-No. 396 TA), filed April 23, 1969. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (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 movements, from site of Fleetwood Enterprises, Inc., at Lexington, Miss., to points in Mississippi, Louisiana, Arkansas, Alabama, and Tennessee, for 180 days. Supporting shipper: Fleetwood Enterprises, Inc., Loren R. Schmidt, General Manager, 3196 Myers Street, Post Office Box 7638, Riverside, Calif. 92503. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 116279 (Sub-No. 4 TA), filed April 23, 1969. Applicant: JOHN H. BLACK, doing business as BLACK'S TRANSFER, 412 West Main Street, Appalachia, Va. 24216. Applicant's representative: Carl E. McAfee, Professional Arts Building, Norton, Va. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stanley Home Products consisting of toilet preparations, cosmetics, compounds, waxes, and polishes, brushes and related household specialties*, from Richmond, Va., to points in Sullivan County, Tenn., for 180 days. NOTE: Applicant intends to tack the authority here applied for to its existing authority. Supporting shipper: Stanley Home Products, Inc., Richmond, Va. 23200. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 117765 (Sub-No. 79 TA), filed April 23, 1969. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth, Post Office Box 75267, Oklahoma City, Okla. 73107. Applicant's representative: Ray Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automatic livestock waterers, livestock scales, hopper feed scales, cattle head gates, and cattle chutes*, from Hawarden, Iowa, and Norfolk, Nebr., to points in Colorado, Kansas, Missouri, and Oklahoma, for 180 days. Supporting shipper: Zeitlow Distributing Co., Leonard Zeitlow, President,

Post Office Box 38, Durham, Kans. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

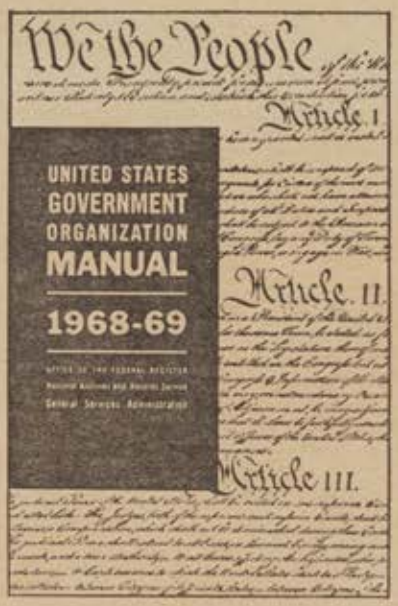
No. MC 126154 (Sub-No. 4 TA), filed April 23, 1969. Applicant: DOMENIC MARCHI, 508 North Stephenson Avenue, Iron Mountain, Mich. 49801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, namely, beer and ale, (1) from South Bend, Ind., to Ishpeming, Mich., (2) from Chicago, Ill., to Ishpeming, Mich., (3) from Chicago, Ill., to Iron Mountain, Mich., and return movements with *empty containers*, for 180 days. Supporting shippers: Vincent J. Tasson, doing business as The Tasson Distributing Co., Ishpeming, Mich. 49849; Jack Cominsky, President, Kist Bottling Co., Inc., Kingsford, Mich. 49801. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 133585 (Sub-No. 1 TA), filed April 23, 1969. Applicant: PAT CLARK, doing business as CLARK TRUCKING CO., Post Office Box 394, Dumas, Ark. 71639. Applicant's representative: John R. Clayton, 135 West Waterman Street, Post Office Box 55, Dumas, Ark. 71639. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, liquid, sacked or bulked, from Yazoo City and Greenville, Miss., and Memphis, Tenn., to Dumas, Ark., and points in Desha, Drew, and Lincoln Counties, Ark., for 180 days. Supporting shippers: Charles Dante & Son, 110 West Burnett Street, Dumas, Ark. (C. F. Hudson, Jr., Clifton L. Meador). Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, Little Rock, Ark. 72201.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-5225; Filed, Apr. 30, 1969; 8:51 a.m.]



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